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Federal Register

Thursday
September 29, 1983

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Federal Grain Inspection Service
Federal Emergency Management Agency

Agricultural Commodities
Environmental Protection Agency

Air Pollution Control
Environmental Protection Agency

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Cotton
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Electric Utilities
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Fire Prevention
Forest Service

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Freedom of Information
Federal Communications Commission

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

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Presidential Documents

Title 3—

The President

Proclamation 5105 of September 27, 1983

United Nations Day, 1983

By the President of the United States of America

A Proclamation

The United Nations remains today—38 years after its creation—an institution uniquely endowed to promote international political, economic, social, and technical cooperation. Conceived during a brutal war and nurtured in a troubled peace, the United Nations has seen many of its shining promises realized, but many others have been frustrated. More often than the world community can afford, rivalries and divisions among states prompt abuse or misuse of the powers and machinery of the United Nations. Despite these imperfections, the system and its machinery continue to offer opportunities for mediating differences which threaten to erupt in hostilities; for arranging and overseeing agreements to end tensions or conflicts; for promoting the technical and scientific cooperation essential to meet problems of growth and development; and for coping with international emergencies of all kinds.

The people and the Government of the United States of America take pride in the support—moral, intellectual, political, and financial—which we have rendered to the United Nations, and in the leadership which we have provided to help bring about its foremost achievements. We also take pride in the knowledge that the principles of the United Nations charter are the same ones which underlie our liberty, our progress, and our development as a democratic society.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Monday, October 24, 1983, as United Nations Day, and urge all Americans to better acquaint themselves with the activities and accomplishments of the United Nations.

I have appointed William M. Ellinghaus to serve as 1983 United States Chairman for United Nations Day, and I welcome the role of the United Nations Association of the United States of America in working with him to celebrate this special day.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-26773
Filed 9-27-83; 2:59 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5106 of September 27, 1983

National Sewing Month, 1983

By the President of the United States of America

A Proclamation

Over fifty million Americans sew at home. Their efforts demonstrate the persistence, skill, and self-reliance which are so characteristic of this Nation. The home sewing industry generates over $3,500,000,000 annually for our economy and serves to introduce many younger Americans to activities which lead to careers in such fields as fashion, textile design, interior design and retail merchandising.

In recognition of the importance of home sewing to our economy, the Congress, by House Joint Resolution 218, has designated September 1983 as "National Sewing Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September 1983 as National Sewing Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-26883
Filed 9-28-83; 11:22 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5107 of September 27, 1983

National Adult Day Care Center Week, 1983

By the President of the United States of America

A Proclamation

Adult day care centers provide supervised community settings in which partially disabled men and women of all ages can obtain care that may not be available in their own homes. These centers provide opportunities for adults who are socially isolated to find friends and learn skills. Day care centers enable individuals to obtain the care they need without being forced to live in institutions, and they offer needed respite to families whose infirmed relatives live with them.

In recognition that adult day care centers and their dedicated professional staffs serve many health maintenance functions, provide vital medical care, including medication monitoring, therapies, and health education, and provide invaluable opportunities for social interaction to disabled elderly Americans, the Congress of the United States, by House Joint Resolution 132, has designated the week beginning September 25, 1983, as "National Adult Day Care Center Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning on September 25, 1983, as National Adult Day Care Center Week, and I call upon every American community to consider the value of adult day care centers and to give appropriate recognition to centers offering these important services throughout that week.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of September, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-26884
Filed 9-28-83; 11:23 am]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Revision of User Fees for Cotton Classification Service to Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This action finalizes the Interim Final Rule published at 48 FR 30937 on July 6, 1983 which revised the user fees for cotton classification services to producers. The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) contains amendments to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476) which directs the Secretary of Agriculture to provide cotton classification services to producers and recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs through the imposition of user fees. An overall increase in the fees is necessary to recover the projected costs of services to producers for the 1983 cotton crop.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, Chief Marketing Services Branch, AMS, USDA, Washington, D.C. 20250. (202) 447–2147.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981 and the Secretary's Memorandum 1512–1, and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, Agricultural Marketing Service (AMS), has determined that this action will not have a significant impact on a substantial number of small business entities as defined in the Regulatory Flexibility Act (7 U.S.C. 601 *et seq.*) as: (i) The increased fees merely reflect a minimal increase in the cost-per-unit as is currently borne by those entities utilizing the services; (ii) the increased fees will not affect normal competition in the marketplace; (iii) cotton classification is not a mandatory service; and (iv) the Secretary has been directed to recover the costs of such services.

The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) amended section 3a of the Cotton Statistics and Estimates Act, 7 U.S.C. 473a, to require that user fees shall be charged for the classification of producer cotton for fiscal years 1982, 1983, and 1984. This legislation directed the Secretary to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including administrative and supervisory costs. The Secretary was also directed to take necessary action to insure that the Government cotton classification system continues to operate to provide an official quality description for the United States cotton crop. The fee for classification of producers' cotton was set at 67 cents per sample during the 1982 harvest season (47 FR 50843–50845).

Revisions in user fees for cotton classification services to producers were implemented by an Interim Final Rule published at 48 FR 30937 on July 6, 1983. Since the harvesting of the 1983 crop began in July, it was necessary to implement the revised fees on July 1, 1983, to insure that the costs of the program are covered by fees paid by all participating growers during the 1983 cotton season.

The Department accepted public comment for 60 days following publication of the Interim Final Rule. Forty-nine comments were received expressing opposition to the increase in fees. Alternative suggestions were not offered by the commenters and they did not demonstrate a need for revision of these amendments.

The Interim Final Rule increased the classification fee for manual classification services to producers in § 28.909 from 67 cents to $1.15 per sample. This increase in the fee was necessary due to the following conditions: (1) Appropriated funds covered part of the classing costs for the 1981 and 1982 crops (approximately 17%) during the first two years of implementation of the user fee. No classing fee had been charged to producers prior to the 1981 crop, and the continuation of appropriations to cover part of the costs of the program allowed the user fee to be kept to a minimum during the initial period. No appropriations have been allocated for the 1983 crop. This change accounts for the largest portion of the required increase in fees (approximately 63%); (2) anticipated volume of cotton to be classed from the 1983 crop is substantially below normal, primarily as a result of grower participation in the PIK program. In the 1982 crop, 12 million bales were produced. The present projections indicate that only 7.8 million bales will be produced from the 1983 crop. Although this estimate is 600,000 bales below the estimate stated in the supplementary information section of the interim final rule, no further change in fees is deemed necessary at this time because the reduction does not change the underlying fee analysis developed to establish the fees enough to warrant further changes. The unit cost of classing is affected by the volume of classings inasmuch as there are certain fixed costs which will remain constant whether volume decreases or increases; (3) a smaller volume of samples acquired for classification purposes will be accumulated for sales, the proceeds from which are used to defray a portion of the classing costs; (4) operating costs for providing classification services to producers have increased. There has been an overall 4.0 percent increase in salaries since the last fee revision as well as increases in expenditures for rent, utilities, communications, supplies and materials.

In setting the fee, a number of cost and revenue projections were made on the basis of incomplete information. These include: (1) The size of the 1983 crop, (2) the percentage of the 1983 crop for which classification service will be requested, (3) the volume of baled samples to be sold and the price to be received therefor, and (4) the ability to collect classing fees. In recognition of these variables, an adjustment in the per sample classing fee could become necessary during the year.

Cotton classification services have traditionally consisted of determinations for grade, staple, and micronaire. This traditional service is referred to as manual classification because grade and staple are determined by a USDA cotton classer. In addition to the manual classification service, USDA has made High Volume Instrument (HVI) classification service available to growers in some areas on an optional trial basis. HVI classification consists of determinations for grade, staple, length, length uniformity, color, trash, strength and micronaire. All determinations are instrument measurements except grade and trash which are determined manually by a USDA classer. Grower reaction to HVI classing has been favorable and the service is being exanded on an optional basis to other areas as equipment becomes available. The fee in § 28.909 for HVI classification services to growers, except those served by the Lamesa, Texas classing facility, is an additional 45 cents per sample. HVI classing costs are higher than manual classification due primarily to the costs of the additional equipment used and some additional labor charges.

In § 28.909 the fee for HVI classification services for growers served by the Lamesa, Texas Marketing Service Office is $1.15 per sample. The Lamesa, Texas classing facility was established on a trial basis in 1980 as the first automated USDA cotton classing facility equipped to instrument class all cotton received. HVI classing equipment for the facility was purchased through a cooperative funding agreement under the Federal-State Marketing Improvement Program (FSMIP) in which a substantial amount of funds came from cotton growers served by the Lamesa facility.

The purpose of the FSMIP agreement with Lamesa growers was to establish a large scale evaluation of HVI classing. Until such time that it is determined that the Lamesa growers have been appropriately recompensed for their investment, the fee for HVI classing to Lamesa growers will be the same as the fee for manual classification to growers.

The fee in § 28.910 for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner without the reclassification of such cotton has been increased from $1.90 to $2.00 per sheet due to increased costs of providing this service.

The fee for a manual review classification in § 28.911 has been increased from $1.05 to $1.10 per sample and the proposed HVI review classification is $1.55 per sample except for growers served by the Lamesa facility. For the reasons stated above, Lamesa growers will pay $1.10 per sample for HVI review classification. The Lamesa growers paid $1.05 per sample for HVI review classification last year.

Section 28.909 provides that USDA will bill the grower or such agent as the grower designates for the cost of the service. Substantial savings in USDA's costs for accounting, billing, and collections have resulted from cotton gins, warehouses, and other agents who have voluntered to serve as collection agents for the user fee because of the economies of scale involved therein. USDA's cost per sample for performing these functions on an individual grower account basis is significantly higher. Therefore a discount of 5 cents per sample has been applied for those services in section 28.909 billed to a voluntary collection agent.

List of Subjects in 7 CFR Part 28

Grades, Staples, Cotton, Warehouses, Administrative practice and procedure.

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Accordingly, those sections of 7 CFR Part 28, as amended by the Interim Final Rule (48 FR 30937) are adopted as final, without change.

(Sec. 10, 42 Stat. 1519, Sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c, and Sec. 156, 95 Stat. 357, unless otherwise noted)

Dated: September 23, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-26413 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

7 CFR Parts 68 and 800

Display of OMB Control Numbers

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Technical amendments.

SUMMARY: This document collects and displays in the regulations implementing the U.S. Grain Standards Act and the Agricultural Marketing Act of 1946 the control numbers assigned to information collection requirements by the Federal Grain Inspection Service (FGIS). This action is taken pursuant to the recent regulations promulgated by the Office of Management and Budget (OMB) implementing the Paperwork Reduction Act of 1980.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Regulations and Directives Unit, Resources Management Division, FGIS, USDA, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action complies with the requirements of section 3507(f) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), and 5 CFR 1320.7(f)(2) and 1320.14(e) of the regulations, Controlling Paperwork Burdens on the Public, which requires agencies to display a current control number assigned by the Director of OMB for each agency information collection requirement.

Since this action merely complies with the requirements of 5 CFR 1320.7(f)(2) as published in 48 FR 13667 (March 31, 1983) and as such is a technical amendment to the regulations, the findings of OMB with respect to both the Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are applicable as appropriate (48 FR 13689). Therefore, no separate review of the Executive Order or the Regulatory Flexibility Act is necessary for this action.

Further, since this action is limited to technical amendments which represent rules of agency organization, procedures, and practices, the Administrative Procedures Act (5 U.S.C. 553) does not apply. In any event, good cause is found that notice and other public procedures are impracticable, unnecessary and contrary to the public interest because this action represents technical amendments to the regulations so as to comply with OMB procedures which require agencies to display a current control number assigned by the Director OMB for information collection.

List of Subjects in 7 CFR Parts 68 and 800

Administrative practice and procedure, Agricultural commodities, Export, Grain.

PART 68—[AMENDED]

Accordingly, 7 CFR Part 68 of the regulations under the Agricultural Marketing Act of 1946 is amended as follows:

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

§ 68.8 [Amended]

1. Section 68.8 is amended by adding, at the end of the section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0004)

§§ 68.27 and 68.38 [Amended]

2. Sections 68.27 and 68.38 are amended by adding, at the end of each section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0002)

§ 68.37 [Amended]

3. Section 68.37 is amended by adding, at the end of the section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0008)

PART 800—[AMENDED]

7 CFR Part 800 of the regulations under the U.S. Grain Standards Act is amended as follows:

1. Sections 800.19, 800.25, 800.76, 800.145, 800.146, 800.150, 800.151, 800.152, 800.153, 800.154, 800.155(b), 800.155(c), 800.160, 800.161, 800.162, 800.163, 800.164, 800.165, and 800.166 are amended by adding, at the end of each section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0001)

2. Sections 800.31, 800.32, 800.33, 800.45, 800.46, 800.70, 800.98, 800.99, 800.115(a), 800.115(b), 800.116, 800.126, 800.135, 800.172, 800.187, 800.198, are amended by adding, at the end of each section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0003)

3. Sections 800.60, 800.155(a), 800.185, 800.208(a), and 800.208(c)(2) are amended by adding, at the end of each section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0006)

4. Section 800.115(c) is amended by adding, at the end of the section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0007)

5. Sections 800.37, 800.208(h)(i), and 800.208(1)(3) are amended by adding, at the end of each section, the statement:

(Approved by the Office of Management and Budget under control number 0580–0008)

Dated: September 23, 1983.

D. R. Galliart,

Acting Administrator.

[FR Doc. 83–26512 Filed 9–28–83; 8:45 am]

BILLING CODE 3410-EN-M

7 CFR Part 800

Duties and Conduct of Licensed and Authorized Personnel

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is adopting without change as a final rule its proposed rule on Duties and Conduct of Licensed and Authorized Personnel published in the **Federal Register** on June 13, 1983 (48 FR 27084). This action amends the regulation on: (1) Duties of official personnel and warehouse samplers by deleting the requirement that licensees and warehouse samplers report changes in the scope of their duties and employment; (2) Standards of conduct by adding the coerce or attempt to coerce provision of the regulation on "Conflicts of Interest;" and (3) Conflicts of interest by deleting the provisions on coerce or attempt to coerce and by adding a new paragraph which states that warehouse samplers are exempt from the conflict-of-interest provisions.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) It applies to a limited number of delegated States and designated official agencies under the Act which are not considered to be small entities because they are dominant in their area of operation based on the delegation/designation process; and (2) most other users of FGIS' services are not considered to be small entities.

Review of Regulations

The review of the regulations on Duties and Conduct of Licensed and Authorized Personnel included a determination of the continued need for and consequences of the regulations. An objective was to assure that the language of the regulations is clear and that the regulations are consistent with FGIS policy. FGIS determined that these regulations in general are serving their intended purpose; are consistent with FGIS policy; and should remain in effect. However, in the June 13, 1983, **Federal Register** (48 FR 27084) FGIS proposed:

1. To amend § 800.185 by deleting paragraph (g) "Reporting changes" and by redesignating paragraphs (h) as (g), (i) as (h), and (j) as (i). This action eliminates a duplication of effort inasmuch as § 800.185(g) requires of the licensee what § 800.208(a) requires of the agency.

2. To amend §§ 800.186 and 800.187 by deleting paragraph (b)(7) from § 800.187 and adding it to § 800.186 as (b)(7). FGIS believes this provision addressing coerce or attempt to coerce would be more appropriately located under Standards of conduct.

3. To further amend § 800.187 by deleting the words "and warehouse samplers" from paragraphs (c), (d), and (e)(1); by deleting the words "or warehouse samplers" from paragraph (e)(2); by deleting the words "or warehouse sampler" from paragraph (e)(3); by adding a new paragraph (a) to state that warehouse samplers are exempt from the conflict-of-interest provisions of § 800.187; and by redesignating paragraphs (a) as (b), (b) as (c), (c) as (d), (d) as (e), and (e) as (f).

Section 11(a) of the U.S. Grain Standards Act (7 U.S.C. 87(a); the Act) authorizes the Administrator to license qualified employees of any grain elevator or warehouse to perform official sampling functions under such conditions as the Administrator may by regulation prescribe. The 1968 Act contained an almost identical provision (7 U.S.C. 87 (1968)). The regulations promulgated under the 1968 Act were such that warehouse samplers were not included in the conflict-of-interest provisions (7 CFR 26.87 (1972)). When the regulations were promulgated in 1980 implementing 1976 and 1977 Amendments to the Act, FGIS revised its conflict-of-interest provisions in § 800.187 of the regulations to include warehouse samplers. Presently, warehouse samplers are required to obtain exceptions for any conflict of interest that they may have, including their employment status. Inasmuch as

no problems have surfaced with respect to conflicts of interest in the warehouse sampler program, FGIS proposed to simplify the conflict-of-interest provisions for warehouse samplers by providing them an exemption from all of the conflict-of-interest provisions of section 800.187. In doing so, the proposal would return the regulations to their pre 1980 treatment of conflicts of interest as to warehouse samplers. However, warehouse samplers would be still subject to the standards of conduct requirements of § 800.186 of the regulations. The proposed change was consistent with the purposes and objectives of the Act.

No changes to §§ 800.188 and 800.189 were proposed. FGIS received one comment to the proposed rule which allowed 60 days for public comment. That one comment from the North American Export Grain Association, Incorporated, endorsed the proposed rule.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—[AMENDED]

Accordingly, FGIS' regulations on "Duties and Conduct of Licensed and Authorized Personnel" are amended as follows:

§ 800.185 [Amended]

1. Section 800.185 is amended by removing paragraph (g) and redesignating paragraphs (h) as (g), (i) as (h), and (j) as (i).

§§ 800.186 and 800.187 [Amended]

2. Sections 800.186 and 800.187 are amended by removing paragraph (b)(7) from § 800.187 and adding it to § 800.186 as (b)(7).

3. Section 800.187 is further amended by removing the words "and warehouse samplers" from paragraphs (c), (d), and (e)(1); by removing the words "or warehouse samplers" from paragraph (e)(2); by removing the words "or warehouse sampler" from paragraph (e)(3); by adding a new paragraph (a); and by redesignating paragraphs (a) as (b), (b) as (c); by redesignating and revising (c) as (d), (d) as (e), and (e) as (f) to read as follows:

§ 800.187 Conflicts of interest

(a) *General.* Warehouse samplers are exempt from the conflict-of-interest provisions of this section.

(b) *What constitutes a gratuity.*

* * * * *

(c) *Conflicts.*

* * * * *

(d) *Reports of interests.* Official personnel shall report information regarding their employment or other business or financial interests which may be required by the Service.

(e) *Avoiding conflicts of interest.* Official personnel shall not acquire any financial interest or engage in any activity that would result in a violation of this § 800.187, or § 800.186, or Section 11 of the Act and shall not permit their spouses, minor children, or blood relatives who reside in their immediate households to acquire any such interest or engage in any such activity. For the purpose of this section, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of official personnel shall be considered to be an interest of the official personnel.

(f) *Disposing of a conflict of interest.* (1) *Remedial action.* Upon being informed that a conflict of interest exists and that remedial action is required, an applicant for a license and official personnel shall take immediate action to end the conflict of interest and inform the Service of the action taken.

(2) *Hardship cases.* Applicants and official personnel who believe that remedial action will cause undue personal hardship may request an exception by forwarding to the Service a written statement setting forth the facts, circumstances, and reasons for requesting an exception.

(3) *Failure to terminate.* If a final determination is made by the Service that a conflict of interest does exist and should not be excepted, failure to terminate the conflict of interest shall subject: (i) An applicant for a license to a dismissal of the application; (ii) An employee of the Service to disciplinary action; and (iii) A licensee to license revocation.

(Sec. 13, 18, Pub. L. 94–582, 90 Stat. 2880, 2884; (7 U.S.C. 87, 87e))

Dated: September 19, 1983.

D. R. Galliart,

Acting Administrator.

[FR Doc. 83-26650 Filed 9-28-83; 8:45 am]

BILLING CODE 3470-EN-M

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7 CFR Part 800

Registration of Firms To Engage in Foreign Commerce Grain Business

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is publishing without change as a final rule, a proposed rule published in the **Federal Register** on June 13, 1983, (48 FR 27082), in which certain changes were made to §§ 800.30–800.40 of the regulations concerning the requirement and procedures for registration of firms to engage in foreign Commerce grain business. The changes involve rewriting and reorganizing the regulations to simplify, clarify, and condense certain language. The changes also: (1) Delete procedures used only during initial implementation of the registration program; (2) delete provisions dealing with withdrawal of an application; (3) delete provisions dealing with possession of certificates since they are issued annually to each approved applicant; (4) delete the requirement that firms that have their registration suspended or revoked return their registration certificates; and (5) delete the provisions concerning numbering and nomenclature of renewed certificates to simplify the mechanics of the registration program so that only a new certificate is issued each year.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Ave., SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Exective Order 12291 and Secretary's Memorandum 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it applies to a limited number of firms which engage in foreign commerce grain business and are not considered to be small entities because they are dominant in their area of operation.

Information Collection Requirements

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget under control number 0580–0003.

Regulations Review

In compliance with the requirement for periodic review of existing regulations, FGIS reviewed and proposed certain changes to the regulations (7 CFR 800.30–800.40) regarding the requirement and procedures for registration of firms to engage in foreign commerce grain business in the June 13, 1983, issue of the **Federal Register** (48 FR 27082). Comments were to be submitted by August 12, 1983. FGIS received only one comment and it supported the proposed changes. FGIS is publishing as a final rule, the text of the proposed rule without change.

The review included a determination of the continued need for and consequences of the regulations.

An objective of the review was to ensure that the language of the regulations is clear and that the regulations are consistent with FGIS policy. FGIS has determined that these regulations are serving their intended purpose; are consistent with FGIS policy; and should remain in effect. FGIS, however, has amended:

(1) Section 800.30 by clarifying and condensing language in the section;

(2) Section 800.31 by clarifying and condensing language in the section;

(3) Section 800.32 by clarifying and condensing language in the section and by deleting the provisions concerning initial implementation of the registration provisions. The initial implementation provisions provided that no person be required to register until 6 months after the effective date of the regulatons. Since the initial implementation period is past, these provisions are no longer necessary and FGIS has deleted them.

(4) Section 800.33 by clarifying and condensing language in the section and by deleting the provisions concerning withdrawal of an application. These provisions provided that an application could be withdrawn at any time. The provisions concerning withdrawal of an application could have led to confusion because registration is mandatory under the Act for firms regularly engaged in foreign commerce grain business and all those firms have registered to date. Accordingly, FGIS has deleted the provisions concerning withdrawal of an application. In any event, a firm which withdraws its application any time prior to approval will have the fee refunded in full by FGIS.

(5) Section 800.34 by clarifying and condensing language in the section and be deleting the provisions concerning the prorating of registration fees during initial implementation of these sections. Firms engaged in foreign commerce grain trade were required to register initially in October 1980, and the intitial registration was made effective through December 31, 1981. The provisions concerning the prorating of registration fees were included to reduce the cost of initial registration. Since the initial registration period is past, the provisions are no longer applicable and FGIS has deleted them.

(6) Section 800.35 by clarifying and condensing language in the section.

(7) Section 800.36 by clarifying and condensing language in the section and by deleting the provisions concerning possession of registration certificates. These provisions provided that registration certificates were the property of the Service and that each person who was registered had the right to possess the certificate unless it is revoked or suspended. These provisions were included in conjunction with § 800.40 which provided for the return of certificates in cases where a registration was suspended or revoked. FGIS has changed this concept. FGIS has deleted § 800.40 concerning the surrender of suspended or revoked certificates to simplify the mechanics of the registration program. Accordingly, the provisions on possession of certificates are not needed and FGIS has deleted them.

(8) Section 800.37 by condensing language in the section.

(9) Section 800.38 by clarifying and condensing language in the section and be deleting provisions concerning the content of certificates that are renewed. The provisions regarding renewed certificates were included in the regulations because FGIS initially believed a large number of firms would register. Fewer than 150 firms have registered during each of the 3 years the program has been in effect. While firms will still be permitted to renew their registrations, FGIS has deleted the provisions concerning renewed certificates to simplify the mechanics of the registration program. FGIS will issue the same type of registration certificate to all firms regardless of whether they are renewing a registration or registering for the first time.

(10) Section 800.39 by clarifying and condensing language in the section.

(11) Section 800.40 which required firms to surrender to FGIS suspended or revoked certificates of registration. These provisions are not needed since a certificate of registration is valid only for the calendar year in which it is issued, and the possession of a suspended or revoked certificate does not enable a firm to engage in foreign commerce grain business. Also, the changes to § 800.36 make the provisions unnecessary. FGIS has deleted § 800.40.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—[AMENDED]

Accordingly, § 800.40 has been removed and §§ 800.30–800.39 have been revised to read as follows:

Registration

§ 800.30 Foreign commerce grain business.

"Foreign commerce grain business" is defined as the business of buying grain for sale in foreign commerce or the business of handling, weighing, or transporting grain for sale in foreign commerce. This provision shall not include:

(a) Any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(b) Any producer of grain who only incidentally or occasionally sells or transports grain which the producer has purchased;

(c) Any person who transports grain for hire and does not own a financial interest in such grain; or

(d) Any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

§ 800.31 Who must register.

Each person who has engaged in foreign commerce grain business totaling 15,000 or more metric tons during the preceding or current calendar year must register with the Service and shall be deemed to be regularly engaged in foreign commerce grain business. This includes foreign-based firms operating in the United States but does not include foreign governments or their agents. The Service will, upon request, register persons not required to register under this section if they comply with the requirements of §§ 800.33 and 800.34.

§ 800.32 When to register.

A person shall submit an application for registration to the Service at least 30 calendar days before regularly engaging in foreign commerce grain business according to § 800.31. For good cause shown, the Service may waive this 30-day requirement.

§ 800.33 How to register.

Any person who is required or desires to register must submit an application for registration to the Service. Application forms can be obtained from the Service. Each application shall: (a) Be typewritten or legibly written in English; (b) Include all information required by the application form; and (c) Be signed by the applicant. The information required by this paragraph may be submitted to the Service via telephone, subject to written confirmation. An applicant shall furnish any additional information requested by the Service for consideration of the application.

§ 800.34 Registration fee.

An applicant shall submit the registration fee prescribed in § 800.71 with the completed application. If an application is dismissed, the fee shall be refunded by the Service. No fee or portion of a fee shall be refunded if a person is registered and the registration is subsequently suspended or revoked under § 800.39.

§ 800.35 Review of applications.

(a) The Service shall review each application to determine if it complies with §§ 800.32, 800.33, and 800.34. If the application complies and the fee has been paid, the applicant shall be registered.

(b) If the application does not comply with §§ 800.32, 800.33, and 800.34 and the omitted information prevents a satisfactory review by the Service, the applicant shall be provided an opportunity to submit the needed information. If the needed information is not submitted within a reasonable time, the application may be dismissed. The Service shall promptly notify the applicant, in writing, of the reasons for the dismissal.

§ 800.36 Certificates of registration.

The Service shall furnish the applicant with an original and three copies of the registration certificate. The registration shall be effective on the issue date shown on the certificate. Each certificate of registration is issued on the condition that the registrant will comply with all provisions of the Act, regulations, and instructions. The Service shall charge a fee, in accordance with §800.71, for each additional copy of a certificate of registration requested by a registrant.

§ 800.37 Notice of change in information.

Each registrant shall notify the Service within 30 days of any change in the information contained in the application for registration. If the notice is submitted orally, it shall be promptly confirmed in writing.

§ 800.38 Termination and renewal of registration.

Each certificate of registration shall terminate on December 31 of the calendar year for which it is issued. The Service shall send a letter to each registrant notifying the registrant of the impending termination of the registration and providing instructions for requesting renewal. The registration may be renewed in accordance with §§ 800.33 and 800.34. Failure to receive the letter shall not exempt registrants from the responsibility of renewing their registration if required by § 800.31.

§ 800.39 Suspension or revocation of registration for cause.

(a) *General.* Registration is subject to suspension or revocation whenever the Administrator determines that the registrant has violated any provision of the Act or regulations, or has been convicted of any violation involving the handling, weighing, or inspection of grain under Title 18 of the United States Code.

(b) *Procedure.* Before the Service suspends or revokes a registration, the registrant (hereinafter the "respondent"): (1) Shall be notified of the proposed action and the reasons therefor and (2) shall be afforded opportunity for a hearing in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (7 CFR, 1.130–1.151). Prior to formal adjudicatory proceedings, the Service may allow the respondent to express views on the action proposed by the Service in an informal conference before the Administrator. If the Service and the respondent enter into a consent agreement, no formal adjudicatory proceedings shall be initiated.

§ 800.40 Surrender of certificate of registration. [Removed]

(Secs. 18 and 22, Pub. L. 94–582, 90 Stat. 2884 and 2886 (7 U.S.C. 87e and 87f–1))

Dated: September 19, 1983.

D. R. Galliart,

Acting Administrator.

[FR Doc. 83–26649 Filed 9–28–83; 8:45 am]

BILLING CODE 3470–EN–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 318, Amdt. 1; Valencia Orange Reg. 319]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 30–October 6, 1983, and increases the quantity of such oranges that may be so shipped during the period September 23–29, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective September 30, 1983, and the amendment is effective for the period September 23–29, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by

the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on September 27, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.619 is added as follows:

§ 908.619 Valencia orange regulation 319.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 30, 1983, through October 6, 1983 are established as follows:

(1) District 1: 462,000 cartons;

(2) District 2: 588,000 cartons;

(3) District 3: Unlimited cartons.

2. Section 908.618 Valencia Orange Regulation 305 (48 FR 43159 September 22, 1983), is hereby amended to read:

§ 908.618 Valencia orange regulation 318.

* * * * *

(1) District 1: 550,000 cartons;

(2) District 2: 700,000 cartons;

(3) District 3: Unlimited cartons.

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

Dated: September 28, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–26890 Filed 9–28–83; 11:56 am]

BILLING CODE 3410–02–M

7 CFR Part 924

Fresh Prunes Grown in Designated Counties in Washington, and in Umatilla County, Oregon; Amendment of Prune Regulation 19

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the surface color requirement of fresh prunes shipped from the production area from prunes having at least two-thirds purplish color to at least three-fourths purplish color. This change is necessary to assure shipment of mature prunes in the interest of producers and consumers.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Washington-Oregon prune crop for the benefit of producers and consumers and will not substantially affect costs for the persons directly regulated.

An interim rule was published in the Federal Register on July 6, 1983 (48 FR 30940), which specified grade and size requirements applicable to shipments of Washington-Oregon prunes through August 31, 1983. That rule provided an opportunity to file comments through August 5, 1983. No comments were received. This final rule contains the same requirements as specified in the interim rule.

This amendment to Prune Regulation 19 is issued under Marketing Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington, and in Umatilla County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as Amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The regulation currently in effect (Prune Regulation 19) was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington-Oregon fresh prunes. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The committee met on May 25, 1983, to consider supply and market conditions bearing on the marketing of the fresh prune crop. The committee reports that there is a tendency for some handlers to ship immature prunes to take advantage of the high prices early in the season. This has resulted in consumer dissatisfaction and such dissatisfaction has been reflected in reduced demand. The current regulation requires that at least two-thirds of the surface of the prune shall be purplish in color. Purplish color is an indicator of maturity of fresh prunes and unless the fruit is mature it will not properly ripen. The committee unanimously recommended that the regulation be amended to specify that at least three-fourths of the surface of the prune shall be purplish in color. This amendment is designed to assure that shipments of fresh prunes are properly mature. Except for the changes in surface color requirements, the current grade requirement applicable to fresh prune shipments would remain unchanged.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) No comments were received during the 30 days provided in the interim rule published in the Federal Register and (2) the grade and size requirements in this

final rule are the same as those in the interim rule.

List of Subjects in 7 CFR Part 924

Marketing agreements and orders, Prunes, Washington, Oregon.

PART 924—[AMENDED]

Therefore, § 924.319 is amended by revising that part of paragraph (a)(1) which precedes the word *Provided* to read as follows:

§ 924.319 Prune regulation 19.

(a) * * *

(1) Such prunes grade at least U.S. No. 1, except that at least three-fourths of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: * * *

* * * * *

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

Dated: September 23, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-26647 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 926 and 944

[California Tokay Grape Reg. 20; Tokay Grape Import Reg. 2]

Tokay Grapes Grown in San Joaquin County, California Fruits; Import Regulations; Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets quality requirements for shipments of fresh California Tokay grapes and Tokay grapes imported into the United States. Such grapes are required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, with an additional color requirement for the berries on the lower portion of the bunch. Domestically produced grapes are subject to container marking requirements. These actions are needed to assure domestic shipment and imports of ample supplies of grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

EFFECTIVE DATE: October 16, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of California Tokay grapes and imported Tokay grapes for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

An interim rule was published in the **Federal Register** (48 FR 34012) on July 27, 1983, which specified grade and container requirements applicable to shipments of Tokay grapes grown in San Joaquin County, California through October 15, 1983. Pursuant to a recent amendment to the Agricultural Marketing Agreement Act of 1937, as amended, a Tokay grape import regulation was also issued under Section 8e (7 U.S.C. 608e–1). This section requires that whenever specified commodities, including Table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Those rules provided an opportunity to file comments through August 25, 1983. No comments were received. This final rule contains the same requirements as specified in the interim rule. This rule is effective for the period October 16 through December 31, 1983.

This regulation is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of fresh Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Industry Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The regulation establishes the minimum grade and size requirements specified in the U.S. No. 1 Table grade of the U.S. Standards for Grades of Table Grapes (European or Vinifera type), except that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The regulation also requires that each container of grapes bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. The minimum grade and container marking requirements for grapes are necessary to maintain orderly marketing conditions by preventing the shipment of immature, poor quality, and excessively small fruit in fresh commercial marketing outlets. Shipment of such low quality fruit would disrupt orderly marketing and tend to depress prices of all grapes since low quality fruit undermines consumer confidence in the quality of all fruit sold in the market and discourages repeat purchases. The specified grade requirements are consistent with the quality and size composition of the available crop and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers consistent with the declared policy of the act. Fruit not meeting these requirements could be sold within San Joaquin County, or utilized in processing outlets such as crushing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) An interim rule was published in the **Federal Register** (48 FR 34012) and no comments were received during the period provided; (2) the requirements in this final rule are the same as those currently in effect; (3) California Tokay grape handlers have been apprised of these requirements and the effective date; (4) the Tokay grape import requirements are mandatory under section 8e of the Act; (5) the import regulation imposes the same grade requirements as are being made applicable to the shipment of Tokay grapes grown in San Joaquin County, California under Tokay Grape Regulation 20; and (6) more than three days notice, the minimum prescribed by section 8e is provided with respect to this import regulation.

List of Subjects in 7 CFR Parts 926 and 944

Marketing Agreements and Orders, Grapes, California, Fruits, Import Regulations.

PART 926—[AMENDED]

Therefore, new § 926.321 and 944.602 are added and §§ 944.400 is revised to read as follows:

1. Sections 926.321 and 944.602 expire December 31, 1983, and will not be published in the annual Code of Federal Regulations. Section 944.400 is effective on and after October 16, 1983.

§ 926.321 California Tokay Grape Regulation 20.

(a) During the period October 16, 1983, through December 31, 1983, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade, and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* "U.S. No. 1 Table grade" and "characteristic color" shall mean the same as in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880–51.912).

2. Add a new § 944.602 to read as follows:

§ 944.602 Tokay Grape Import Regulation 2.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period October 16, 1983, through December 31, 1983, the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera type, 7 CFR 51.880–51.912), and the following additional requirement: of the 25 percent, by count, of the berries of each bunch, which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, and quality of Tokay grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of Tokay grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) Minimum Quantity Exemption: Any person may import up to 250 pounds of grapes in any one shipment exempt from the requirements of this section.

(f) It is determined that imports of Tokay grapes, during the effective time of this regulation, are in most direct competition with Tokay grapes grown in the San Joaquin County of California, under M.O. 926 (7 CFR Part 926). The grade, size and quality requirements of this section are the same as those applicable to Tokay grapes grown in the San Joaquin County of California.

3. Revise § 944.400 to read as follows:

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, limes, oranges, and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, limes, oranges and table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of the specified fruit, is required on all imports. Such inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, limes, oranges, and table grapes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the fruit will be imported:

PORTS, OFFICES AND ADVANCE NOTICE

Eastern Region

In Alabama, Officer In Charge, Post Office Box 244, Mobile, AL 36601, PH: 205–690–6154, or In Jacksonville, Florida, Officer In Charge, Unit 8, 3335 N. Edgewood Ave., Jacksonville, FL 32205, PH: 904–354–5983, or In Miami, Florida, Officer In Charge, 1350 N.W. 12th Ave., RM. 530, Miami FL 33136, PH: 305–324–6116, or In Maryland, Officer In Charge, Maryland Wholesale Produce Market—Building B Unit 13, Jessup, MD 20794, PH: 301–799–5899, or In Massachusetts, Officer In Charge, Boston Terminal Market, Room 1, 34 Market Street, Everett, MA 02149, PH: 617–389–2480, or In Buffalo, New York, Officer In Charge, 176 Niagara Frontier Food Terminal—Rm. 7, Buffalo, NY 14206, PH: 716–824–1585, or In New Jersey, Officer In Charge, Federal Building, RM. 839, 970 Broad Street, Newark, NJ 07102, PH: 201–645–2208, or In New York, New York, Officer In Charge, Room 28–A, Hunts Point Market, Bronx, NY 10474, PH: 212–991–7669, or In Pennsylvania, Officer In Charge, 293 Produce Building, 3301 S. Galloway Street, Philadelphia, PA 19148, PH: 215–336–0845, or In Virginia, Officer In Charge, 3661 Virginia Beach Blvd., Norfolk, VA 23502, PH: 804–441–6218, or In Puerto Rico, Officer In Charge, Post Office Box 9112, Santurce, PR 00908, PH: 809–783–2230.

All other Eastern Port of entry: Regional Director Skyline Office Building, 5205 Leesburg Pike—Suite 806, Falls Church, VA 22041, PH: 703–756–6781.

Central Region

In Louisiana, Officer In Charge, 5027 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113, PH: 504–589–6741, or In Michigan, Officer In Charge, 90 Detroit Union Produce, 7201 West Fort Street, Detroit, MI 48209, PH:

313–226–6059, or In Minnesota, Officer In Charge, Agriculture Building Room 226, 90 West Plato Boulevard, St. Paul, MN 55107, PH: 612–296–8557, or In El Paso, Officer In Charge, 6070 Gateway East, Suite 410, El Paso, TX 79905, PH: 915–543–7723, or In Houston, Texas, Officer In Charge, 3100 Produce Row, Room 14, Houston, TX 77023, PH: 713–923–2557.

All other Texas Ports: Officer In Charge, Post Office Box 107, San Juan, TX 78589, PH: 512–787–4091.

All other Central Ports of Entry: Regional Director, Room 1012, 610 South Canal Street, Chicago, IL 60607, PH: 312–353–6225.

Western Region

In Arizona, Officer In Charge, Post Office Box 1485, Nogales, AZ 85621, PH: 602–281–0783, or In Los Angeles, California, Officer In Charge, Wholesale Terminal Bldg., Room 271, 784 South Central Avenue, Los Angeles, CA 90021, PH: 213–688–2489, or In San Francisco, California, Officer In Charge, P.O. Box 4266, Burlingame, CA 94010, PH: 415–876–1093 & 1094, or In Hawaii, Officer In Charge, P.O. Box 22159, Pawaa Substation, Honolulu, HI 96822, PH: 808–548–7147, or In Oregon, Officer In Charge, Cascade Plaza, Suite 125, 2828 S.W. Corbett, Portland, OR 97201, PH: 503–229–6161, or In Washington, Officer In Charge, 5507 Sixth Avenue South, Seattle, WA 98108, PH: 206–764–3500, or In New Mexico, Officer In Charge, New Mexico Market and Development Branch, New Mexico Department of Agriculture, P.O. Box 5600, Las Cruces, NM 88003, PH: 505–646–4929.

All other Western Ports of Entry: Regional Director, P.O. Box 214287, Sacramento, CA 95821, PH: 916–484–4952 & 3549.

Headquarters: Washington, DC: Chief, Fresh Products Branch, Fruit and Vegetable Division, AMS, Room 2052–S, Bldg., U.S. Department of Agriculture, Washington, D.C. 20250, PH: 202–447–5870.

Notification: Port Offices—at least one (1) day; Regional Director—at least two (2) days; Headquarters—at least three (3) days.

(b) Inspection certificates shall cover only the quantity of fruit that is being imported at a particular port of entry by a particular importer.

(c) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(d) Each inspection certificate issued with respect to any of the specified fruits to be imported into the United States shall set forth among other things: (1) The name and place of inspection; (2) the name of the shippper, or applicant; (3) The commodity inspected; (4) The quantity of the commodity covered by the certificate; (5) The principal identifying marks on the container; (6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, the name of the air carrier, or other identification of the shipment; and (7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

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

Dated: September 23, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–26648 Filed 9–28–83; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1131

[Milk Order No. 131]

Milk in the Central Arizona Marketing Area; Order Suspending Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action continues for the months of October and November 1983 a suspension of the performance standard for pooling a cooperative association's manufacturing plant that is located in the Central Arizona marketing area. The provision has been suspended since April 1983. The suspension is based on evidence presented at a public hearing held in November 1982 to consider amendments to the order, including a proposal to lower the pooling standard for the cooperative's manufacturing plant. United Dairymen of Arizona, a cooperative association that represents producers who supply the market, requested that the performance standard be suspended pending a decision on whether the order should be amended to lower the pooling standard in order to enable the cooperative to efficiently handle an increasing supply of milk that is in excess of fluid milk needs. The suspension will promote the efficient handling of the market's reserve milk supply, and the pooling of milk of producers who have regularly been associated with the market.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, aGricultural Marketing Service, United States Department of Agriculture, Washington, D.C. (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued October 20, 1982, published October 25, 1982 (47 FR 47259).

Suspension order—Issued April 27, 1983; published May 2, 1983 (48 FR 19699).

Recommended Decision—Issued June 28, 1983; published July 5, 1983 (48 FR 30641).

Suspension order—Issued July 21, 1983; published July 26, 1983 (48 FR 33849).

This administrative action is governed by the provisions of Sections 556 and 557 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and will tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Central Arizona marketing area.

After considering all relevant information, it is hereby found and determined that for the months of October and November 1983, the following provision of the order does not tend to effectuate the declared policy of the Act.

In § 1131.7(c), the provision, "65 percent or more of its".

Statement of Consideration

This action continues for the months of October and November 1983 a suspension of the performance standard for pooling a cooperative association's manufacturing plant that is located in the marketing area. The order currently provides for the pooling of such a plant if at least 65 percent of the cooperative

association's member producer milk is received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month. The suspension removes the 65 percent pooling standard for the months of October and November 1983.

Continuation of the suspension until such time as amendatory action can be completed was requested by United Dairymen of Arizona (UDA), a cooperative association that represents a substantial number of the diary farmers who supply the market. UDA also operates a manufacturing plant that serves as an outlet for the market's reserve milk supplies. Such plant, which had been pooled continuously under the order, failed to qualify as a pool plant in March. As a result, UDA was not able to pool a portion of its members' milk at its manufacturing plant in March and, without suspension action, also would have been unable to qualify the plant as a pool plant in the months of April through September. Suspension of the pooling standard for October and November will enable the milk of member producers associated with the plant to remain pooled until the order can be amended.

The issue of the appropriate pooling standard for the plant was the subject of a public hearing held November 9–10, 1982. UDA proposed that the current pooling standard be lowered to 50 percent. Also, proponent testified that in the event amendatory action could not be completed early in 1983, a suspension action would be necessary to avoid uneconomic shipments of milk to pool the milk of its member producers. Proponent requested that evidence of marketing conditions that was presented at the hearing serve as a basis for any suspension action that the cooperative found necessary to request.

Testimony presented at the hearing indicated that the changes in the market's supply-demand situation would make it impossible for UDA to continue to qualify its manufacturing plant as a pool plant under the current provisions of the order. Additional testimony indicated that, although the milk of the cooperative's member producers could continue to be pooled without a lowering of the pooling standards, costly and inefficient changes in milk movements would have to be made in order to do so.

Based on available information concerning the market's supply-demand conditions, the suspension for the months of October and November 1983 is warranted. The suspension will accommodate the pooling and efficient handling of milk supplies for the market pending a decision on whether the order should be amended to lower the pooling standard in the manner proposed. In the absence of a suspension, costly and inefficient movements of producer milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without the suspension costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of the market.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held on November 9–10, 1982, where all interested parties had an opportunity to be heard on this matter.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1131

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provision in § 1131.7(c) of the order is hereby suspended for the months of October and November 1983.

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

Effective date: September 29, 1983.

Signed at Washington, D.C. on: September 23, 1983.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–26652 Filed 9–28–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–CE–14–AD; Amdt. 39–4715]

Airworthiness Directives; Beech Models E33C and F33C Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 83–17–05, Amendment 39–4715 (48 FR 39449–39451), applicable to Beech Models E33C and F33C airplanes. This correction is necessary because paragraph b)14 inadvertently cited therein paragraph c15 instead of b)15 when the AD was issued and published in the **Federal Register.**

EFFECTIVE DATE: October 5, 1983.

FOR FURTHER INFORMATION CONTACT: Charles J. Maple, Flight Test Pilot, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7012.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 83–17–05, Amendment 39–4715 (48 FR 39449–39451), applicable to Beech Models E33C and F33C airplanes, the FAA found that paragraph b14 inadvertently cited therein paragraph c15 instead of paragraph b15 when the AD was published in the **Federal Register.** Therefore, action is taken herein to make this correction. Since this action is clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

In FR Doc. 83–23679 (48 FR 39449–39451), appearing on page 39451 in the **Federal Register** of August 31, 1983, make the following correction:

Correct "paragraph c15" in paragraph b)14 to read "paragraph b)15."

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and § 11.89, Federal Aviation Regulations (14 CFR 11.89))

Issued in Kansas City, Missouri, on September 16, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–26556 Filed 9–28–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83–NM–90–AD; Amendment 39–4736]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 767 aircraft equipped with Pratt and Whitney JT9D–7R4 series engines, which requires: (1) Modification of certain engine idle control circuitry; and (2) installation of Package B type hydromechanical engine fuel controls, if not presently intalled. These actions are necessary to minimize the possibility of engine stall conditions during low power (idle) descent operations. At least one incident of low power engine stall has occurred in service.

EFFECTIVE DATE: October 11, 1983.

ADDRESS: The applicable service bulletins may be obtained from the Boeing Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel I. Cheney, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office, Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2959. Mailing address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Recently, a Boeing Model 767 aircraft equipped with Pratt and Whitney JT9D–7R4D engines, following initial descent from altitude, experienced a condition where both engines failed to respond to power lever advancement. Later in the descent, both engines, still failing to respond to power lever movement, exhibited excessive exhaust gas temperatures (EGT) due to what is believed to be a compressor stall condition. Both engines had to be shut down. Subsequent windmilling restarts were successful and the aircraft landed safely.

Extensive analysis and testing is now in progress in order to more fully understand the reasons these engines failed to respond to power lever advancement. In the interim, it has been determined that certain precautionary measures should be taken in order to minimize the possibility of these engines experiencing this stalled condition. It has been established that this condition is related to low engine power operation usually associated with aircraft descent.

Since this condition is likely to exist or develop on other airplanes of the same type design, equipped with the same engines, an airworthiness directive is being issued which requires certain modifications be performed, which will result in slightly increased engine idle fan revolutions per minute (RPM's) during idle descents.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

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

Boeing: Applies to Boeing Model 767 series airplanes equipped with Pratt and Whitney JT9D–7R4D engines certificated in all categories. In order to minimize the possibility of engine stall conditions during low power (idle) descent accomplish the following, unless already acomplished:

A. Within 30 days after the effective date of this AD, perform the airplane circuit modifications detailed in Boeing Alert Service Bulletin 767–73A7, dated September 2, 1983, or later FAA approved revisions.

B. Within 120 days after the effective date of this AD install Package B type hydromechanical fuel controls in accordance with Pratt & Whitney Aircraft Service Bulletin JT9D–7R4–73–4, dated May 3, 1983, or later FAA approved revisions.

Note.—Engine idle speeds associated with these modifications are *not* intended to replace or eliminate the requirement for proper observance of existing engine anti-ice limitations when operating in icing conditions, including selection of engine anti-ice "ON" and establishment of correct fan speeds *prior* to entering icing conditions.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base to accomplish the above.

This amendment becomes effective October 11, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.)

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

Issued in Seattle, Washington on September 19, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–26549 Filed 9–28–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–19–AD; Amdt. 39–4735]

Airworthiness Directives; British Aerospace Corporation Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to British Aerospace Corporation Model BAC 1–11 200 and 400 series airplanes which requires repetitive inspections and repair or replacement, as necessary, of the flap beam spigots on the No. 1 left- and right-hand flap beams. The AD also provides an optional modification which eliminates the repetitive inspection requirement. Several broken flap beam spigots have been reported. Failure of the spigot weakens the flap beam support structure, and can result in the flap binding.

EFFECTIVE DATE: November 3, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace BAC 1–11 Alert Service Bulletin No. 53–A–PM5805 as mandatory. Spigot failures on the No. 1

left- and right-hand fuselage mounted flap beams have been reported. Laboratory analysis conducted by British Aerospace Corporation has determined that the spigot failures resulted from fatigue. Each fuselage mounted flap beam has two spigots which transfer longitudinal flap loads to the fuselage. Failure of one spigot can eventually lead to failure of the second spigot, loss of flap beam integrity, and possible binding of the inboard flap. The alert service bulletin prescribes instructions for the detection of spigot failures and, if necessary, replacement of components.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection, and repair if necessary, of spigots on the No. 1 left- and right-hand fuselage mounted flaps was published in the **Federal Register** on May 16, 1983 (48 FR 21963). The comment period closed on July 5, 1983, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it stated no objection to the proposed AD.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 62 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $4000 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $161,910 to U.S. operators. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected, since few small entities operate BAC 1-11 airplanes.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

British Aerospace: Applies to Models BAC 1-11 200 and 400 series airplanes, certificated in all categories. To prevent failure of the No. 1 left and right side fuselage mounted flap beam on aircraft that have not incorporated Modification No. PM5805, accomplish the following unless previously accomplished:

A. Inspect and repair or replace, as necessary, the forward and aft spigots of the No. 1 flap beam in accordance with paragraph 2, Accomplishment Instructions, of British Aerospace Alert Service Bulletin No. 53-A-PM5805, Issue 2, dated May 4, 1982, per the following schedule:

1. For aircraft which have accumulated 27,000 or more landings on the effective date of the AD, compliance is required prior to the accumulation of 30,000 landings, or within the next 1,000 landings, whichever occurs later.

2. For aircraft which have accumulated less than 27,000 landings on the effective date of the AD, compliance is required prior to the accumulation of 18,000 landings, or within the next 3,000 landings, whichever occurs later.

B. Repeat the actions of paragraph A., above, at intervals not to exceed 6,000 landings.

C. Incorporation of modification PM5805 terminates the repetitive inspection requirement of paragraph B., above.

D. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 3, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on September 19, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-26555 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-NM-24-AD; Amdt. 39-4733]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11,200 and 400 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes which would require repetitive inspections and repairs, as necessary, of the rear spar web of the center section torque box. Cracks have been reported up to 3.0 inches in length. These inspections are needed to detect cracks which derogate the rear spar frame integrity and allow fuel leaks from the center fuel tank (if installed).

EFFECTIVE DATE: October 6, 1983.

ADDRESS: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 776-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Alert Service Bulletin 53-A-PM5837 as mandatory.

Cracks have been reported on the rear spar web of the center section torque box on several BAC 1-11 200 airplanes. The cracks propagated vertically, immediately inboard of the vertical "A" frame attachment fittings. The length of the cracks varied between 0.50 inch to 3 inches. At the position where the cracks occurred, the web is an extension of the machined rear spar frame, and the cracks run in the radius of the change of section. The presence of the cracks will weaken the rear spar frame and create fuel leaks from the center fuel tank (if installed).

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the

Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the above mentioned inspection and repairs.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, certificated in all categories. To prevent loss of rear spar frame integrity due to cracks on the rear spar web of the center section torque box, accomplish the following, unless already accomplished:

A. Prior to the accumulation of 30,000 landings or within the next 200 landings, whichever occurs later, after the effective date of this AD, inspect the rear spar frame, and repair if necessary, in accordance with paragraph 2, Accomplishment Instructions, of British Aerospace Alert Service Bulletin No. 53-A-PM5837, Issue 1, dated April 21, 1982.

B. Repeat the inspection of paragraph A., above, at intervals not to exceed:

(1) 3,600 landings for aircraft with less than 45,000 landings at the last inspection and

(2) 1,800 landings for aircraft with more than 45,000 landings at the last inspection.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective October 6, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Washington on September 16, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-26554 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-29-AD; Amdt. 39-4738]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to British Aerospace Corporation model BAC 1-11 200 and 400 series airplanes which requires inspection of the flap track attachment brackets to detect cracks. Service experience has shown that the procedure currently used may not accurately detect the actual crack length. This amendment changes the method of inspection required. Failure to properly determine crack length could result in failure of the brackets and possible loss of the flap.

EFFECTIVE DATE: November 3, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The CAA has classified British Aerospace Corporation BAC 1-11 Alert Service Bulletin 57-A-PM4948 as mandatory. Issue 5 of this service bulletin specifies a dye penetrant inspection for detecting flap track attachment bracket cracks and determining their lengths. The dye penetrant procedure will improve the detection of cracks over the currently required visual inspection method per AD 81-14-07.

A proposal to amend AD 81-14-07 to require a more rigorous inspection method for the flap track attachment brackets to initially determine crack lengths more accurately was published in the **Federal Register** on May 26, 1983 (48 FR 23658). The comment period closed on July 18, 1983, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received and it stated no objection to the proposal.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the additional requirement of a more detailed inspection, and that the average labor cost will be $35 per manhour. Based on these figures, the total cost impact to U.S. operators of the amendment to the existing AD is estimated to be $11,025. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive (AD) 81-14-07, Amendment 39-4153 (46 FR 33223, June 29, 1981) as follows:

A. Amend paragraph (e) by replacing "Alert Service Bulletin 57-A-PM4948, Issue 4, dated July 18, 1977" with "Alert Service Bulletin 57-A-PM4948, Issue 5, dated January 28, 1981."

B. Revise paragraphs (m) and (n) to read as follows:

(m) Upon request of an operator and submission of substantiating data, the Manager, Seattle Aircraft Certification Office,

FAA, Northwest Mountain Region may adjust the inspection intervals.

(n) Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA Northwest Mountain Region.

This amendment becomes effective November 3, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on September 19, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-26551 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-23-AD; Amdt. 39-4737]

Airworthiness Directives; British Aerospace Corporation Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document revises an existing airworthiness directive (AD) applicable to British Aerospace Corportation model BAC 1-11 200 and 400 series airplanes by requiring inspection of the nonreturn valves in the auxiliary power unit (APU). Service experience has shown that a more detailed inspection will improve crack detection and thereby reduce the fire hazard. This amendment allows a reduction in the inspection frequency of these components and also provides terminating action if certain modifications are incorporated.

EFFECTIVE DATE: November 3, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified BAC 1-11 Alert Service Bulletin 49-A-PM3122 as mandatory. Issue 4 of this service bulletin specifies a more complete inspection of the APU air delivery duct nonreturn valves, part numbers 1398B000 and 1398B000/1398B999, by using a dye penetrant inspection method for crack detection while also extending the inspection interval. The service bulletin also specifies that incorporation of British Aerospace modifications PM3148, PM3177, and PM4912 terminates the need for further inspections.

A proposal to revise AD 71-06-09 which would require a more detailed inspection of the nonreturn valves in the APU was published in the **Federal Register** on May 26, 1983 (48 FR 23659). The comment period closed on July 15, 1983, and interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

One commenter pointed out some numbering errors in the reference of the service bulletin paragraphs. The manufacturer commented that the part numbers were misquoted. The correct paragraphs of the applicable service bulletin and part numbers will be used in the final rule. The manufacturer also mentioned that modification PM4912 may be used to terminate certain inspection requirements. This modification is defined in the service bulletin but not cited in the Accomplishment Instructions. Since this change provides another option and it does not represent an additional burden to the operators, it is incorporated in the final AD.

It is estimated that 63 U.S. registered airplanes will be affected by this AD, that it will take approximately 2 additional manhours per airplane to accomplish the more detailed inspections, and that the average labor cost will be $35 per manhour. Based on these figures, the total cost impact of the AD to U.S. operators is estimated to be $4,410. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously mentioned.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Airworthiness Directive (AD) 71-06-09, Amendment 39-1177 (36 FR 5034, March 17, 1971) to read as follows:

British Aerospace: Applies to BAC 1-11 200 and 400 series airplanes, certificated in all categories. Compliance is required as indicated. To prevent malfunction of the auxiliary power unit (APU) air delivery duct nonreturn valve, accomplish the following:

A. For airplanes having nonreturn valve P/N 525180 installed:

1. Within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the previous 60 hours time in service and thereafter at intervals not to exceed 160 hours time in service, perform the actions specified by paragraphs 2.2, 2.3, 2.4, and 2.5 of Accomplishment Instructions, British Aerospace Alert Service Bulletin 49-A-PM3122, Issue 4, dated March 31, 1982. Incorporation of British Aerospace modification PM3254 or PM4912 terminates the requirements of paragraphs 2.3 and 2.4 of the service bulletin.

2. Prior to further flight, unless already accomplished, install a placard adjacent to the APU control panel in clear view of the pilot, or amend the Airplane Flight Manual limitations Section 2, to read as follows: "Close APU air delivery valve when starting engine from an external supply or by cross-feeding air from an operating engine. Close APU air delivery value and shut down APU for takeoff and flight operations. Operational use of the APU in fight is prohibited." The placard may be removed or the amendment to the Airplane Flight Manual may be deleted upon replacement of APU air delivery duct nonreturn valve P/N 525180 with nonreturn valve P/N 1398B000 or 1398B000/1398B999 or 3031B000.

B. For airplanes having nonreturn valve P/N 1398B000 or 1398B000/1398B999 installed, within the next 750 hours time in service after the effective date of this AD, unless already accomplished within the previous 1,500 hours time in service from the last inspection, and thereafter at intervals not to exceed those specified in the service bulletin, perform the actions described by paragraphs 2.4.1, 2.4.2 and 2.4.3 of the service bulletin.

C. Incorporation of modifications PM3148, PM3177 and PM4912 constitutes terminating action for the repetitive inspections required by this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 3, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on September 19, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-26550 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-21; Amdt. 39-4731]

Airworthiness Directives; Garlick Helicopters, Hawkins & Powers Aviation, Inc., Wilco Aviation (Bell) Model UH-1B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires an inspection and, if necessary, replacement of tail rotor hubs installed on Garlick Helicopters, Hawkins & Power Aviation, Inc., Wilco Aviation (Bell) Model UH-1B helicopters. The AD is needed to prevent operation of the helicopter with unapproved tail rotor hubs which could lead to excessive structural loads resulting in possible loss of the helicopter.

DATE: Effective November 1, 1983.

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2592.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of Garlick Helicopters, Hawkins & Powers Aviation, Inc., Wilco Aviation (Bell) UH-1B helicopters within 100 hours' time in service after the effective date of this AD to assure that unapproved tail rotor hub assemblies are not installed was published in the **Federal Register** on June 6, 1983 (48 FR 25210). If unapproved components are found, this AD would require replacement with approved components. This action is needed to prevent operation of the helicopter with unapproved tail rotor hubs which could lead to excessive structural loads resulting in mechanical failures and possible loss of the helicopter.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Comments were received and have been given due consideration, as discussed below.

One commenter stated that the AD was written against a Bell UH-1B model helicopter however, Bell Helicopter Textron, Inc., does not hold a type certificate for a UH-1B helicopter. The FAA concurs with this comment and appropriate corrections to the model designation have been incorporated.

Another commenter objected to the scope of the economic evaluation in that the AD did not consider the 100 tail rotor hubs, P/N 204-011-801-003, the commenter had in inventory. The P/N 204-011-801-003 tail rotor hub has not received FAA approval for use on the Model UH-1B. Economic evaluation cannot be determined on parts that were not intended to be used on the Model UH-1B and have not received FAA approval for that model.

Another commenter stated there was no need for the AD because he had flown 1100 hours with the P/N 204-011-801-003 tail rotor hub assembly installed. Routine operating experience does not in itself demonstrate compliance with the applicable airworthiness rules, therefore this time in service with the P/N 204-011-801-003 assembly cannot be accepted in lieu of compliance with this AD.

One commenter concurred with the AD.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of Amendment

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

Garlick Helicopters, Hawkins & Powers Aviation, Inc., Wilco Aviation (Bell) Model UH-1B Helicopters: Applies to Garlick Helicopters, Hawkins & Powers Aviation, Inc., and Wilco Aviation (Bell) UH-1B helicopters certified in all categories.

Compliance is required within the next 100 hours' time in service after the effective date of this AD unless already accomplished.

To prevent excessive structural loads which could lead to mechanical failure and possibly loss of a helicopter, accomplish the following:

(a) Inspect the tail rotor hub assembly and identify the part number of the tail rotor hub assembly. The tail rotor hub assembly part number is located on the yoke assembly.

(b) If the tail rotor hub assembly, P/N 204-011-801-003, is installed, remove and replace with P/N 204-011-801-005, 009, or 017.

(c) Any equivalent method of compliance with paragraph (b) above of this AD must be approved by the Manager, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

(d) In accordance with FAR 21.197, flight is permitted to a base where the inspections required by this AD may be accomplished.

This amendment becomes effective November 1, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89).

Note.—The FAA has determined that this regulation involves approximately 11 helicopters at an anticipated total expense of $5,306 per helicopter. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal, and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, Texas, on September 15, 1983.

C. R. Melugin, Jr.

Director, Southwest Region.

[FR Doc. 83-26552 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-ASW-36; Amdt. 39-4732]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model 355

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection of the splined flange attached to the forward end of the oil cooler fan wheel on SNIAS Model 355 series helicopters. The AD is needed to prevent the loss of tail rotor drive which could result in loss of directional control and possible loss of the helicopter.

DATES: Effective October 14, 1983.

Compliance required within the next 50 hours' time in service after the effective date of this AD (unless already accomplished).

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, telephone 512.38.30; or G. B. Roach, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2592.

SUPPLEMENTARY INFORMATION: The FAA has determined that a tail rotor driveshaft splined flange experienced excessive wear which resulted in loss of tail rotor drive. This occurred in flight and an emergency landing was made. Numerous reports of excessive spline wear have been received. Since this condition is likely to exist or develop on other helicopters of the same type design, and airworthiness directive is being issued which specifies an inspection interval and rejection criteria for the tail rotor driveshaft splined flange.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

Societe Nationale Industrielle Aerospatiale (SNIAS): Amendment 39-4732 Applies to all SNIAS Model 355 series helicopters that have splined flange P/N 355A34-1062-20, attached to the forward end of the oil cooler fan wheel.

Compliance is required as indicated unless already accomplished.

To prevent possible loss of tail rotor drive, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, inspect the splined flange (P/N 355A34-1062-20) as prescribed in SNIAS Model 355 Maintenance Manual, Section 65.10.00.602, paragraph 2, or FAA approved equivalent.

(b) Repeat the inspection prescribed in paragraph (a) above at intervals not to exceed 100 hours, until the splined flange (P/N 355A34-1062-20) is replaced with a new splined flange (P/N 355A34-1078-20).

(c) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76101, or by the Manager, Aircraft Certification Staff AEU-100, FAA, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium.

(d) In accordance with § 21.197, flight is permitted to a base where the inspections required by this AD may be accomplished.

This amendment becomes effective October 14, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Note.—The FAA has determined that this regulation involves approximately 150 helicopters and the cost to each helicopter is approximately $610. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Fort Worth, Texas, on September 15, 1983.

C. R. Melugin, Jr.

Director, Southwest Region.

[FR Doc. 83-26553 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 231, 239, 240, 241, 270 and 274

[Release Nos. 33-6486; 34-20220; 35-23069; IC-13529; File No. S7-958]

Disclosure of Executive Compensation

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of an amended and retitled Item of Regulation S-K, Item 402, which provides for uniform disclosure of the compensation paid to certain executive officers and directors, and the adoption of conforming amendments. The Commission also announced the conditional adoption of coordinating amendments to Form S-18 [17 CFR 239.28], a simplified registration statement form under the Securities Act of 1933. These actions are being taken as part of the Commission's Proxy Review Program, which includes a comprehensive reexamination of the disclosure requirements and procedural provisions relating to the solicitation of proxies. The adoption of amended Item 402 is intended to simplify the current disclosure requirements, reduce compliance burdens and allow registrants greater flexibility in selecting a presentation format while providing investors and security holders with more comprehensible information concerning executive compensation. In addition, the Commission today announced the rescission of four interpretive releases issued pursuant to old Item 402.

EFFECTIVE DATES: Revised Item 402 and the conforming amendments, including the conditional amendments to Form S-18, are effective for all documents filed on or after December 31, 1983. A registrant may comply with these provisions prior to that date, but if it elects to do so, it must comply with all applicable provisions and continue to do so in any subsequent filings.

Interested persons will have until October 31, 1983 to comment on the coordinating amendments to Form S-18, after which the Commission will review the comments and make such changes, if any, that it deems necessary and appropriate.

If no material changes are necessitated by the comments, the changes to Form S-18 will become final for all registration statements filed on Form S-18 on or after December 31, 1983.

ADDRESSES: Comments on the conditional adoption of coordinating amendments to Form S–18 should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. All comment letters should refer to File No. S7–958. All comments received will be available for public inspection and copying in the Commission Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: With respect to Item 402, prior to the effective date, contact Elliot M. Pinta (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. After the effective date, Ann Glickman (202) 272–2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. With respect to Form S–18, contact H. Steven Holtzman, Special Counsel, (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of amendments to Item 402 of Regulation S–K (17 CFR 229.402) containing uniform requirements for the disclosure in registration statements, periodic reports and proxy statements under the Securities Act of 1933 [15 U.S.C. 77a et seq. (1976 and Supp. IV 1980)] ("Securities Act") and the Securities Exchange Act of 1934 [15 U.S.C. 78a et. seq. (1976 and Supp. IV 1980)] ("Exchange Act") of the compensation paid to the registrant's executive officers and directors. In addition, the Commission adopted conforming amendments to Items 9, 10 and 11 of Schedule 14A [17 CFR 240.14a–101] and revised the following rules and forms to reflect the change from the term "management remuneration" to "executive compensation": Item 404 of Regulation S–K; Securities Act Rules 601 and 610(a); Item 11(k) of Form S–1; Items 3 and 22 of Form S–11; Exchange Act Rules 12(g)(3) and 14a–101; Item 6 to Form 10; Item 11 to Form 20–6; Item 11 of Form 10–K; Investment Company Act Rule 30(d); Items 9, 10 and 11 of Form N–1; Items 28, 36, 37 and 38 of Form N–8B–4; Items 10 and 11 of Form N–1R [17 CFR 229.404, 229.601, 230.610a, 239.11, 239.18, 240.12g3–2, 240.14a–101, 240.210, 249.220(6), 249.310, 270.30(d)–1, 273.11, 274.14, 274.101].

The Commission also announced the conditional adoption of coordinating amendments to Form S–18 [17 CFR 239.28], a simplified registration Form under the Securities Act designed for initial offerings by smaller issuers. The amendments revise Item 20 of Form S–18 to simplify and streamline the disclosure of compensation to executive officers and directors in a manner consistent with the changes to Item 402 of Regulation S–K.

The amendments to Item 402 adopted today relate to proposals that were published for comment in January 1983, (the "Proposing Release") as the fourth Commission rulemaking initiative pursuant to its Proxy Review Program.[1] The comments received on the proposals generally were favorable, and the Item and accompanying amendments are being adopted substantially as proposed. Several changes have been made in the proposal, however, including: (1) Retitling the Item; (2) altering the composition of the disclosure group; and (3) retaining the current requirement to disclose the net value realized on the exercise of stock options and stock appreciation rights ("SARs"). Additional minor modifications have been made pursuant to the comments received.

This release focuses primarily on the changes made from the proposal an the basis for those changes. As background for this discussion, the release briefly recounts the development of revised Item 402. Readers are directed to the text of the amendments and to the Proposing Release for a more complete statement of the history of Item 402 and the proposed amendments.

I. Background

Current Item 402 has been faulted as being overly complex and inordinately detailed. In addition, while the detail of the current provision was designed to alleviate many of the interpretive issue that had arisen under earlier provisions, numerous interpretive questions continued to arise.[2] Consequently, the Commission determined that a substantially new Item 402, rather than minor adjustments to existing Item 402, was necessary to achieve the goals of improving the effectiveness of executive compensation disclosure and reducing the burdens of preparation. New Item 402 was designed to implement these objectives by focusing on compensation actually paid or vested and eliminating the disclosure of contingent compensation; by limiting the compensation table, for the most part, to cash paid or distributed, as contrasted to all amounts expensed for financial reporting purposes; by allowing registrants to disclose other compensation and compensation paid pursuant to plans in a narrative, tabular or other format; and by focusing on those members of management who perform policy making functions for the registrant.

Proposed Item 402 was divided into five pargraphs: (a) Disclosure, in tabular form, of cash amounts paid or earned during the last fiscal year; (b) disclosure of compensation paid or to be paid pursuant to various plans which would be made in connection with the description of such plans; (c) disclosure of other compensation not covered by proposed paragraphs (a) or (b), such as perquisites, which would be disclosed in a narrative, tabular or other format subject to a designated threshold amount; (d) disclosure of standard and other arrangements for the compensation of directors; and (e) disclosure of compensation plans or arrangements relating to termination of employment or a change in control of the registrant.

II. Overview of Comments

The proposals generated a substantial amount of commentary.[3] Overall, the commentators supported the Commission's efforts to simplify disclosure requirements relating to executive compensation, while, at the

[1] (Release No. 33–6449 [January 17, 1983] [48 FR 3625]). The first initiative under the Commission's Proxy Review Program was the adoption of a new uniform Regulation S–K item relating to the disclosure of certain relationships and transactions involving management (Release No. 33–6441 (December 2, 1982) [47 FR 55661]). The second was the adoption of amendments to various rules relating to the process by which issuers communicate with the beneficial owners of securities registered in the name of a broker, bank or other nominee (Release No. 34–20021 (July 28, 1983) [48 FR 35082]). The third was the adoption of amendments to the Commission's shareholder proposal rule, Rule 14a–8 (Release No. 34–20091 (August 16, 1983) [48 FR 38218]).

[2] Beginning with the provisions in effect in 1977 and continuing through the current disclosure provisions, the Commission has had to issue several interpretive releases regarding the disclosure of management remuneration. *See* Release No. 33–6384 (December, 3, 1981) [46 FR 60421]; Release No. 33–6166 (December 12, 1979) [44 FR 74803]; Release No. 33–6027 (February 22, 1979) [44 FR 16368]; Release No. 33–5904 (February 8, 1978) [43 FR 6060]; Release No. 33–5856 (August 18, 1977) [42 FR 43058]. In view of the substantial revision of Item 402, the Commission is rescinding the above-referenced interpretive releases.

[3] The Commission received 115 comment letters in response to the proposal. A copy of the letters of comment and a summary of comments are available for public inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549. (*See* File No. S7–958). A copy of the Final Regulatory Flexibility Analysis may be obtained by addressing a request to Elliot Pinta at the above address.

same time, providing investors and security holders with meaningful information relating to the registrant's executive compensation practices.

The commentators were virtually unanimous in their approval of several initiatives contained in the proposal, including: the focus on compensation actually received or vested; the simplification of the cash compensation table; and the increased flexibility afforded registrants in disclosing amounts paid pursuant to plans.

Other initiatives garnering substantial commentator support included: limiting the disclosure group to "executive officers"; rescinding currently required disclosure of interest paid on deferred compensation and of dividends awarded on restricted stock; simplifying the disclosure of stock options and SARs; establishing a disclosure threshold for perquisites; and retaining a separate provision for disclosure of change of control arrangements.

Many of the commentators also suggested ways in which they believed the proposals could be further improved or modified. Some of these suggestions were offered in response to Commission requests for specific comment. These suggestions and specific comments focused primarily on four areas: (1) The category and number of individuals with respect to whom disclosure of compensation is appropriate; (2) the scope of disclosure relating to stock options and SARs; (3) the valuation standard for perquisites; and (4) the provisions regarding change of control disclosure. Several of the specific comments and suggestions mentioned above, as well as others, are reflected in Item 402 as adopted. These comments, as well as others not reflected in Item 402, are discussed below.

III. Discussion of Item 402

The Commission has changed the title of new Item 402, replacing the title "Management Remuneration" with "Executive Compensation." This change recognizes that the phrase Executive Compensation is currently more widely employed and recognized by registrants, shareholders and investors than is the phrase used in the existing title.

A. Item 402(a)—Cash Compensation

Proposed paragraph (a) of Item 402, which sets forth the scope and format for disclosure of cash compensation paid to specified individuals and to a designated group, has been adopted, in most respects, as proposed, but with the modifications discussed below.

The Item retains the provision limiting to five the number of individuals with respect to whom individual disclosure is required. While the proposal did not alter the current provisions regarding the number or description of the individuals to be specifically identified in the Cash Compensation Table, the Proposing Release did contain a specific request for comments regarding the executive officers and directors with respect to whom individual disclosure is appropriate. The Proposing Release posited four alternative standards upon which an individual disclosure requirement could be based: (1) Individuals holding certain specified positions; (2) individuals performing certain designated functions; (3) management directors only; or (4) a straight numerical approach. A variety of responses were received, several of which combined two or more of the suggested approaches. The greatest number of commentators favored employing a straight numerical standard and, of these, the majority favored retention of five as the appropriate level for individual disclosure. The Commission has determined to retain that standard inasmuch as it has been the subject of considerable administrative experience and commentators have neither expressed great dissatisfaction with the standard nor presented a clearly superior alternative.

With respect to those persons who must be included in the disclosure group, current Item 402(a) requires disclosure of the aggregate compensation paid to a group comprising all officers and directors of the registrant and its subsidiaries. Proposed Item 402(a) limited the group's composition to only executive officers and directors. The commentators generally agreed with limiting the officers included in the group to executive officers. They stated that this would provide a better indication of the cost of a registrant's top management than does the current Item's requirements [4] and that this would be consistent with the requirement for individual disclosure, which is already so limited.

Several commentators suggested further that directors be deleted from the group inasmuch as their level of compensation does not, under normal circumstances, comprise a significant percentage of overall executive compensation. These commentators suggested that including directors in the group could give a misleading picture of the registrant's real cost of management. The Commission agrees and has limited group disclosure to all executive officers.[5] The Commission believes that deletion of directors from the paragraph (a)(1)(ii) disclosure group will provide shareholders and investors with more meaningful information regarding the cost of management. Moreover, information with respect to the compensation paid directors will continue to be required pursuant to paragraph (d) of Item 402. The Commission also notes that, in almost all instances, management directors will come within the definition of the term executive officer, so that their compensation will be disclosed pursuant to paragraph (a)(1)(i).

Second, proposed Item 402(a) would have required identification in the Cash Compensation Table of "all capacities" served by the named individuals. Several commentators suggested that this requirement was over-inclusive and likely to result in confusing and immaterial data. The Commission agrees and has modified Item 402(a) to require enumeration of only those principal capacities served by the named individual. The Commission emphasizes, that while only the principal capacities served need be listed in the Cash Compensation Table, the calculation of cash compensation received requires aggregation of amounts paid for services rendered in *all* capacities.

Finally, in response to commentator suggestion, the Commission has amended Instruction 1 to paragraph (a) to allow registrants to separately identify salaries, bonuses, deferred compensation and other forms of cash compensation if they so choose. The Commission believes that according greater flexibility in presentation of this information will benefit registrants, shareholders and investors alike.

B. Item 402(b)—Compensation Pursuant to Plans

Paragraph (b) requires disclosure regarding all plans pursuant to which the registrant has paid or proposes to pay in the future any form of compensation to the named individuals and group specified in paragraph (a) of

[4] Pursuant to Rule 405 under the Securities Act [17 CFR 230.405] and Rule 3b-7 under the Exchange Act [17 CFR 240.3b-7], the term "executive officer" is defined, when used in reference to a registrant, "as the registrant's president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy making functions for the registrant."

[5] A similar change has been made in Item 402(a)(1)(i), limiting individual disclosure to the registrant's five most highly compensated executive officers.

the Item. The proposal received a generally favorable response from the commentators and is adopted with the modifications discussed below.

First, the Item was changed to eliminate any problem relating to double counting—where compensation is reported in one year as vested pursuant to a plan and reported again in a subsequent year when it is actually paid or distributed.[6] Specifically, the language of paragraph (b)(1)(vi) is clarified to provide that amounts previously disclosed pursuant to paragraph (b)(1)(vii) or a predecessor provision as having been accrued or vested need not be disclosed again upon distribution.

Second, the Commission requested specific comment regarding the proposals to eliminate disclosure of interest paid on deferred compensation and dividends awarded on restricted stock. The commentators agreed that no disclosure should be required of either item, asserting that such amounts are essentially non-compensatory, do not represent a real cost of management, and are no different from interest or dividends received from non-registrant sources. The Commission agrees and has included a new instruction, General Instruction 3, to exclude disclosure of this data, subject to the certain conditions. With respect to interest on deferred compensation, the Instruction states that such amounts may be excluded from disclosure provided that the rate of interest accrued or provided for by a deferred compensation plan does not exceed prevailing market interest rates at the time of accrual or at the time the plan pursuant to which the compensation is deferred was established.

With respect to dividends on restricted stock, the Instruction provides that such dividends may be excluded provided the stock is not of a particular class available only to certain employees, such as executive officers, on a discriminatory basis

Third, the Commission has not adopted the proposal to modify the benefit computation basis for those deferred benefit and actuarial plans within paragraph (b)(2) of the Item. The current Item requires a benefit computation basis of "estimated credited years of service". The Commission proposed to modify that to require a benefit calculation as of "normal retirement age". This modification was proposed in the belief that this calculation would be less burdensome for registrants. The commentator responses, however, indicated that the modification would produce no real efficiencies and, indeed, may present new interpretive problems. In view of this, the Commission determined not to adopt the proposal, and the Item retains the current benefit computation basis of "estimated credited years of service".

Fourth, the Commission has adopted a modification of its proposal to limit the scope of disclosure regarding stock options and SARs. The Commission has adopted the proposal deleting the requirements to disclose the aggregate amount of securities underlying all unexercised options or SARs and the potential (unrealized) value of such unexercised options or rights. At the same time, the Commission has retained the requirement to disclose the net value realized from the exercise of stock options and SARs during the fiscal year.

The commentators, generally supportive of the Commission's efforts to simplify disclosure regarding stock options and SARs, were divided with respect to the need to retain the requirement to disclose the net value realized on the exercise of such options or rights. Those favoring deletion of that requirement asserted that such amounts are unrelated to the performance of services to the registrant. Conversely, commentators in favor of retaining disclosure of this information noted that such gains often comprise a material part of an individual's overall compensation and that stockholders and investors have a legitimate interest in disclosure of that information. In addition, a number of these commentators asserted that the exercise of an option or SAR may also involve a compensation cost to the registrant.

The Commission has decided to retain the requirement to disclose the net value realized upon the exercise stock options and SARs during the preceeding fiscal year. The Commission has concluded that in deleting the currently required disclosure of the aggregate amount of securities underlying all unexercised options or SARs and the potential unrealized value of such unexercised options or rights, the revised Item significantly improves the clarity of disclosure provided and reduces the compliance burden on registrants. In view of these deletions, the Commission has concluded that disclosure of net value realized continues to be of value to investors and shareholders.

Finally, the adopted Item includes, as proposed, non-discriminatory relocation plans among those non-discriminatory plans specifically exempted from disclosure under paragraph (b). Several commentators suggested that the list be expanded to exclude generically all but those plans heavily weighted in favor of management. The Commission does not believe it would be appropriate to adopt such a broad exemption at this time.

C. Paragraph (c)—Other Compensation

Paragraph (c), effecting certain changes from the current disclosure requirements regarding non-cash compensation, was favorably received by the majority of commentators. Several commentators, noting that the proposal did not contain instuctions for valuing compensation within this paragraph requested that the Commission prescribe a specific valuation method.[7] The Commission has added an instruction to paragraph (c) specifying that the registrant's aggregate incremental cost is the valuation method to be employed. The Commission believes this valuation standard to be appropriate in view of the Item's focus on disclosure of the cost of management to registrants. At the same time, the Commission has adopted a disclosure threshold of 10 percent of the compensation reported in the Cash Compensation Table or $25,000, whichever is less. This threshold is identical to the existing Item's trigger for footnote disclosure of personal benefits. The Commission believes that this threshold, in combination with an aggregate incremental cost valuation standard, relieves registrants of unnecessary compliance burdens while providing shareholders and investors with meaningful information regarding personal benefits.

D. Paragraph (d)—Compensation of Directors

Proposed paragraph (d), derived from current Item 402(c), requires disclosure of both standard and other compensatory arrangements between the registrant and its directors. The Commission proposed only a minor language change to the text of the current Item,[8] but also requested

[6] *See* footnote 27 to the Proposing Release.

[7] The current Item provides that personal benefits shall be valued on the basis of the registrant's and subsidiaries aggregate actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefits, appropriate disclosure, including the aggregate value to the recipient, shall be made in a footnote to the table. The registrant may choose to disclose such aggregate value rather than aggregate incremental costs in the table, in which event such footnote disclosure is not required.

[8] The proposed change was intended to make clear that payments made to a directorn during the last fiscal year as compensation for a number of years' services, including services in the last fiscal year, would be required to be disclosed.

specific comment regarding the need to disclose payments or arrangements for payments to be made to a director in the year after the director has resigned. The majority of commentators suggested that no such disclosure be required, asserting that such information was not material to shareholder suffrage. The Commission agrees and has adopted the Item as proposed, with no requirement respecting year after resignation payments.

The Commission rejected the suggestion posited by several commentators that a disclosure threshold similar to that provided in paragraphs (a) or (c) be imposed on this paragraph. The Commission has concluded, in view of the unique role played by directors, that imposition of a disclosure threshold would not be appropriate.

E. Paragraph (e)—Change of Control Arrangements

As proposed, this paragraph, modeled on existing Item 402(i), required disclosure by the registrant of compensatory plans or arrangements with an individual identified under paragraph (a) which are triggered by such individual's resignation, retirement or termination of employment. The Commission invited specific comment regarding the need for a separate disclosure provision for such plans and arrangements as well as whether the scope of the proposed disclosure should be expanded.

The commentators were divided on the need for a separate paragraph dealing with such arrangements. Those finding such a provision unnecessary suggested that the disclosed matters either already were, or by amendment could be, encompassed by paragraph (b). Those favoring retention of a separate disclosure provision asserted that termination provisions are distinct from other plans in both intent and scope and, moreover, are of particular interest to shareholders. The Commission agrees with the latter comments and has determined to retain a separate disclosure provision for such arrangements.

As proposed, paragraph (e) would apply only to plans or arrangements triggered by the individual's resignation, retirement or any other termination of employment with the registrant or subsidiaries. Some commentators suggested that the triggering circumstances be expanded to include such things as a change in control of the registrant or a change in the individual's responsibilities following a change in control. These suggestions were consistent with the *Report of Recommendations of the Advisory Committee on Tender Offers* ("Advisory Committee Report").[9] The Commission has decided to effect this suggestion and expand the paragraph's coverage accordingly. This change also necessitated a retitling of the paragraph.

In addition, the Commission has decided to follow a recommendation made both by commentators and the Advisory Committee Report and codify an administrative interpretation of the current Item, clarifying that plans or arrangements within paragraph (e) are to be disclosed annually.[10]

The Commission requested specific comment regarding the need for additional requirements in this area, such as whether the plans or arrangements received shareholder approval. The commentators uniformly rejected the need for such additional disclosure, noting that shareholder approval of such plans or arrangements is not generally required by applicable state law. While the Commission has decided not to require such disclosure at this time, it notes that the Advisory Committee Report recommended that change of control related policies and compensation be submitted to the shareholders for a non-binding advisory vote. Thus, the issue will be considered by the Commission in the context of its consideration of the Advisory Committee Report.

IV. Coordinating Amendments

In addition to the conforming changes to the rules and forms noted in the introduction to this release necessitated by the new title, the coordinating amendments to Items 9, 10, and 11 of Schedule 14A proposed in the Proposing Release have been adopted by the Commission with some modifications. The Commission requested specific comments as to whether a reference to incentive stock options within Section 422A of the Internal Revenue Code should be added to Item 9 to permit registrants not to state the average option price per share of such options. The commentators generally favored inclusion of such reference and the Commission has followed that suggestion. Finally, changes have been adopted to conform the text of Items 9, 10 and 11 to the requirements adopted in Item 402(a) respecting individual and group disclosure.

V. Amendments to Form S–18

The Commission also has adopted, on a conditional basis, coordinating amendments to Form S–18. Form S–18 is a simplified registration form specifically designed to facilitate access to the public capital markets by certain smaller domestic and Canadian issuers. Form S–18 does not cross-reference the Executive Compensation item in Regulation S–K, but, instead, contains a separate item for the disclosure of executive compensation which is tailored to the type of disclosure generally made by first-time public issuers. Since certain aspects of the revised Item 402 of Regulation S–K appear appropriate for the simplied disclosure provisions in Form S–18, the Commission has conditionally adopted coordinating changes to Item 20 of Form S–18. The conditional amendments simplify the S–18 disclosure requirements and do not call for any information not required by old Item 20. Further, the conditional amendments are consistent with the Commission's efforts to conform S–18 to the disclusre requirements of other Forms, to the extent appropriate, while preserving the advantages of Form S–18 for smaller companies.

The amendments constitute a substantially new Item 20, titled "Executive Compensation." These changes, made to conform to Item 402 of Regulation S–K, are as follows: (1) Compensation paid to executive officers and directors are now required to be states separately; (2) cash compensation paid to executive officers must be presented in tabular form, while compensation pursuant to plans and other compensation may be presented separately in a narrative, tabular or other format, at the option of the registrant; (3) disclosure of individual compensation is required for only the five most highly compensated executive officers, rather than officers and directors; (4) the threshold for the disclosure of individual compensation was raised from $50,000 to $60,000,

[9] The Advisory Committee on Tender Offers ("Advisory Committee") was established by the Commission in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 1 (1976 and Supp. V 1981) on February 25, 1983 to examine the tender offer process and other techniques for acquiring control of public issuers and to recommend to the Commission legislative and/or regulatory changes the Committee considered necessary or appropriate. *See* Release No. 34–19528 (February 25, 1983) [48 FR 9111]. The Committee was composed of 18 members, including members of the business and financial community, legal and accounting professions and academia. The Advisory Committee submitted its Report to the Commission on July 8, 1983.

[10] The Advisory Committee's recommendations in this regard went beyond the scope of this Item and suggested that change of control arrangements between the registrant and any party be disclosed annually in a new "change of control" section of the proxy statement. The Commission expresses no opinion with regard to these recommendations at this time but will consider them in the context of its consideration of the Advisory Committee Report.

calculated on the basis of cash compensation; and (5) group disclosure is limited to executive officers, rather than all officers and directors.

The amendments to Item 20 divide the disclosure requirements into four paragraphs. Paragraph (a) requires disclosure, in tabular form ("Cash Compensation Table"), of all cash compensation paid during the registrant's last fiscal year to each of the registrant's five most highly compensated executive officers whose cash compensation exceeds $60,000, naming each individual. The registrant also must disclose the aggregate amount of cash compensation paid to all executive officers as a group, stating the number of individuals in the group without naming them.

The format of new Item 20 reflects technical revisions to title the tabular presentation "Cash Compensation Table," and to amend the headings to Columns B and C. The amended heading to Column B reads "capacities in which served" rather than "Capacities in which Remuneration Received," and Column C includes only "Cash Compensation," instead of "Aggregate Compensation."

Paragraph (a) of new Item 20 differs substantially from old Item 20 in that tabular presentation of information is required for cash compensation only, rather than for all compensation. In addition to cash compensation actually paid, new Item 20 requires disclosure of cash bonuses to be paid for services rendered during the last fiscal year, unless such amounts have not been allocated at the time of filing. This provision addresses the situation in which a bonus was earned during fiscal year but has not yet been paid. If the registrant knows the bonus amounts to be paid to the named individuals and group, those amounts must be included in the Cash Compensation Table. In the instance in which the registrant has not allocated bonus amounts at the time of the filing, such amounts would not be reported for the year in which they were earned, but in the year in which they were paid. The registrant also must disclose compensation that would have been paid in cash but for the fact that such payment has been deferred.

The disclosure of personal benefits and stock, retirement, pension and other plans was removed from paragraph (a) and placed in paragraphs (b) and (c). In addition, the instructions applicable to such benefits and plans were revised and moved to new paragraphs, or deleted.

Paragraph (b) requires the disclosure of compensation paid or distributed during the registrant's last fiscal year, or proposed to be paid in the future, to the named individuals or group specified in paragraph (a), pursuant to plans. This paragraph is derived from paragraphs (a) and (b) old Item 20. Certain compensation paid pursuant to plans which previously was reported in tabular form under paragraph (a) now may be described in narrative, tabular or any other form chosen by the issuer pursuant to paragraph (b). As in old Item 20, no disclosure need be provided for nondiscriminatory group life, health, hospitalization, or medical reimbursement plans. The amendments added nondiscriminatory relocation plans to the compensation which need not be disclosed, consistent with previous staff interpretations. Likewise, information relating to pension or retirement benefits need not be disclosed if the amounts to be paid are computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

With respect to stock option plans, in addition to the disclosure required for other plans, information must also be disclosed for options granted or exercised within the last fiscal year. As previously required, the registrant must disclose the title and aggregate amount of securities subject to options granted during the last fiscal year. Instead of disclosing the purchase price of the securities and the expiration dates of the options, however, the registrant must disclose only the average per share exercise price of the options. The market price of the security now is required only if the option exercise price was less than 100 percent of the market value of the security on the date of the grant, whereas old Item 20 required the market value in all circumstances as of the latest practicable date. In addition, for any options exercised during the last fiscal year, the net value realized upon the exercise of any options must be disclosed. The net value realized is calculated by subtracting the exercise value from the market price.

Paragraph (c) requires disclosure of all compensation not included in paragraphs (a) and (b), such as personal benefits, securities or property paid during the registrant's last fiscal year to the named individuals and group specified in paragraph (a). This disclosure previously was contained in paragraph (a) of old Item 20. Such disclosure need not be included for any named individual if the aggregate amount of such compensation is less than $25,000 or 10 percent of the compensation reported in the Cash Compensation Table. Old Item 20 allowed exclusion only if the specific amount of personal benefits could not be ascertained without unreasonable effort and the issuer reasonably believed, in any event, that the aggregate amount did not exceed $10,000. With respect to the group, disclosure of other compensation is not required if the aggregate amount is less than $25,000 times the number of persons in the group or 10 percent of the Cash Compensation Table for the group. This constitutes a change from the prior rule, which allowed the exclusion only if the specific amount could not be ascertained without unreasonable effort and the registrant reasonably believed the amount was less than $10,000 for each person in the group. The compensation reported in paragraph (c) is to be valued on the basis of the registrants and subsidiaries' incremental cost.

Paragraph (d) requires a brief description of all compensation received by directors of the registrant for all services as a director. This is a significant change from old Item 20, which grouped directors and officers in the disclosure of management compensation.

VII. Summary of Regulatory Flexibility Analysis

A summary of the Regulatory Flexibility Analysis with respect to the conditional amendments to Form S-18 is attached as an Appendix to this release.

VIII. Statutory Authority and Findings

The Commission hereby adopts Item 402 of Regulation S-K, the conditional amendments to Form S-18 and other conforming amendments pursuant to its statutory authority in sections 6, 7, 8, 10 and 19(a) of the Securities Act and sections 12, 13, 14, 15(d) and 23(a) of the Exchange Act. As required by section 23(a) of the Exchange Act, the Commission has considered the impact that these rulemaking actions would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

List of Subjects in 17 CFR Parts 229, 239 and 249

Reporting and recordkeeping requirements securities.

IX. Text of Amendments

In accordance with the foregoing, Title

17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By revising § 229.402 to read as follows:

§ 229.402 (Item 402) Executive Compensation.

(a)(1) *Cash compensation.* Furnish, in substantially the tabular form specified, all cash compensation paid to the following persons through the latest practicable date for services rendered in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year:

(i) *Five executive officers.* Each of the registrant's five most highly compensated executive officers whose cash compensation required to be disclosed pursuant to this paragraph exceeds $60,000, naming each such person; and

(ii) *All executive officers.* All executive officers as a group, stating the number of persons in the group without naming them.

(2) *Bonuses and deferred compensation.* The Cash Compensation Table also shall include:

(i) All cash bonuses to be paid to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year unless such amounts have not been allocated at such time as compensation disclosure is filed;

(ii) All cash bonuses paid during the last fiscal year for services rendered in all capacities to the registrant and its subsidiaries in a previous fiscal year, less any amount relating to the same contract, agreement, plan or arrangement included in the Cash Compensation Table for a prior fiscal year and less any amount that would have been so included but for the fact that the individual was not included in the Cash Compensation Table, as a named individual or as a member of the group, for such prior fiscal year; and

(iii) All compensation that would have been paid in cash to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year but for the fact that the payment of such compensation was deferred.

CASH COMPENSATION TABLE

(A)	(B)	(C)
Name of individual or number in group.	Capacities in which served.	Cash compensation.

Instructions to Item 402(a)

1. *Cash Compensation Table.* (A) The registrant may include additional columns in the Cash Compensation Table. For example, the registrant may segregate cash bonuses and deferred compensation from cash salaries and fees.

(B) Amounts deferred pursuant to Section 401(k) of the Internal Revenue Code are to be included in paragraph (a) for the fiscal year during which they are accured.

(C) Registrants need list in Column (B) of the Cash Compensation Table only those principal capacities served by each of the identified individuals. The cash compensation disclosed, however, must include cash compensation received in *all* capacities.

2. *Persons covered.* (A) Paragraph (a) of this section applies to any individual who was an executive officer of the registrant at any time during the last fiscal year. Information need not be disclosed, however, for any portion of the period during which such individual was not an executive officer of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose compensation is to be reported in the Cash Compensation Table, it is not necessary to report compensation that would have been reported in the Table had the individual been included in prior years.

(B) Registrants should be flexible in determining which individuals should be named in the Cash Compensation Table in order to ensure that disclosure is made with respect to key policy making members of management. Consideration should be given to the question of whether an individual's level of executive responsibilites, viewed in conjunction with such individual's actual level of cash compensation is such that the registrant reasonably may conclude that the person is among its five most highly compensated, key policy making executive officers. Under this standard, it may be appropriate, in certain circumstances, to include an executive officer of a subsidiary in the Cash Compensation Table.

(C) In certain circumstances, it may be appropriate for a registrant not to include in the Cash Compensation Table an individual who is one of the registrant's five most highly compensated executive officers. Among the factors that should be considered in determining not to name an individual are: (i) The distribution or accrual of an unusually large amount of cash compensation (such as a bonus or commission) that is not part of a recurring arrangement and is unlikely to continue; and (ii) the payment of amounts of cash compensation relating to overseas assignments that may be attributed predominantly to such assignments.

(b)(1) *Compensation pursuant to plans.* Describe briefly all plans, pursuant to which cash or non-cash compensation was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future, to the named individuals and group specified in paragraph (a) of this section. Information need not be given with respect to any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate, in scope, terms, or operation, in favor of officers or directors of the registrant and that are available generally to all salaried employees. The description of each plan shall include the following, except that the description of any defined benefit or actuarial plans need not include the information specified in paragraphs (b)(1)(vi) and (b)(1)(vii) of this section and the description of any stock option and stock appreciation right plan need not include the information specified in paragraph (b)(1)(vii) of this section:

(i) A summary of how the plan operates and who is covered by the plan;

(ii) The criteria used to determine amounts payable, including any performance formula or measure;

(iii) The time periods over which the measurement of benefits will be determined;

(iv) Payment schedules;

(v) Any recent material amendments to the plan;

(vi) Amounts paid or distributed pursuant to the plan to the named individuals and the group during the last fiscal year less any amount relating to the same plan which previously has been disclosed as accrued pursuant to paragraph (b)(1)(vii) of this section or a predecessor provision; and

(vii) Amounts accrued pursuant to the plan for the accounts of the named individuals and group during the last fiscal year, the distribution or unconditional vesting of which are not subject to future events.

(2) *Pension table.* As to defined benefit and actuarial plans, other than any defined benefit or actuarial plan under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include, as the payment schedule required by paragraph (b)(1)(iv) of this section, a separate Pension Table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) to persons in specified compensation and years-of-service classifications. In addition, in

furnishing the information required by paragraphs (b)(1) (i)–(v) of this section, include:

(i) The compensation covered by the plan, including the relationship of such covered compensation to the compensation reported in the Cash Compensation Table pursuant to paragraph (a) of this section, and state the current compensation covered by the plan for any individuals named in the Cash Compensation Table whose covered compensation differs substantially (by more than 10 percent) from that set forth in the Cash Compensation Table;

(ii) The estimated credited years of service for each of the individuals named in the Cash Compensation Table; and

(iii) A statement as to the basis upon which benefits are computed (*e.g.*, straight life annuity amounts) and whether or not the benefits listed in the Pension Table are subject to any deduction for Social Security or other offset amounts.

EXAMPLE OF PENSION TABLE

Remuneration	Years of service				
	15	20	25	30	35
125,000	xxx	xxx	xxx	xxx	xxx.
150,000	xxx	xxx	xxx	xxx	xxx.
175,000	xxx	xxx	xxx	xxx	xxx.
200,000	xxx	xxx	xxx	xxx	xxx.
225,000	xxx	xxx	xxx	xxx	xxx.

(3) *Alternative pension plan disclosure.* In furnishing the information required by paragraphs (b)(1) (i)–(v) of this section with respect to defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include:

(i) The formula by which benefits are determined; and

(ii) The estimated annual benefits payable upon retirement at normal retirement age for each of the individuals named in the Cash Compensation Table pursuant to paragraph (a) of this section.

(4) *Stock option and stock appreciation right plans.* In addition to providing the information required by paragraphs (b)(1) (i)–(vi) of this section, furnish:

(i) With respect to stock options granted during the last fiscal year: (A) the title and aggregate amount of securities subject to options; (B) the average per share exercise price; and (C) if such option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately.

(ii) With respect to the exercise or realization of options or stock appreciation rights held in tandem with options, state the net value of securities (market value less any exercise price) or cash realized during the last fiscal year.

(iii) With respect to plans pursuant to which stock appreciation rights not in tandem with options were granted during the last fiscal year: (A) the number of rights granted; and (B) the average per share base price thereof.

(iv) With respect to the exercise or realization of stock appreciation rights not in tandem with options, state the net value of the shares (market price) or cash realized during the last fiscal year.

Instructions to Item 402(b)

1. *Format.* With the exception of those pension plans disclosed pursuant to paragraph 402(b)(2), the registrant may use either a narrative, tabular or other format or combination of formats provided the information so disclosed is clear and understandable. Disclosure required by paragraph (b)(2), pertaining to certain defined benefit and actuarial plans, is required to be presented in the Pension Table format set forth in that paragraph.

2. *Cash paid pursuant to plans.* The cash compensation paid pursuant to a plan need not be disclosed as amounts paid or distributed pursuant to paragraph (b)(1)(vi) of this section if such compensation was included in the Cash Compensation Table pursuant to paragraph (a) of this section and a statement to that effect is made. Similarly, the cash compensation deferred under a deferred compensation plan need not be disclosed as amounts accrued pursuant to paragraph (b)(1)(vii) of this section if such compensation was included in the Cash Compensation Table and a statement to that effect is made.

3. *Definition of "plan".* The term "plan" includes, but is not limited to the following: any plan, contract, authorization or arrangement, whether or not set forth in any formal documents, pursuant to which the following may be received: cash, stock, restricted stock, phantom stock, stock options, stock appreciation rights, stock options in tandem with stock appreciation rights, warrants, convertible securities, performance units and performance shares. A plan may be applicable to one person.

4. *Pension levels.* Compensation set forth in the Pension Table pursuant to paragraph (b)(2) of this section shall allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest compensation level in the Pension Table an amount equal to 120 percent of the amount of covered compensation of the most highly compensated individual named in the Cash Compensation Table pursuant to paragraph (a) of this section.

5. *Definition of "normal retirement age".* The term "normal retirement age" means normal retirement age as defined in a pension or similar plan or, if not defined therein, the earliest time at which a participant may retire without any benefit reduction because of age.

(c) *Other Compensation.* Describe, stating amounts, any other compensation not covered by paragraphs (a) or (b) of this section that was paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) of this section unless:

(1) With respect to any named individual, the aggregate amount of such other compensation is the lesser of $25,000 or 10 percent of the compensation reported in the Cash Compensation Table for such person pursuant to paragraph (a) of this section, or

(2) With respect to the group, the aggregate amount of such other compensation is the lesser of $25,000 times the number of persons in the group or 10 percent of the compensation reported in the Cash Compensation Table for the group pursuant to paragraph (a) of this section and a statement to that effect is made.

Instructions to Item 402(c)

1. *Scope.* Compensation to be disclosed pursuant to this paragraph may include, amoung other things: (a) personal benefits or; (b) securities or property that were paid or distributed other than pursuant to a plan. It does not, in any event, include cash, which is to be disclosed pursuant to either paragraph (a) or (b).

2. *Threshold.* If the amount of other compensation for a named individual or the group exceeds the established thresholds, the entire amount of such other compensation must be disclosed pursuant to this paragraph.

3. *Valuation.* Compensation within paragraph (c) shall be valued on the basis of the registrant's and subsidiaries' aggregate incremental cost.

(d) *Compensation of directors.*

(1) *Standard arrangements.* Describe any standard arrangement, stating amounts, pursuant to which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* Describe any other arrangements pursuant to which any director of the registrant was compensated during the registrant's last fiscal year for services as a director, stating the amount paid and the name of the director.

(e) *Termination of Employment and Change of Control Arrangement.*

Describe any compensatory plan or arrangement, including payments to be received from the registrant, with respect to any individual named in the Cash Compansation Table pursuant to paragraph (a) of this section for the latest or next preceding fiscal year if such a plan or arrangement results or will result from the resignation, retirement or any other termination of such individual's employment with the registrant and its subsidiaries or from a change in control of the registrant to or a change in the individual's responsibilities following a change in control and the amount involved, including all periodic payments or installments, exceeds $60,000.

General Instructions to Item 402

1. *Foreign private issuers.* A non-Canadian foreign private issuer may respond to all of Item 402 by indicating the aggregate payments or benefits paid or to be paid to all executive officers as a group unless such registrants disclose to their security holders or otherwise make public the information specified in this section for individually named executive officers, in which case such information also shall be disclosed.

2. *Transactions with third parties.* This section includes transactions between the registrant and a third party where the primary purpose of the transaction is to furnish compensation to any named individual or the group specified in paragraph (a) of this section. No information need be given in response to any paragraph of this section as to any such transaction if the transaction has been reported in response to Item 404 of Regulation S–K (§ 229.404 of this chapter).

3. *Exclusions.* No information need be given pursuant to this Item with respect to interest on deferred compensation provided that the rate of interest does not exceed prevailing market interest rates either: (1) At the time the interest is accrued or (2) at the time the plan pursuant to which the compensation is deferred was established. Similarly, dividends awarded on restricted stock need not be disclosed provided that the restricted stock is not of a particular class available only to certain employees on a discriminatory basis.

§ 229.404 [Amended]

2. By removing the word "remuneration" in two places in paragraph 1 in the Instructions to § 229.404 and inserting in those places the word "compensation".

§ 229.601 [Amended]

3. By removing the word "remunerative" twice in paragraph (b)(10)(iii)(A), once in the introductory sentence to paragraph (b)(10)(iii)(B), once in paragraph (b)(10)(iii)(B)(*4*), twice in paragraph (b)(10)(iii)(B)(*5*), and once in paragraph (b)(10)(iii)(B)(*6*) of § 229.601 and inserting in those places the word "compensatory." In addition, the Instruction to paragraph (b)(10)(iii)(B) is amended by removing the word "remuneration" and inserting in its place the word "compensation."

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.610a [Amended]

4. By removing the word "remuneration" twice in paragraph (10)(b) of § 230.610a and inserting in those places the word "compensation."

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

5. By removing Releases Nos. 5856, 5904, 6159 and 6166.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.11 [Amended]

6. By removing the words "management remuneration" in Part 1, Item 11(K) of § 239.11 and inserting in their place the words "executive compensation."

§ 239.18 [Amended]

7. By removing the word "remuneration" once in Item 3(b)(4), and once in Item 24(b)(6) of § 239.18 and inserting in those places the word "compensation"; and by removing the words "management remuneration" in Item 22 of § 239.18 and inserting in their place the words "executive compensation."

§ 239.28 [Amended]

8. By revising Item 20 of Form S–18, § 239.28, to read as follows:

Item 20. Executive Compensation

(a)(1) *Cash compensation.* Furnish, in substantially the tabular form specified, all cash compensation paid to the following persons through the latest practicable date for services rendered in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year.

(i) Each of the registrant's five most highly compensated executive officers whose cash compensation required to be disclosed pursuant to this paragraph exceeds $60,000, naming each person; and

(ii) All executive officers as a group, stating the number of persons in the group without naming them.

CASH COMPENSATION TABLE

(A)	(B)	(C)
Name of individual or number in group.	Capacities in which served.	Cash compensation.

Instructions. 1. The Cash Compensation Table shall include: (i) All cash bonuses to be paid for services rendered during the last fiscal year unless such amounts have not been allocated at such time as the registration statement is filed; and (ii) all compensation that would have been paid in cash but for the fact the payment of such compensation was deferred. 2. Paragraph (a) applies to any person who was an executive officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not an executive officer of the registrant, provided a statement to that effect is made.

(b)(1) *Compensation pursuant to plans.* Describe briefly all plans, pursuant to which cash or non-cash compensation was paid or distributed during the last fiscal year, stating such amounts, and all plans pursuant to which cash or non-cash is proposed to be paid or distributed in the future, to the named individuals and group specified in paragraph (a) of this section. Information need not be given with respect to any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate, in scope, terms, or operation in favor of officers or directors of the registrant and that are available generally to all salaried employees. Information relating to pension or retirement benefits need not be disclosed if the amounts to be paid are computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

(2) *Stock option plans.* In addition to providing the information required by paragraph (b)(1) of this section, furnish:

(i) With respect to stock options granted during the last fiscal year: (A) The title and aggregate amount of securities subject to options; (B) the average per share exercise price; and (C) if such option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date.

(ii) With respect to stock options exercised during the last fiscal year, regardless of the year such options were granted, the net value realized upon such exercise, calculated by subtracting the exercise price from the market value.

(c) *Other compensation.* Describe, stating amounts, any other compensation not covered by paragraph (a) or (b) of this section, such as personal benefits, securities or property, that was paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) of this section unless:

(1) With respect to any named individual, the aggregate amount of such other compensation is the lesser of $25,000 or 10 percent of the compensation reported in the

Cash Compensation Table of such person pursuant to paragraph (a) of this section or

(2) With respect to the group, the aggregate amount of such other compensation is the lesser of $25,000 times the number of persons in the group or 10 percent of the compensation reported in the Cash Compensation Table for the group pursuant to paragraph (a) of this section and a statement to that effect is made.

Instruction. Compensation within paragraph (c) shall be valued on the basis of the registrant's and subsidiaries' aggregate incremental cost.

(d) *Compensation of directors.* Describe briefly, stating amounts, all compensation received by directors of the registrant for all services as a director.

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

§ 240.12g3-2 [Amended]

9. By removing the word "remuneration" from paragraph (b)(3) of § 240.12g3-2 and inserting in its place the word "compensation."

10. By revising paragraphs (b) and (d) and Instructions 1 and 3 of Item 9; paragraphs (b) and (d) and Instruction 1 of Item 10; and paragraphs (b) and (c) and Instruction 1 of Item 11 of § 240.14a-101 to read as follows:

§ 240.14a-101 Schedule 14A—Information required in proxy statement.

* * * * *

Item 9. Bonus, profit sharing and other compensation plans. * * *

(b) State separately the amounts which would have been distributable under the plan during the last fiscal year of the issuer to (1) all current executive officers as a group, (2) all other current officers and directors as a group, and (3) all employees if the plan has been in effect.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S-K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other compensation or incentive plans, now in effect, or in effect within the past five years, for: (1) Each executive officer named in answer to Item 402(a) of Regulation S-K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon, (2) all current executive officers of the issuer as a group, if any executive officers may participate in the plan, (3) all other current officers and directors of the issuer as a group, if any other officer and director may participate in the plan, and (iv) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in Instruction 3 to Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter).

* * * * *

3. The following instructions shall apply to paragraph (d):

(a) Information need only be given with respect to benefits received or set aside within the past five years.

(b) Information need not be included as to payments made for, or benefits to be received from, group life or accident insurance, group hospitalization, group relocation or similar group payments or benefits.

(c) If action is to be taken with respect to any plan in which directors or executive officer may participate, furnish the following information for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year in aggregate amounts for the entire period for each such person and group: (1) As to options granted during the specified period, state the title and aggregate amount of securities subject to options, the average per share exercise price and, if the option price was less than 100 percent of the market value of the security on the date of the grant, such fact and the market price on such date (The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately); and (2) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period. If any named person, or any other director or executive officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and executive officers as a group. If other officers or employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to such other officers or employees, respectively, during the five-year period and, if the options were other than for "qualified" stock options, incentive stock options or options granted pursuant to an "employee stock purchase plan", as the quoted terms are defined in Sections 422 through 423 of the Internal Revenue Code, state that fact and the weighted average option price per share.

* * * * *

Item 10. Pension and retirement plans. * * *

(b) State (1) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit of (i) executive officers, (ii) all other officers and directors, and (iii) employees.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S-K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other compensation or incentive plans, now in effect or in effect within the past five years, for (1) Each executive officer named in answer to Item 402(a) of Regulation S-K (§229.402(a) of this chapter) who may participate in the plan to be acted upon; (2) all current executive officers of the issuer as a group, if executive officer may participate in the plan; (3) all other current officers and directors of the issuer as a group, if any other officer or director may participate in the plan; and (4) all employees, if employees may participate in the plan.

* * * * *

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 3 to Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter). Instruction 2 to Item 9 shall apply to this item.

* * * * *

Item 11. Options, warrants or rights. * * *

* * * * *

(b) State separately the amount of options, warrants, or rights received or to be received by the following persons, naming each such person: (1) Each executive officer named in answer to Item 402(a) of Regulation S-K (§ 229.402(a) of this chapter); (2) each nominee for election as a director; (3) each associate of such directors, executive officers or nominees; and (4) each other person who received or is to receive 5 percent of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and executive officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 402 of Regulation S-K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other compensation or incentive plans, now in effect or in effect within the past five years, for (1) each executive officer named in answer to Item 402(a) of Regulation S-K (§ 229.402(a)of this chapter) who may participate in the plan to be acted upon; (2) all current executive officers of the issuer as a group, if any executive officer may participate in the plan; (3) all other current officers and directors of the issuer as a group, if any other officer or director may participate in the plan; and (4) all employees, if employees may participate in the plan.

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 3 to Item 402(b) of Regualation S-K (§ 229.402(b) of this chapter).

§ 240.14a-101 [Amended]

11. By removing the word "remuneration" in the title of Item 7 and once in clause (ii) of Item 7, § 240.14a-101, and by inserting in those places the word "compensation."

§ 240.210 [Amended]

12. By removing the phrase "management remuneration" from the title of Item 6 to Form 10, § 240.210, and inserting in its place the phrase "executive compensation."

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND RULES AND REGULATIONS THEREUNDER

13. By removing Release Nos. 13872, 5904, 16419, 18302.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.220f [Amended]

14. By removing the word "remuneration" in the title and text of paragraphs (a) and (a)2 of Item 11 to Form 20–F, § 249.220f, and by inserting in those places the word "compensation."

§ 249.310 [Amended]

15. By removing the phrase "management remuneration" from the title of Part III to Item 11 of Form 10–K, § 249.310, and by inserting in its place the phrase "executive compensation."

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§ 270.30d–1 [Amended]

16. By removing the word "remuneration" from paragraph (c)(1) of § 270.30d–1 and inserting in its place the word "compensation."

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

§ 274.11 [Amended]

17. By removing the word "remuneration" once in the title and twice in the table of Item 11 of Form N–1, § 274.11, and inserting in their place the word "compensation."

§ 274.14 [Amended]

18. By removing the word "remuneration" in the title of Item 28, in the title preceding Item 34, in the title of Item 36, in paragraphs (a), (a)(2), and (a)(3) of Item 36, in column (B) of the chart in Item 36, three times in Instruction 1, twice in Instruction 2 and once in Instruction 4 to Item 36, once in paragraph (c) of Item 36, in the title, text and table in Item 37 and twice in the text of Item 38, all of Form N–8B–4, § 274.14, and inserting in their place the word "compensation."

§ 274.101 [Amended]

19. By removing the word "remuneration" in the title of Item 10 of Form N–1R, twice in the text of paragraph (a), once each in columns (A), (C) and (D) of the table to paragraph (a) of Item 10, once in paragraph (b), once each in columns (A) and (B) of the table to paragraph (b) of Item 10, once in paragraph (C) and once each in columns (A) and (B) of the table to paragraph (C) of Item 10, once in the title to the Instruction to Item 10, twice in the fourth paragraph and once in the fifth paragraph to the Instruction to Item 10, once in the title to Item 11 of Form N–1R, and once in the Instruction to Item 11, § 274.101, and inserting in their place the word "compensation."

By the Commission.

George A. Fitzsimmons,

Secretary.

September 23, 1983.

Appendix—Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the revisions to Form S–18 proposed herein.

The analysis notes that the Commission adopted Form S–18 to be used by certain smaller companies in an effort to alleviate some of the cost and compliance burdens traditionally associated with registration on Form S–1, the standard registration form. The Commission took this step in recognition of its statutory authority to vary disclosure requirements depending upon the issuer and other considerations, and with the designated purpose of facilitating small business capital formation.

Specifically, as compared to Form S–1, Form S–18 provides for reduced narrative disclosure requirements, reduced and less burdensome financial statement requirements, and permits regional filing and processing of the registration statement, all of which result in a more timely and less expensive registration process for smaller issuers seeking access to the public capital markets.

In order to further reduce the expenses incurred by small issuers registering their securities under the Securities Act, the Commission permits registrants which filed on Form S–18, and thereby became subject to section 15(d) of the Exchange Act, to include the Form's simplified financial statements and narrative disclosures in their initial annual report filed with the Commission.

The Commission believes these steps have served to alleviate the burdens on small business consistent with its statutory mandate to protect investors and foster continued confidence in the securities markets.

The amendments adopted on a conditional basis herein are designed to conform the disclosure of executive compensation in Form S–18 to that required by other registration forms, while preserving the simplified disclosure format of Form S–18.

A copy of the Initial Regulatory Flexibility Analysis may by obtained by contacting Elliot M. Pinta, (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

[FR Doc. 83–26657 Filed 9–28–83; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 125, 225, and 356

[Docket No. RM83–40–000; Order No. 335]

Revisions to Regulations on Retention of Records by Natural Gas Companies, Public Utilities, Licensees, and Oil Pipeline Companies

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations on retention of records by public utilities, licensees, natural gas companies, and oil pipeline companies ("regulated companies"). Most importantly, these amendments eliminate many categories of records from the schedules of records to be retained. The Commission is also making other more minor changes to its regulations that clarify, update, and eliminate unnecessary burden on regulated companies. This rule is part of the Commission's ongoing program to reduce and eliminate burdensome and unnecessary requirements and reduces by about 35 percent the burden on regulated companies of maintaining records under the Commission's regulations.

EFFECTIVE DATE: November 28 1983.

FOR FURTHER INFORMATION CONTACT:
Kenneth J. Malloy, Rulemaking and Legislative Analysis Section, Office of the General Counsel, 825 North Capitol Street, NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033
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SUPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing a final rule amending its regulations on retention of records by public utilities, licensees, natural gas companies, and oil pipeline companies ("regulated companies"). Most importantly, these amendments eliminate many categories of records from the schedules of records to be retained. The Commission is also adopting other changes to its regulations that clarify, update, and reduce the record retention requirements for regulated companies.

This final rule is a key part of the Commission's ongoing program to reduce record retention requirements and eliminate burdensome and unnecessary requirements. This rule reduces by about 35 percent the burden on regulated companies of maintaining records under the Commission's regulations.

II. Background

A. *Electric and Gas*

Both the Federal Power Act (section 301, 16 U.S.C. 825(a) (1976)) and the Natural Gas Act (section 8, 15 U.S.C. 717g(a) (1976)) require regulated companies to keep such records as the Commission may prescribe "as necessary or appropriate for purposes of administration" of these acts.[1] In 1972, the Commission established a comprehensive scheme of record retention regulations applicable to electric utilities and hydropower licensees (Part 125) and natural gas companies (Part 225).[2] In promulgating this scheme, the Commission's goal was to develop a comprehensive regulatory system to assist regulated companies in meeting their management needs and to allow companies to satisfy more easily the requirements of numerous regulatory agencies.[3]

Accordingly, this scheme coordinated the record retention requirements of this Commission, the Securities and Exchange Commission (SEC), the Nuclear Regulatory Commission (NRC), the Internal Revenue Service (IRS), and state commissions.

B. *Oil Pipelines*

In 1977, the Commission assumed jurisdiction over the establishment of rates or charges for the transportation of oil by pipelines.[4] Section 20 of the Interstate Commerce Act, 49 U.S.C. 20 (1976), requires oil pipeline companies to keep records that the Commission determines are necessary to effectively regulate those companies. The record retention regulations applicable to oil pipelines were transferred to the Commission from the Interstate Commerce Commission by section 705(a) of the Department of Energy Organization Act, 42 U.S.C. 7295 (Supp. V 1981).

The Commission's policies for exercising its jurisdiction over oil pipelines are dependent on the ultimate disposition of the issues in *Williams Pipeline Company*, Docket No. OR79-1 (*Williams*), by the federal courts. Hence, the Commission is for the most part eliminating only those ICC-created record retention requirements that are not applicable to the regulation of oil pipelines, and is otherwise maintaining the status quo. As the Commission gains more experience in oil pipeline matters, it will re-examine the need for the remaining requirements as part of the ongoing program to eliminate reporting and recordkeeping requirements that are not necessary to the Commission's regulatory responsibilities.

C. *Other Regulatory Considerations*

Since the promulgation of the comprehensive record retention regulations in 1972, Congress enacted the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (Supp. V 1981). That Act expresses the intent of Congress to minimize the public's reporting burden. The General Accounting Office (GAO) reviewed the progress of five federal independent regulatory agencies, including this Commission, in minimizing the public's reporting burden under the Paperwork Reduction Act. GAO published its Report on July 7, 1981,[5] and concluded that the independent agencies could further reduce the paperwork burden on industry. GAO recommended that the independent agencies increase the effort and attention given to record retention programs, especially to revising both existing record schedules and retention periods to reflect the agencies' current needs in a clear and unambiguous manner.

D. *Notice of Proposed Rulemaking*

In light of the Paperwork Reduction Act and the recommendations of GAO, the Commission reconsidered its original comprehensive approach and issued a notice of proposed rulemaking on March 22, 1983, 48 FR 12,722 (March 28, 1983). In that proposal, the Commission examined its record retention requirements to identify those record descriptions and retention periods that were vague and ambiguous, and to identify those records which the Commission did not currently need to carry out its regulatory responsibilities.

The Commission received twenty-eight comments on its proposed rulemaking—three from trade associations, fifteen from electric utilities, five from natural gas companies, four from oil pipeline companies, and one from an employee of an electric company. These comments have been considered during preparation of this final rule. All comments were supportive of the Commission's proposals, noting that some or all of these proposals would, if promulgated, reduce the costs of both administrative personnel and warehousing of records. Many commenters noted that these costs savings would be passed on to consumers in the form of lower rates.

III. Discussion

The Commission is adopting four types of changes to its current regulations. First, and of major importance, the Commission is eliminating many categories from the schedules of records to be retained. Second, the Commission is shortening

[1] Section 402(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7172(a)(2) (Supp. V 1981).

[2] FPC Order No. 450, Docket No. R429, issued March 14, 1972.

[3] The record retention schedules were recommended by a task force whose members were drawn from the regulated entities. *See* American Gas Association and Edison Electric Institute (AGA/EEI) *Record Retention Task Force Report* (issued March 14, 1972). These recommendations were promulgated by the Commission without substantive changes.

[4] Jurisdiction under the Interstate Commerce Act over the establishment of rates or charges for the transportation of oil by pipelines and the establishment of valuations for pipelines was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172 (Supp. V 1981), and Executive Order No. 12,009, 3 CFR 142 (1978).

[5] Report to Director, Office of Management and Budget, *Independent Regulatory Agencies Can Reduce Paperwork Burden on Industry*, No. B-182087 (July 7, 1981).

the retention periods of several categories of records. Third, the rule specifies requirements for ensuring the integrity of all records generated by a computer. Fourth, several descriptions of records are being modified to define more precisely the records that must be retained.[6]

A. Categories of Records Eliminated

When the Commission established its record retention schedules in 1972, it sought to coordinate the record retention requirements of federal and state regulatory agencies. Consequently, these schedules now include records which *this* Commission does not need to fulfill its regulatory responsibilities. Contrary to its philosophy in 1972, the Commission how believes that its schedules of records should include only records for which it can demonstrate a regulatory need. Accordingly, the Commission is eliminating all or part of over 100 categories of records from its retention schedules.

Many commenters supported the Commission's proposal to eliminate many categories of records. Several commenters, however, were concerned with the Commission's change in philosophy, noting that the elimination of these categories of records would require each company individually to determine the record retention requirements of all state and federal agencies that have jurisdiction over the company. Additionally, several commenters noted that there would not be much savings in the Commission's elimination of record retention categories because many other agencies already require these companies to retain records that the Commission proposes to eliminate from its retention schedule. Some commenters also noted that there would be a significant expense in changing the current management system for record retention to comport with the Commission's new, more limited schedules of records and retention periods. To alleviate this burden, one commenter requested that the Commission not eliminate categories of records, but rather eliminate only the retention periods and substitute a notation that a company can destroy the record at its option. Two commenters suggested that it may be better to include record categories with shorter retention periods rather than eliminate them entirely from the schedule of records.

The Commission acknowledges that regulated companies will incur some initial, administrative expenses in adjusting to the new, more limited record retention schedules of the Commission. These expenses will not, however, be recurring in nature and the overall benefits of this reduction more than outweigh this initial burden. The Commission also believes that it is incumbent upon companies themselves to be aware of and to comply with the record retention requirements of other state and federal regulatory agencies, regardless of the Commission's record retention requirements.

To the extent that administrative problems would be caused by the loss of a comprehensive schedule of records, the Commission notes that the National Association of Regulatory Utility Commissioners (NARUC) has a schedule of retention periods and records required by many state commissions that is almost identical to the Commission's former schedule of records. Companies should consider using the NARUC guidelines and requirements to accommodate their need for a comprehensive schedule of records.

In order to facilitate the use of the NARUC schedule of records both generally and also particularly by those companies that have arranged their schedules of records by using the numerical designations found in the Commission's record retention schedules, the Commission will not, as proposed, renumber the schedules of records for electric utilities and natural gas companies to reflect the elimination of many categories of records. Instead, the final rule adopts the editorial device of "reserving" categories that are being eliminated. Thus, no renumbering occurs and records that are still being required by the Commission will continue to have the same numerical designation now found in the Commission's regulations.

The list below shows the categories of records which the Commission is eliminating entirely from both Parts 125 and 225:

Item No. and Category of Record

1.—Capital stock records
2.—Proxies and voting lists
3.—(b) of Reports to stock holders
4.—Debt security records
5.—Filings with and authorizations by regulatory agencies
6.—(b)(1)–(4), (c), and (d) of Organizational documents
7.—(c)–(f) of Contracts and agreements
9.—(a) of Automatic data processing records
12.—(c) and (d) of Journal vouchers and Journal entries
16.—Accounts receivable
17.—Records of securities owned
18.—Payroll records
19.—Assignments, attachments and garnishments
20.—(b) and (d)–(f) of Insurance records
21.—Injuries and damages
24.—Customers' service
25.—Records of auxiliary and other operations
27.—Personnel records
28.—Employees' benefit and pension records
29.—Instructions to employees and others
35.—Production maps and reproductions thereof
36.—(a)(2) of The original or reproductions of engineering records, drawings and other supporting data for proposed as-constructed utility facilities
40.—(c) of Procurement
41.—(b) of Material ledgers
42.—(a), (b), (d) and (e) of Materials and supplies received and issued
43.—(c) of Records of sale of scrap and materials and supplies
44.—Inventories of materials and supplies
45.—(a)–(g) of Customers' service applications and contracts
46.—(b) of Rate schedules
47.—Customers' guarantee deposits
48.—Meter reading sheets and records
50.—(b)–(d) of Miscellaneous billing data
52.—Customers' ledgers and other records used in lieu thereof
53.—Merchandise sales—Accounting and collecting
54.—Collection reports and records
55.—Customers' account adjustments
56.—Uncollectible accounts and customers credit records
58.—(c)–(f) of Statements of funds and deposits
59.—(a), (b), (d), (e) and (g) of Records of deposits with banks and others
61.—(c) of Statistics
63.—Correspondence
66.—(b) of Other miscellaneous records

The list below shows the categories of records which the Commission is eliminating entirely from Part 125 only:

Item No. and Category of Record

22.1.—(a), (b), (g), and (k) of Production-Electric (less nuclear).

[6] The Commission has developed three new schedules of records—one each for electric, gas, and oil—that show how the changes made by this rule will be integrated into the current schedules. These new schedules will not be published in the **Federal Register** before the time when they are codified in the *Code of Federal Regulations*. However, the new schedules can be obtained through the Commission's Division of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426; telephone (202) 357-8118. Refer to the "Record Retention Schedules" and the relevent Part (Part 125—Electric, Part 225—Gas, and Part 356—Oil) when making inquires.

23.—(c)–(m), and (p) of Transmission and distribution-Electric
60.—Records of receipts and disbursements
65.—(b), (c)(3), and (c)(9) of Reports to Federal and State regulatory commissions

The Commission is also eliminating from Part 125 nuclear production records (Item 22.2). The Nuclear Regulatory Commission (NRC) requires most of these records to be kept for NRC purposes. In light of the particular safety importance of these records, the Commission is including under item 22.2 a reference to the NRC's record retention regulations even though the Commission would no longer itself require retention of nuclear production safety records.

The list below shows the categories of records which the Commission is eliminating entirely from Part 225 only:

Item No. and Category of Record

22.—(a), (c)–(e), (j), (l), (m), and (o)–(r) of Production-Gas
23.—(c)–(i), and (m) of Transmission and distribution-Gas
23.1.—(c) of Underground storage of natural gas
37.—(b) of Contracts and other agreements relating to natural gas company records
65.—(b), (c)(3), (c)(6), and (c)(9) of Reports to Federal and State regulatory commissions

The list below shows the categories of records which the Commission is eliminating entirely from Part 356:

A. Corporate and General

3. Corporate election
4. (e) of Titles, franchises and authorities.
5. Annual reports or statements to stockholders, file copies of
6. (d)–(f) of Contracts and agreements

B. Treasury

1. Capital stock records
2. (b)–(g) of Long-term debt records
3. Filings with an authorization by regulatory agencies
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent
5. Retired securities
6. Records of funds and deposits
7. Records of foreign exchange or commercial paper purchased

C. Financial and Accounting

3. Cash books
4. (c) and (d) of Vouchers
5. (b)–(d) of Accounts receivable

D. Property and Equipment

Note.

1. (g) and (j) of Property records
2. (b) of Engineering records

E. Personnel and payroll

1. Personnel records
2. (c)–(j) of Payroll records

F. Insurance and Claims investigation

G. Taxes

2. Summary of taxes paid
3. Filing with taxing authorities to qualify employee benefit plans

H. Purchases and Stores

1. (b) of Material ledger
2. (b) and (c) of Inventories
3. Purchases and sales
4. Materials and supplies received and issued

I. Shipping and Agency Documents

J. Transportation

1.–11. Transportation other than oil

Item J.12 covers records relating to marine equipment, railroads and oil pipelines. The Commission proposes to eliminate references to marine equipment and railroads but to retain the part of item J.12 that covers oil pipelines, except for sub-items (c) and (h).

K. Tariffs and Rates

2. All other copies of tariffs, classifications, division sheets and circular referred to in item 1 above.
6. Contracts and minimum rate schedules of contract motor carriers.

L. Reports and Statistics

1. (b) and (c) of Reports to Federal Energy Regulatory Commission and other regulatory bodies.
2.–5. of other reports.

M. Miscellaneous

In addition, the Commission has renumbered the schedules of records to be retained by oil pipeline companies to take account of the changes listed above to permit sequential numbering of all records, rather than individual numbering within each category of record.

B. Retention Periods Shortened

1. "Life of the Corporation" Retention Period

The Commission now uses the term "life of the corporation" as the period of retention for many records. This term is indefinite and probably results in records being kept after they cease to be of use to the Commission. Consequently, the Commission proposed eliminating all references to "life of the corporation." In its place, the Commission suggested substitution of specific retention periods that are more closely tailored to the actual needs of the Commission. Most commenters support the Commission's proposals with minor modifications. Accordingly, the Commission is adopting the following changes:

(a) Some records are continuously useful to the Commission for both periodic audits and documentation of a company's rate base. For these documents, the Commission proposed a "50 year" retention period. Fifty years ensures the availability of these records for auditing and documentation purposes, and removes ambiguity and vagueness on when these documents may eventually be retired. One commenter noted, correctly in the Commission's view, that retention of these types of records is not necessary if a corporation terminates its existence earlier than fifty years. Accordingly, the Commission is amending this retention period to "50 years or termination of the corporation's existence, whichever occurs first." This retention period will be applied to Item 6.(a) (minute books) of §§ 125.3 and 225.3.

(b) Some records are required in individual rate cases. For these records, the Commission is adopting a retention period of "six years after a final non-appealable order." Six years is sufficient time to complete the one audit necessary to ensure compliance with a specific final order. The "six years after a final non-appealable order" retention period will be applied to Item 6.(b)(5) (orders of regulatory commissions) of §§ 125.3 and 225.3.

(c) Some records facilitate a Commission audit conducted to ensure that the Commission's regulatory decisions ar properly implemented. After an on-site audit is completed, the Commission's staff meets with company officials to discuss the results of the audit. This meeting is called an exit conference. After the exit conference, an audit report is sent to the company when issues raised by the audit are resolved. Under the final rule, records needed for audits will be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first." Two years is sufficient time to permit the Commission to take any further action necessary in light of the audit results. An audit report, on the other hand, signifies that no further action by the Commission is necessary and, therefore, there is no need for the record. This retention period will be applied to Item 3.(a) (stockholder reports) of §§ 125.3 and 225.3.

One commenter suggested retention periods be keyed to a fixed length of

time (*i.e.* six years) rather than described as a conditional retention period (*i.e.* until receipt of an audit report), noting that in the later case there is room for interpretive ambiguity. The Commission has not adopted the approach urged by this comment because the usefulness of certain records is keyed to specific events rather than to a finite time period. Keying the retention period to a finite time period would often result in the records being retained long after they are needed.

(d) Some records relate to the purchase and sale of utility property and plant. For these records, the Commission is adopting a retention period of "10 years after the plant is retired." This information is needed while a plant is active and during two five-year audit cycles after plant retirement. This retention period will be applied to Item 65.(c)(7)–(8) (utility property and plant reports) of §§ 125.3 and 225.3.

(e) Some records contain financial, operating, and statistical reports required by governmental agencies. The Commission proposes to differentiate between reports required by federal agencies and those required by state agencies. For those records required by state agencies, the Commission will require a retention period of "retain as long as the active tariffs or rates are in effect" (Item 65.(a)(2) in §§ 125.3 and 225.3). This period is definite and ensures the records are available for Commission audits. For those records required by federal agencies, the Commission will require that these records be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first" (Item 65.(a)(1) of §§ 125.3 and 225.3). Again, two years is sufficient time to permit the Commission to pursue issues raised by the audit, but if the audit report is issued during this two year period, the Commission's need for these records ends.

2. *Retention Periods Keyed to the Audit Cycle.*

Natural gas companies, public utilities, and Commission licensees currently retain certain engineering records until either the records are superseded or six years after the pertinent facility is retired. In addition, these companies retain for 50 years rate sheets, schedules of service, and certain contracts in the event that service is extended. Since these records are used only to facilitate compliance-related audits, the Commission will require that these records be "retained until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first." This retention period permits the Commission to take action on issues raised by the audit, and allows for the destruction of records when the Commission's need for them ends. This retention period applies to Items 36.(a)(1) (engineering records), 41.(a)(supplies on hand), 45.(h) (contracts for extension), and 46.(a) (rate schedules) of §§ 125.3 and 225.3.[7]

3. *Retention Period for Electric Production Records*

Currently, both public utilities and licensees must maintain station and system generation reports concerning electric production for 25 years (Item 22.1(e) of § 125.3). To monitor hydroelectric power production adequately, the Commission believes that station and system generation reports are needed for 25 years. However, six years is sufficient for other thermal electric power production since that period would permit at least one audit cycle to ensure compliance with the Commission's regulations and decisions. Therefore, the Commission is requiring that the retention period for these reports on hydroelectric power production remain at 25 years, while the retention period for generation reports concerning steam and other thermal electric power production be changed to six years.

C. Amendments to Record Retention Instructions

The first amendment to the instructions for record retention relates to records generated by computers (sections 125.2(e)(1)(ii) and 225.2(e)(1)(ii)). In lieu of the more elaborate certification procedure normally required for microfilm records, the Commission recently permitted [8] public utilities, licensees, and natural gas companies to establish procedures for ensuring the integrity of computer output microfilm.[9] The Commission believes that it is necessary for *all* computer generated records to be subject to either the certification requirement or the requirement that companies develop and follow standard procedures. The Commission must be assured that computer generated records are true representations of the information stored in a computer.

The Commission proposed, and is now adopting, a requirement that a company must develop written, standard procedures to ensure the integrity of computer records and must furnish the name or title of the official responsible for validating the computer output information (hereinafter "company developed procedures"). The Commission is allowing either the name *or title* of the appropriate company official, rather than requiring only the name of the official. The Commission believes that the burden imposed by this requirement is minor since these types of procedures are already employed by most, if not all, companies that use computers and is less than would be imposed by the more elaborate certification procedures.

Most commenters speaking to this issue are in favor of the Commission's proposal. Commenters request, however, that the Commission clarify several aspects of the proposal. In response to one comment, the Commission has decided that electronic data capture of customer meter readings should be considered as meter reading sheets and records under item 48 of §§ 125.3 and 225.3, rather than as records generated by computer.

Similarly, another commenter notes that the proposal does not define computer generated records and that it is therefore unclear whether the Commission would require that the company developed procedures be followed for word processing, or more generally any records generated by a central computer, mini-computers, word processors, or even electric typewriters. Admittedly, there is no distinct line between those types of computer generated records that must comply with the company developed procedures and those that need not follow those procedures. Some clarification is possible, however. First, the Commission notes that the requirements for computer generated records are only applicable to "official permanent records" generated by computer, and the Commission is adding this limitation to its final rule. Second, the Commission believes that if a company follows "accepted general business practices" in generating a record, then the Commission can be assured of the integrity of the record. Thus, the Commission is amending its proposal to allow accepted general business practices to qualify in lieu of written, standard procedures. With these two clarifications, the Commission believes that it has sufficiently minimized the

[7] The Commission notes, however, that certain records which will affect the determination of amortization reserves of licensed hydropower projects must still be retained until a final Commission adjudication is made. *See* § 125.2(j).

[8] Revisions to the Uniform Systems of Accounts and Regulations Governing the Preservation of Records, 47 FR 42,720 (Sept. 29, 1982) (Order No. 258).

[9] Computer output microfilm is a process in which information stored in a computer can be printed directly on microfilm instead of on paper.

burden on companies for ensuring the integrity of computer generated records. After it develops experience under these requirements, the Commission may reevaluate its rules and require that companies follow the more elaborate certification procedures or it may determine that it is necessary to have less stringent verification standards for computer generated records. In this rule, however the Commission has tried to achieve a balance that accommodates its need for accurate records with the burden it imposes on regulated companies.

Another commenter suggests the Commission define more explicitly the procedures required for compliance with the computer records requirements. The Commission believes as stated above that the normal business practices of regulated companies in records management are such that it is not necessary to design comprehensive regulations beyond the generalized format currently in existence. This final rule does however include a reference to "written standard procedures" and "accepted general business practices" which should give some indication as to what is acceptable. Lastly, in response to one comment, the Commission is adding jacketed microfiche and aperture cards to the Commission's computer record requirements. The Commission believes it is unnecessarily burdensome to require companies to follow the more extensive certification requirements that would otherwise apply to any microfilm record. Accordingly, the Commission regulations have been revised to permit companies to follow the requirements developed for computer generated records for *all* record series produced by the computer, *i.e.*, output paper or microfilm, jacketed microfiche, or aperture cards.

The second change to the Commission's instructions corrects an error in the Commission's regulations. The current instructions applicable to regulated companies state that all film stock must meet the "current specifications of the National Bureau of Standards." Specification for film stock is not established by the National Bureau of Standards, but by the American National Standards Institute. Therefore, the Commission is correcting this error by substituting "American National Standards Institute" for "National Bureau of Standards" in §§ 125.2(g) and 225.2(g).

D. Miscellaneous Proposals

The Commission is amending various descriptions of records or retention periods for either of two reasons. In some cases, only part of a record is needed by the Commission to meet its regulatory responsibilities. In these instances, the description is amended to include only that portion of the record needed by the Commission. In other cases, the current description or retention period is ambiguous and a more precise description is added. The changes discussed below are the same as those proposed by the Commission.

(a) In §§ 125.3 and 225.3, item 41.(a) now requires the retention of "ledger sheets and card records of materials and supplies received, issued, and on hand." Since "ledger sheets" adequately meet the Commission's regulatory needs, the final rule would remove references to "card records."

(b) In §§ 125.3 and 225.3, item 45.(h) now requires the retention of "applications and contracts for extension for which donations or contributions are made by customers or others." The Commission believes that it is not necessary that regulated companies retain applications or contracts for extensions for which *donations* are made. Accordingly, the final rule removes the reference to donations.

(c) In § 356.11, item A.6 (newly renumbered as item 4) requires oil pipeline companies to retain certain contracts and agreements. In the list shown above, various types of contracts and agreements are being removed from this retention schedule. Since item A.6(g) (now item 4(d)) will continue to cover the retention of contracts "not specifically provided for in this section," it must be amended so that other categories that are being eliminated are not kept under item A.6(g). Accordingly, this item will make it clear that an oil pipeline company need not retain contracts with "employees and employee bargaining groups."

(d) In § 356.11, item C.5(a) (newly renumbered as item 10) requires oil pipeline companies to retain a "record or register of accounts receivable, indexes thereto, and summaries of distribution." Oil pipeline companies will no longer be requried to retain the indexes or summaries. The record or register of accounts receivable itself adequate.

(e) In § 356.11, item H.1(a) (newly renumbered as item 17) requires that oil pipeline companies retain "records of material and supplies on hand." In order to clear up an ambiguity, the final rule adds the words "at all locations" to this item.

(f) In § 356.11, item K covers records on "tariffs and rates." The final rule adds a footnote to this item to make clear that the retention periods in this item begin to run from the date of a "final Commission order determining the outcome of any tariff subject to refund and/or investigation."

Commenters generally support these changes in the description of records in order to identify more precisely the records to be retained. However, commenters suggest other changes to the Commission's descriptions of retention periods and descriptions of records to make them more precise. Except for one change to the oil pipeline retention schedules, the Commission has not adopted these suggestions because they are viewed as inappropriate at this time, particularly in that these changes are beyond those contemplated in the proposed rule. Many of these suggestions will, however, be considered again by the Commission's staff in their next review of the record retention schedules.

In response to one commenter, the Commission is adopting a change to its oil pipeline retention schedules. One commenter noted generally that it is unnecessary and unduly burdensome to require that oil pipeline companies retain records relating to pipeline property for three years after disposition of the property. The Commission generally believes that oil pipeline property records should be retained for the full period for valuation purposes. However, in one instance the Commission agrees with this commenter. Thus, item D2 (newly renumbered as item 13) in § 356.11 now distinguishes between engineering records that must be retained until three years after disposition of the property (plans and specifications), and those records that need to be retained only for 15 years after the property is built or acquired (certain estimates, studies, and bids).

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to prepare certain statements, descriptions and analyses of rules that will have "a significant economic impact on a substantial number of small entities." The Commission is not required to make such analyses if a rule will not have such an impact.

Most electric utilities, natural gas companies, and oil pipeline companies do not fall within the RFA's definition of small entity.[10] Most hydroelectric

[10] 5 U.S.C. 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently

Continued

licenses, on the other hand, may fall within the small entity definition. Since the record retention burden on all types of regulated entities would be reduced by this rule, this rule has some positive economic impact on all regulated entities, both large and small. This is an intended and important impact. The Commission does not, however, believe that this impact will necessarily be "significant," at least within the meaning of the RFA. Pursuant to section 605(b) of the RFA, therefore, the Commission certifies that this rule, will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act Statement and Effective Date

The information collection provisions in this rule will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 48 FR 13,666, 13,694 (March 31, 1983) (to be codified at 5 CFR. Part 1320). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (Attention: Kenneth J. Malloy, (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

This rule will become effective November 28, 1983. If OMB's approval and control number has not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp. V 1981); Federal Power Act, 16 U.S.C. 791a–828c (1976 and Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Executive Order 12,009, 3 CFR 142 (1978); 5 U.S.C. 553 (1976))

List of Subjects

18 CFR Part 125

Electric power, Electric utilities.

18 CFR Part 225

Natural gas.

18 CFR Part 356

Oil pipeline companies.

owned and operated and which is not dominant in its field of operation. *See also* SBA's Small Business Size Standards, 13 CFR Part 121 (1983).

In consideration of the foregoing, the Commission is amending parts 125, 225, and 356, Title 18, Chapter 1, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

§§ 125.2 and 225.2 [Amended]

1. Sections 125.2 and 225.2 are amended, respectively, by revising paragraph (e)(1)(ii) to read as follows:

* * * * *

(e) Microform, tape and computer output certification.

(1) * * *

(ii) If an official permanent record series is a computer output product (*i.e.*, output paper or microfilm, jacketed microfiche, or aperture cards), any certification that may otherwise be required under paragraph (e)(1)(i) of this section is not required if:

(A) The series is prepared in accordance with written standard procedures developed, or accepted general business practices followed, by the company that ensure the integrity of record series that are the product of computer output; and

(B) Such procedures or practices include the name or title of the official responsible for validating or confirming the data contained in the record series and confirming that a particular computer output record series was produced in accordance with the standard procedures or practices.

* * * * *

2. Sections 125.2 and 225.2 are further amended in paragraph (g)(3) by removing the words "National Bureau of Standards" and inserting, in their place, the words "American National Standards Institute."

§§ 125.3 and 225.3 [Amended]

3. Sections 125.3 and 225.3 are amended by removing the words "life of the corporation" or "50 years" in the retention periods column of the following items, and, in the respective places, by inserting in the retention periods column the following:

(a) In item number 3.(a), the words "Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first."

(b) In item 6.(a), the words "50 years or termination of the corporation's existence, whichever occurs first."

(c) In item 6.(b)(5), the words "6 years after final non-appealable order."

(d) In item 46.(a), the words "Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first."

(e) In items 65.(c)(7) and 65.(c)(8), the words "Ten years after the plant is retired. See Section [insert "125.2(j)" in § 125.3 and "225.2(j)" in section 225.3]."

4. Section 125.3 is amended by removing the retention period in item 36.(a)(1) and inserting, in its place, the following:

Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.[5] See § 125.2(j).

5. Section 225.3 is amended by removing the retention period in item 36.(a)(1) and inserting, in its place, the following:

Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.

6. Section 125.3 is further amended by revising the description and retention period of item 22.1.(e) and by revising item 22.2, to read as follows:

§ 125.3 Schedule of records and period of retention.

* * * * *

22.1 Production—Electric (less nuclear):

* * * * *

(e) Station and system generation reports and clearance logs.		
(1) Hydro-electric	25 years.	*See* Section 125.2(j).
(2) Steam and others	6 years.	*See* Section 125.2(j).

* * * * *

22.2 Production—nuclear

For informational purposes, refer to the document retention requirements of the Nuclear Regulatory Commission.		

* * * * *

7. Sections 125.3 and 225.3 are further amended by revising the description in item 41.(a) and the description and retention period in items 45.(h) and 65.(a) to read as follows:

* * * * *

41. Material ledgers:		
(a) Ledger sheets of materials and supplies received, issued, and on hand.		Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
* * * * *		
Revenue Accounting and Collecting		
45. Customers' service applications and contracts:		

(h) Contracts for extensions of service for which contributions are made by customers or others.	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
65. Reports to Federal and State regulatory commissions:.	
(a) Annual financial, operating and statistical reports:	
(1) Federal agencies	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
(2) State Commissions	Retain as long as the active tariffs or rates are in effect.

8. Sections 125.3 and 225.3 are amended by removing entirely the following items (including both descriptions and retention periods) and inserting, in their place, the word "[Reserved]": 1, 2, 3(b), 4, 5, 6(b)(1)–6(b)(4), 6(c), 6(d), 7(c)–7(f), 9(a), 12(c), 12(d), 16, 17, 18, 19, 20(b), 20(d)–20(f), 21, 24, 25, 27, 28, 29, 35, 36(a)(2), 40(c), 41(b), 42(a), 42(b), 42(d), 42(e), 43(c), 44, 45(a)–45(g), 46(b), 47, 48, 50(b)–50(d), 52, 53, 54, 55, 56, 58(c)–58(f), 59(a), 59(b), 59(d), 59(e), 59(g), 61(c), 63, and 66(b).

9. Section 125.3 is further amended by removing entirely the following items (including both descriptions and retention periods) and inserting, in their place, the word "[Reserved]": 22.1(a), 22.1(b), 22.1(g), 22.1(k), 23(c)–23(m), 23(p), 60, 65(b), 65(c)(3), and 65(c)(9).

10. Section 225.3 is further amended by removing entirely the following items (including both descriptions and retention periods) and inserting, in their place, the word "[Reserved]": 22(a), 22(c)–22(e), 22(j), 22(l), 22(m), 22(o)–22(r), 23(c)–23(i), 23(m), 23.1(c), 37(b), 65(b), 65(c)(3), 65(c)(6), and 65(c)(9).

§ 356.11 [Amended]

11. Section 356.11 (Schedules of Records and Periods of Retention) is amended by removing entirely the following categories of records and their retention periods: A.3, A.4(e), A.5, A.6(d)–A.6(f), B.1, B.2(b)–B.2(g), B.3, B.7, C.3, C.4(c), C.4(d), C.5(b)–C.5(d), D. note, D.1(g), D.1(j), D.2(b), E.1, E.2(c)–E.2(j), F., G.2, G.3, H.1(b), H.2(b), H.2(c), H.3, H.4, I., J.1–J.11, K.2, K.6, L.1(b), L.1(c), L.2, L.5, and M.

12. Section 356.11 (Schedule of Records, and Periods of Retention) is further amended as follows:

(a) In the section entitled "A. Corporate and General", the title is amended by removing the letter "A.", and the items are redesignated as follows:

Old item No.	New item No.
1	1.
2	2.
4	3.
6	4.
6(g)	4.(d)
7	5.

(b) In the section entitled "B. Treasury", the title is amended by removing the letter "B.", and item 2 is redesignated as item "6.".

(c) In the section entitled "C. Financial and Accounting", the title is amended by removing the letter "C.", and the items are redesignated as follows:

Old item No.	New item No.
1	7.
2	8.
4	9.
5	10.
6	11.

(d) In the section entitled "D. Property and Equipment", the title is amended by removing the letter "D.", and items are redesignated as follows:

Old item No.	New item No.
1	12.
1(h)	12.(g)
1(i)	12.(h)
2	13.

(e) In the section entitled "E. Personnel and Payroll", the title is amended by removing the letter "E.", and item 2. is redesignated as item "14.".

(f) In the section entitled "G. Taxes", the title is amended by removing the letter "G.", and the items are redesignated as follows:

Old item No.	New item No.
1	15.
4	16.

(g) In the section entitled "H. Purchases and Stores", the title is amended by removing the letter "H.", and the items are redesignated as follows:

Old item No.	New item No.
1	17.
2	18.

(h) In the section entitled "J. Transportation", the title is amended by removing the letter "J.", and item 12 is redesignated as item "19.".

(i) In the section entitled "K. Tariffs and Rates", the title is amended by removing the letter "K.", and the items are redesignated as follows:

Old item No.	New item No.
1	20.
3	21.
4	22.
5	23.

(j) In the section entitled "L. Reports and Statistics", the title is amended by removing "L.", item 1 is renumbered as item "24.", and item 1(d) is renumbered as item "24(b)".

13. In section 356.11 (Schedule of Records and Periods of Retention), new items 4(d), 10, 13, 17, and 19 are revised, and a footnote is added to the heading "Tariffs and Rates", to read as follows:

§ 356.11 Schedule of records and periods of retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No. and category of record	Retention period
Corporate and General	
4. Contracts and agreements.	
(d) Contracts, leases and agreements, not specifically provided for in this section but excluding contracts with employees and employee bargaining groups.	3 years after expiration or termination.
Financial and Accounting	
10. Accounts receivable, record, or register of accounts receivable.	3 years after settlement.
13. Engineering records:	
(a) Plans and specifications	3 years after disposition of property.
(b) Estimates of work, engineering studies, construction bids, and similar data pertaining to property changes actually made.	15 years.
Purchases and Stores	
17. Material ledger, records of material and supplies on hand at all locations.	2 years.
Transportation	
19. Oil and other products stocks and movement-pipelines only:	
(a) Records of receipts, deliveries, pumpings, stocks, and over and short.	3 years.
(b) Run tickets showing quantities by tank measurement of meter readings of oil and other products received into and delivered from company's lines.	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No. and category of record	Retention period
(c) Statements of oil and oil products consumed as fuel including quantity value, and where consumed.	3 years.
(d) Statement of oil and other products lost by line breaks and leaks including quantity, value, and location of breaks and leaks.	Do.
(e) Reports of power furnished by producers: monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	Do.
(f) Records of producers' property identifying ownership and location of producers' tanks or wells to which carrier's lines are connected.	3 years after disconnection.
(g) Division or other periodical inventory reports of oil and other products on hand.	3 years.
(h) Division orders: Directions received by carrier as to the division of interest and to whose account transported oil should be credited.	3 years after discontinuance.
(i) Directions received by the carrier for the transfer of division order interests from one interest owner to another.	Do.
(j) Transfer orders for the transfer of ownership of oil or other products in carrier's custody.	3 years.
Tariffs and Rates [1]	
• • • • •	

[1] The retention periods for records in this item begin on the date of the final Commission order determining the outcome of any tariff subject to refund and/or investigation.

[FR Doc. 83-26536 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-168 (Colorado—32); Order No. 325]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Colorado Oil and Gas Conservation Commission that portions of the Upper Mesaverde Formation located in Mesa County, Colorado be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357-8316 or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1982)) to include portions of the Upper Mesaverde Formation located in Mesa County, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued on January 27, 1983 (48 FR 4480, February 1, 1983), [1] based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that portions of the Upper Mesaverde Formation be designated as a tight formation.

Northwest Pipeline Corporation (Northwest) filed its comments with the Commission on March 14, 1983, in which it requests that the Commission review the permeability of the proposed tight formation, and the necessity for an incentive price for gas produced therefrom. Northwest states that it purchases gas from wells within the proposed area, and its records indicate a permeability of 3.17 millidarcies for one of those wells, the Coon Hollow No. 1 Well, located in Section 26, Township 8 South, Range 98 West. By a letter dated March 31, 1983, Northwest submitted technical data to show that this well's permeability is in excess of the 0.1 millidarcy standard set in § 271.703(c)(2)(i)(A) of the Commission's regulations.

For an area to be designated as a tight formation pursuant to section 107(c)(5) of the NGPA, § 271.703(c)(2)(i)(A) requires that the estimated average *in situ* permeability throughout the pay section must be expected to be 0.1 millidarcy or less.

Colorado's submission shows that the Coon Hollow No. 1 Well had a prestimulation flow rate of 1,020 Mcf per day, which exceeds the maxumum allowable of 44 Mcf per day. *See* § 271.703(c)(2)(i)(B) of the Commission's regulations. Colorado, pursuant to a request by Teton Energy Corporation at hearings held by Colorado, deleted 200 acres surrounding the Coon Hollow No. 1 Well from its proposal, as it was found to constitute a "sweet spot."

The Colorado recommendation is based on geological, engineering and production data from five wells within the proposed area and five wells adjacent to the proposed area. Permeability from one of the wells was tested from core samples and was measured at 0.03 millidarcy, which is less than the maximum allowable of 0.1 millidarcy. Prestimulation flow rates for the five wells averaged at less than 9 Mcf per day, which is well below the maximum allowable production rate of 44 Mcf per day. This data indicates that the Coon Hollow No. 1 Well is not representative of the area. Since the well and surrounding acreage was excluded from the proposed area, the permeability and production data for the Coon Hollow No. 1 Well were not considered in the permeability and production rate calculations for the proposed area.

The necessity for an incentive price for gas produced from a recommended tight formation is considered where the recommendation is filed under the alternate guidelines contained in § 271.703(c)(2)(ii) of the Commission's regulations. This alternative procedure is intended to be used where a formation meets the requirements of § 271.703(c)(2)(i) (B) and (C), (flow rate and oil production standards), but does not meet the permeability standard under § 271.703(c)(2)(i)(A).

Inasmuch as the area recommended by Colorado meets the permeability guideline, and 200 acres surrounding the Coon Hollow No. 1 Well are not included in the recommended area, the recommendation need not be considered under the alternative guidelines, and therefore, there is no need to review the need for an incentive price for production from this well.

Further, Northwest requests that the Commission consider "the underlying rationale for promulgation of the regulations which set forth the criteria applicable to receipt of tight sands incentive pricing * * *." The Commission has previously stated that such arguments constitute a "collateral attack on the assumptions on which Order No. 99 [2] is based, and the proper time to have raised [this] argument would have been at the time that Order No. 99 was being considered by the Commission." [3] The Commission

[1] No party requested a public hearing in this docket and no hearing was held.

[2] Order No. 99, Docket No. RM79-76-000, Regulations Covering High-Cost Natural Gas Produced From Tight Formations, 45 FR 56034 (1980).

[3] Order No. 226, Docket No. RM79-76-000 (Ohio-2), High-Cost Gas Produced from Tight Formations, Ohio; 47 FR 20573 (1982).

continues to find that it would be inappropriate to use a tight formation recommendation as a vehicle to reopen Order No. 99.

The proper means to seek review of Order No. 99 is to request that the Commission institute a rulemaking pursuant to § 385.207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207 (1982)). Presently, the Commission is proposing to modify the maximum lawful price of high-cost gas designated by the Commission under NGPA section 107(c)(5), to ensure that the ceiling prices do not go above the commodity value of natural gas. *See* Notice of Proposed Rulemaking, Docket No. RM82-32-000, 48 FR 7469 (February 22, 1983). Northwest's comments will be made a part of the record in this rulemaking since they address the issue of pricing of section 107(c)(5) gas.

Section 271.703(c)(2) requires that the Commission designate as a tight formation any formation which meets the guidelines found in § 271.703(c)(2) of the Commission's regulations. Accordingly, since the evidence submitted by Colorado [4] supports the assertion that portions of the Upper Mesaverde Formation located in Mesa County, Colorado meets the guidelines contained in § 271.703(c)(2) of the Commission's regulations, the Commission adopts Colorado's recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(142) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(142) *Upper Mesaverde Formation.* RM79-76-168 (Colorado—32).

(i) *Delineation of formation.* The Upper Mesaverde Formation is located in Mesa County, Colorado, in Township 8 South, Range 98 West, Section 25, N½, SE¼, N½SW¼, SE¼SW¼; Section 26, N½, SW¼, NW¼SE¼; Sections 27 through 34; Section 35, W½, SE¼, W½NE¼, SE¼NE¼; Section 36; Township 9 South, Range 98 West, Sections 1 through 12, 6th P.M.

(ii) *Depth.* The average depth to the top of the Upper Mesaverde Formation is 500 feet. The Upper Mesaverde Formation is defined as that formation which occurs between the top of the Cozzette-Corcoran members and the base of the Wasatch Formation, including the Rollins member. The Upper Mesaverde Formation averages 2,200 feet in thickness.

[FR Doc. 83-26539 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[4] The United States Department of the Interior, Minerals Management Service, Central Region concurs with Colorado's recommendation.

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18 CFR Part 271

[Docket No. RM79-76-198 (Colorado-37); Order No. 326]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Morrison Formation located in Mesa and Garfield Counties, Colorado, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, (202) 357-8476 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Morrison Formation in Mesa and Garfield Counties, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 19, 1983 (48 FR 23272, May 24, 1983)[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that the Morrison Formation, located in Mesa and Garfield Counties, Colorado, be designated as a tight formation.

Due to a misinterpretation of survey limits, the Notice of Proposed Rulemaking erroneously included Township 11 South, Range 98 West, Sections 15 through 22, and 27 through 34 as part of the recommended area. An Additional Notice of Proposed Rulemaking is not required because the erroneously included sections are nonexistent.

Evidence submitted by Colorado supports the assertion that the Morrison Formation located in Mesa and Garfield Counties, Colorado, meets the guidelines contained in § 271.703(c)(2).[2] The Commission adopts the Colorado recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(143), to read as follows:

§ 271.703 Tight formations.

* * * * *

[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] The United States Department of the Interior, Bureau of Land Management, concurs with the Colorado recommendation.

(d) *Designated tight formations.*

* * * * *

(143) *Morrison Formation in Colorado.* RM79–76 (Colorado-37)

(i) *Delineation of formation.* The Morrison Formation is located in Mesa and Garfield Counties, Colorado, in Township 7 South, Ranges 95 through 100 West; Township 8 South, Ranges 95 through 100 West; Township 9 South, Ranges 95 through 99 West; Township 9 South, Range 100 West, Sections 1 through 4, 9 through 16, 22 through 26, and 36; Township 10 South, Ranges 95 through 99 West; Township 11 South, Ranges 95, 96 and 99 West; Township 11 South, Range 98 West, Sections 1 through 14, 23 and 24; and Township 11 South, Range 97 West, Sections 1 through 12, 17 through 20, 6th P.M.

(ii) *Depth.* The average depth to the top of the Morrison Formation is 8,050 feet. The Morrsion Formation is overlain by the Dakota Formation and consists of the upper Brushy Basin Member and the lower Salt Wash Member. The Morrison Formation varies from 400 to 600 feet in thickness.

[FR Doc. 83-26544 Filed 9-28-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-185 (New Mexico-21); Order No. 327]

High-Cost Gas Produced From Tight Formations; New Mexico

Issued September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formation, as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the New Mexico Oil Conservation Division (New Mexico) that the Abo Formation located in San Miguel, Torrance, Guadalupe, DeBaca, Lincoln and Chaves Counties New Mexico, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Rattray (202) 357–8476 or Victor Zabel (202) 357–8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Abo Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued February 28, 1983 (48 FR 9291, March 4, 1983) [1] based on a recommendation by the New Mexico Oil Conservation Division (New Mexico) in accordance with § 271.703, that a portion of the Abo Formation, located in San Miguel, Torrance, Guadalupe, DeBaca, Lincoln and Chaves Counties, New Mexico, be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Abo Formation, located in San Miguel, Torrance, Guadalupe, BeBaca, Lincoln and Chaves Counties, New Mexico, meets the guidelines contained in § 271.703)(c)(2).[2] The Commission adopts the New Mexico recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(145), to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(145) *Abo Formation in New Mexico.* RM79–76 (New Mexico–21)

(i) *Delineation of formation.* The Abo Formation is located in San Miguel County: Townships 10 and 11 North, Ranges 14 and 15 East; Torrance County: Townships 1 through 9 North, Ranges 14 and 15 East; Guadalupe County: Townships 2 through 4 North, Ranges 16 through 19 East, Township 5 North, Ranges 16 through 23 East, Township 6 North, Ranges 16 through 24 East, and Townships 7 through 11 North, Ranges 16 through 26 East; DeBaca County: Townships 1 through 4 North, Ranges 20 through 27 East, Township 5 North, Ranges 24 through 26 East, Township 6 North, Ranges 25 and 26 East, Township 1 South, Ranges 20 through 27 East, Township 2 South, Ranges 20 and 21 East, and Township 3 South, Range 21 East; Lincoln County: Township 1 North, Ranges 16 through 19 East, Townships 1 through 5 South, Ranges 14 through 19 East, Township 6 South, Ranges 15 through 20 East, Townships 7 through 9 South, Ranges 15 through 20 East, excepting, however, all lands within the Capitan Wilderness Area, Townships 10 and 11 South, Ranges 15 through 20 East, and Townships 12 and 13 South, Ranges 17 through 20 East; Chaves County: Township 3 South, Range 20 East, Townships 4 and 5 South, Ranges 20 and 21 East, Townships 6 through 11 South, Range 21 East, Township 12 South, Ranges 21 and 21½ East, Township 13 South, Range 21 East, and Township 14 South, Ranges 17 through 21 East, NMPM, containing some 5,775,360 acres, more or less, and designated by New Mexico as the Pecos Slope Extension Area.

(ii) *Depth.* The Abo Formation, for designation as a tight formation in the Pecos Slope Extension Area, shall be defined as being from the base of the Yeso Formation vertically downward to the top of the Hueco Limestone, or in the absence of said Hueco lime, to the top of the Pennsylvanian Limestone, or in the absence of both Hueco lime and Pennsylvanian lime, to the top of the Pre-Cambrian, provided, however, that tongues of the Hueco lime overlain and underlain by the Abo mudstones, sand or shales, shall be considered to be part of the Abo Formation. The average depth to the top of the Abo Formation is

[1] The delineation of the Formation in the proposed rule was amended by a *Nunc Pro Tunc* Order issued by the New Mexico Oil Conservation Division on April 5, 1983. Notice of the *Nunc Pro Tunc* amendment was issued on May 2, 1983. Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] The United States Department of the Interior, Bureau of Land Management concurs with the New Mexico recommendation.

3,025 feet. The average thickness of the Abo Formation is 1,058 feet.

[FR Doc. 26543 Filed 9-28-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-177 (Ohio—2 Addition); Order No. 328]

High-Cost Gas Produced From Tight Formations; Ohio

Issued September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Ohio Department of Natural Resources, Division of Oil and Gas (Ohio) that the Berea Sandstone and "Second Berea" zone of the Bedford Shale located in specified townships in Athens, Belmont, Meigs, Monroe, Morgan, Noble, and Washington Counties, Ohio, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, (202) 357-8307, or Webster Gray, (202) 357-8731.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Berea Sandstone and "Second Berea" zone of the Bedford Shale in specified townships in Athens, Belmont, Meigs, Monroe, Morgan, Noble, and Washington Counties, Ohio as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued April 19, 1983 (48 F.R. 17615, April 25, 1983), based on a recommendation by the State of Ohio Department on Natural Resources, Division of Oil and Gas (Ohio), in accordance with § 271.703, that portions of the Berea Sandstone and "Second Berea" zone of the Bedford Shale, located in Athens, Belmont, Meigs, Monroe, Morgan, Noble, and Washington Counties, Ohio, be designated as a tight formation.

Comments on the proposed rule were invited and one comment supporting the recommendation was received from Columbia Gas Transmission Corporation (Columbia). No party requested a public hearing and no hearing was held. Columbia, in its comments, suggested that by limiting approval to wells spudded or recompleted after the date of a final order in this proceeding, problems of raising prices in the face of current short-term overdeliverability would be mitigated. Columbia's suggestion is more properly considered in the context of two ongoing rulemakings: *Inquiry Into Purchasing Practices of Interstate Pipelines*, Docket No. RP83-96-000, 48 FR 25,264 (June 6, 1983) and *Limitation on Incentive Prices for High-Cost Gas to Commodity Values*, Docket No. RM82-32-000, 48 FR 7,469 (February 22, 1983), rather than in a particular tight formation proceeding. The general inquiry in Docket No. RP83-96-000, and the proposal in Docket No. RM82-32-000 provide more appropriate forums than this particular proceeding for devising solutions to the broad-based problems of oversupply and price now occurring in the market place. Columbia's comments will be placed in the record of both of those proceedings.

The Commission also notes that it has already provided the pipelines with a means of negotiating on the tight date of any tight formation determination as of July 19, 1979.[2] Where a formation meets all of the guidelines in § 271.703(c)(2), the Commission has already made a generic finding, in Order No. 99, that the incentive price is necessary under NGPA section 107(b). The Commission will not use individual tight formation recommendations to reopen Order No. 99.

The evidence submitted by Ohio supports the finding that portions of the Berea Sandstone and "Second Berea" zone of the Bedford Shale located in Athens, Belmont, Meigs, Monroe, Noble, and Washington Counties, Ohio, meet the guidelines contained in § 271.703(c)(2). The Commission therefore adopts the Ohio recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(84) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(84) *Berea Sandstone and the "Second Berea" zone of the Bedford Shale in Ohio.* RM79-76 (Ohio-2) and RM79-76-177 (Ohio-2 Addition).

(i) *Delineation of formation.* The Berea Sandstone and the "Second Berea" zone of the Bedford Shale occur within the Lower Mississippian System. The Berea Sandstone (also called the "First Berea" or "Berea Grit") lies above the Bedford Shale, which includes the "Second Berea" zone near its base. The Berea Sandstone is found in the following townships:

Athens County: Alexander, Ames, Athens, Bern, Canaan, Carthage, Dover, Lodi, Rome, Troy.

Belmont County: Somerset, Washington, Wayne, York.

Gallia County: Addison, Cheshire, Gallipolis, Springfield (Sections 1 through 12).

Meigs County: all except Columbia.

Monroe County: all.

Morgan County: all.

Muskingum County: Blue Rock, Meigs, Rich Hill, Salt Creek, Wayne (Sections 29 and 32).

Noble County: all.

Perry County: Bearfield (Sections 1, 2, 3, 10 through 15, 22 through 27).

Washington County: all.

The "Second Berea" zone of the Bedford Shale is found in the following townships:

Athens County: Alexander, Ames, Athens, Bern, Canaan, Carthage

[2] President Carter, in his energy address to the nation on July 16, 1979, urged the Commission to set a price incentive for tight formation gas. The date was chosen in recognition of the fact that the rule was undertaken to give effect to a policy initiated by the President's July 16, 1979 speech.

(Sections 25, 26, 29 through 36, Fractions 24, 32 through 35). Dover, Lodi, Rome.

Gallia County: Addison, Cheshire, Gallipolis, Springfield (Sections 1 through 12).

Meigs County: Bedford (All sections except 1 through 4), Orange (Sections 35 and 36), Rutland, Salem, Salisbury, Scipio.

Morgan County: Bloom, Bristol, Deerfield, Homer, Malta, Marion, Meigsville (Sections 5, 6, 7, 8, 18, 19), Morgan, Penn, Union, York.

Muskingum County: Blue Rock, Meigs, Rich Hill, Salt Creek, Wayne (Sections 29 and 32).

Perry County: Bearfield (Sections 1, 2, 3, 10 through 15, 22 through 27).

Washington County: Wesley (Section 6).

(ii) *Depth.* The vertical limits of the designated interval are defined by the base of the Sunbury Shale (called "Coffee Shale" by drillers) above and the top of the Upper Devonian Ohio Shale below. The depth to the top of the interval ranges from approximately 1,000 feet to 2,400 feet. The Berea Sandstone ranges from 10 to 54 feet in thickness, and the "Second Berea" zone of the Bedford Shale has a maximum thickness of 36 feet. The "Second Berea" is separated from the Berea Sandstone by approximately 10 to 50 feet of red to gray shales and siltstones.

[FR Doc. 83-26542 Filed 9-28-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-200 (Texas—2 Addition); Order No. 329]

High-Cost Gas Produced From Tight Formations; Texas

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Canyon Sandstone Formation located in the KWB (Canyon) Field in Tom Green County, Texas Railroad Commission District 7C, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, (202) 357-8476 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Canyon Sandstone Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 15, 1983 (48 FR 28115, June 20, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that an additional area of the Canyon Sandstone Formation in the KWB (Canyon) Field, located in Tom Green County, Texas, be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Canyon Sandstone Formation in the KWB (Canyon) Field located in Tom Green County, Texas Railroad Commission District 7C, meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(10) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(10) *Canyon Sandstone Formation in Texas.* RM79-76 (Texas—2)

(i) The Canyon Sandstone Formation in Crockett, Edwards, Schleicher, Sutton, Terrell and Val Verde Counties, Texas.

(A) *Delineation of formation.* The Canyon Sandstone Formation is found in portions of Crockett, Edwards, Schliecher, Sutton, Terrell and Val Verde Counties, Texas.

(B) *Depth.* In the east, the top of the Upper Canyon (Sonora) of the Canyon Sandstone Formation is encountered at a depth of approximately 4,775 feet and the base of the Lower Canyon extends to 8,953 feet, for a total thickness of 4,178 feet. In the west, the top of the Upper Canyon (Ozona), the only section of the Canyon Sandstone Formation to occur in the west, is encountered at an approximate depth of 2,675 feet in the south and 6,100 feet in the north. The base of the Upper Canyon (Ozona) appears at an approximate depth of 3,915 feet in the south, and 7,278 feet in the north, and its thickness ranges from approximately 1,240 feet in the north to 1,178 feet in the south.

(ii) The Canyon Sandstone Formation in the KWB (Canyon) Field, Tom Green County, Texas.

(A) *Delineation of formation.* The designated area of the Canyon Sandstone Formation in the KWB (Canyon) Field is located 2.5 miles south of the town of Carlsbad in Tom Green County, Texas, and consists of the following surveys: TTRR Co. 1113 and 1135; TCRR Co. 1137 and 1139; H & TC RR Co. 37; J. S. Turner 1132; W. Turner 1114, 1136, 1138, and 1140; Mason-Perry Co. (Subdivision #1 of Collins Ranch) 48, 49, 52 thru 58 and 214 A&B thru 295; Mason-Perry Co. (Subdivision #2 of Collins Ranch) 29.

(B) *Depth.* The top of the Canyon Sandstone Formation within the designated area ranges from approximately 3,200 to 3,800 feet subsea and is identified on the log of the Mitchell Energy Corporation McWhorter 218 No. 2 well as a 900 foot thick interval occurring between the measured depths of 5,100 and 6,000 feet.

* * * * *

[FR Doc. 83-26535 Filed 9-28-83; 8:45 am]
BILLING CODE 6717-01-M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

18 CFR Part 271

[Docket No. RM79-76-190 (Texas-9 Addition IV); Order No. 330]

High-Cost Gas Produced From Tight Formations; Texas

Issued: September 27, 1983.

AGENCY: Federal Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas (Texas) that an additional area of the Travis Peak Formation, called the Martinsville (Travis Peak) Field, located in Eastern Nacogdoches County, Texas, Railroad Commission District 6, including all of the area within a 2.5 mile radius of the Manuel Herrara No. 1 Well located in the San Jose Huerra Survey A-289, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include an additional area of Travis Peak Formation, called the Martinsville (Travis Peak) Field, located in Eastern Nacogdoches County, Texas, Railroad Commission District 6, including all of the area within a 2.5 mile radius of the Manuel Herrara No. 1 Well located in the San Jose Huerra Survey A-289, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued April 28, 1983 (48 FR 19891, May 3, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that an additional area of the Travis Peak Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the additional area of the Travis Peak Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(36)(iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(36) *Travis Peak Formation in Texas.* RM79-76 (Texas—9)

* * * * *

(iv) *Martinsville (Travis Peak) Field.*

(A) *Delineation of formation.* The designated portion of the Travis Peak Formation is located immediately south of the town of Martinsville in eastern Nacogdoches County, Texas, Railroad Commission District 6, and includes all of the area within a 2.5 mile radius around the Getty Oil Company, Manuel Herrera Well No. 1 located in the Jose Huerra Survey, A-289.

(B) *Depth.* The designated portion of the Travis Peak is found at sub-sea depths ranging from approximately 8,100 feet on the north to 8,500 feet on the south.

* * * * *

[FR Doc. 83-26534 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments and requests for a public hearing were invited and the Commission received one comment from Champlin Petroleum Company in support of the Texas recommendation. No one requested a public hearing, and no hearing was held.

18 CFR Part 271

[Docket No. RM79-76-195 (Texas—22 Addition IV); Order No. 331]

High-Cost Gas Produced From Tight Formations; Texas

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas (Texas) that an additional area of the Strawn-Detrital Formation located in Ozona S.W. (Strawn) Field in Central Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Strawn-Detrital Formation located in Ozona S.W. (Strawn) Field in Central Crockett County, Texas, Railroad Commission District 7C, including the area 15 miles southwest of Ozona, Texas and just south of the Strawn Detrital Formation areas previously designated as tight formations by the Commission,[1] as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued May 19, 1983 (48 FR

[1] *See* Order No. 249, 47 FR 38,117 (1982); Order No. 295, 48 FR 18,792 (1983); Order No. 314, 48 FR 18,792 (1983); Order No. 314, 48 FR 32,338 (1983) (all to be codified at 18 CFR § 271.703(d)(106) (1984)).

23276, May 24, 1983[2] based on a recommendation by the Railroad Commission of Texas in accordance with § 271.703, that an additional area of the Strawn Detrital Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that an additional area of the Strawn-Detrital Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(106)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(106) *Straw—Detrital Formation in Texas.* RMN79–76 (Texas—22).* * *

(iii) *Ozona, S.W. (Strawn) Field.*

(A) *Delineation of Formation.* The Strawn-Detrital Formation in the area of the Ozona, S.W. (Strawn) Field is located in Crockett County, Texas, Railroad Commission District 7C. The designated area consists of the south half of Section 1, Sections 2, 3, 4, the east half of Section 8, Sections 9, 10, 11, the south halves of Sections 12 and 13, Sections 14, 15, 16, the west half of Section 17, Section 21, and the west half of Section 23, Block M, GC and S.F. Survey; Sections 4, 5, 6, the south quarters of Sections 7 and 10, Sections 11, 12 and 13, Block S.L., T and S.T.L. Survey; and a portion of Block Z, J. W. Henderson Survey.

(B) *Depth.* The vertical extent of the Strawn-Detrital Formation in the Ozona, S.W. (Strawn) Field is defined as the interval from the base of the Canyon Formation (top of the Strawn series) to the top of the Simpson Shale (base of the Devonian), which includes the Strawn, Strawn-Detrital and Devonian zones. The average depth to the top of the Strawn series is approximately 8,800 feet.

* * * * *

[FR Doc. 83–26533 Filed 9–28–83; 8:45 am]

BILLING CODE 6717–01–M

[2] Comments and requests for a public hearing were invited and the Commission received one comment from Champlin Petroleum Company in support of the Texas recommendation. No one requested a public hearing and no hearing was held.

18 CFR Part 271

[Docket No. RM79–76–194 (Texas-36); Order No. 332]

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1973)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Cook Mountain Formation located in Harris County, Texas, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, (202) 357–8476 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations (18 CFR 271.703(d) (1983)) to include the Cook Mountain Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 1, 1983 (48 FR 25223, June 6, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that a portion of the Cook Mountain Formation, located in Harris County, Texas, Railroad Commission District 3 be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Cook Mountain Formation, located in Harris County, Texas, Railroad Commission District 3, meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective October 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(144) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(144) *Cook Mountain Formation in Texas.* RM79–76 (Texas—36).

(i) *Delineation of formation.* The Cook Mountain Formation is located in Harris County, Texas, Railroad Commission District 3. The designated area is the upper 275 feet of the formation as found in an area roughly rectangular in shape and approximately 6.4 miles by 18.9 miles and located approximately 2.5 miles northwest of the City of Houston, Texas.

(ii) *Depth.* The Cook Mountain Formation is found at subsea depths ranging from −7,300 feet in the west to −8,000 feet in the southeast and is identified as that formation occurring between the measured depths of 7,730 feet and 8,005 feet on the log of the Pringle Petroleum Inc. John Ivy No. 1 well.

[FR Doc. 83–26541 Filed 9–28–83; 8:45 am]

BILLING CODE 6717–01–M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

18 CFR Part 271

[Docket No. RM83-6-000; Order No. 333]

Regulations Implementing Refund Procedures Under Subpart K of Part 271 for Production-Related Costs

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issues this final rule to provide procedures to resolve disputes concerning the appropriate allowance that a seller in a first sale of natural gas may collect under the Commission's regulations for production-related costs in excess of the otherwise applicable maximum lawful price. The final rule establishes a Production-Related Costs Board to conduct informal proceedings to resolve these disputes.

EFFECTIVE DATE: The final rule is effective October 31, 1983.

FOR FURTHER INFORMATION CONTACT:

Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033

or

Marilyn Rand, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8674.

SUPPLEMENTARY INFORMATION:

Final Rule

In the matter of regulations implementing refund procedures under Subpart K of Part 271 for production-related costs, Docket No. RM83-6-000, Order No. 333.

Issued: September 27, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing a final rule to provide procedures for determining the appropriate allowance that a seller in a first sale may collect under § 271.1104 for production-related costs in excess of the otherwise applicable maximum lawful price and whether refunds are due as the result of an over-collection. The final rule replaces, and substantially retains, the interim procedures issued on January 24, 1983.

II. Background

Section 271.1104 of the Commission's regulation implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980), authorizes a seller of natural gas in a first sale, as defined in section 2(21) of the NGPA, to receive, without prior application to the Commission, certain production-related costs in excess of the otherwise applicable maximum lawful price.[1] That section provides, however, that prior to charging these amounts, a seller must be able to demonstrate that under the express terms of the gas sales contract (1) it is obligated to provide the production-related service for which it is charging the amount and (2) the purchaser has agreed to compensate the seller some amount for performing the production-related service, in addition to the amounts paid for the gas. In addition, § 271.1104 provides that the seller may only charge the lesser of the amount provided under the contract for the service or the amounts provided under that section.

On January 24, 1983, the Commission issued an interim rule in this docket,[2] amending § 271.1105 of its regulations to establish special refund determination procedures for amounts collected under § 271.1104 which are determined to be in excess of those costs allowed. The interim rule became effective March 7, 1983. In establishing the interim refund procedures, the Commission cited specific concerns which remain applicable:

> While we are confident that the contractual authorization requirement and the limits we have placed upon the amounts that may be recovered by first sellers under revised § 271.1104 will serve to ensure that the provisions of section 110 of the NGPA are properly implemented, we are nonetheless mindful of the potential for abuse inherent in any self-implementing regulatory scheme. So, too, we recognize that genuine differences of opinion may arise concerning the allowability of certain costs which result in the collection of a price which, but for the operation of the provision of § 271.1104, would be considered to exceed the otherwise applicable maximum lawful price.[3]

The interim procedures that establish the Production-Related Costs Board (Board) focus primarily on the obligation of sellers to justify any section 110 allowance in response to staff audits and on the need to resolve any question that might arise under section 110 in as informal a fashion as is consistent with fairness and accurate fact-finding. With respect to issues raised by staff in compliance audits, the Commission stated:

> By giving sellers an opportunity to challenge staff's conclusions at the staff level, the Commission hopes to reduce or eliminate the possibility that matters referred for determination are based upon mistake or misunderstanding. Moreover, a dialogue between staff and seller should serve to identify and narrow issues that cannot be resolved through negotiation, and must therefore be referred to the Board. This should ensure that the determination process, when invoked, will be well-focused and it may result in fewer cases being referred to the Board.
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> * * * * *
>
> The creation of a Board, to whom the authority to make the allowability determination shall be delegated, satisfies each of these criteria. Because its responsibilities are limited to determinations arising under § 271.1104, proceedings before the Board should not suffer from inordinate delay. Moreover, while notice and an opportunity to be heard will be afforded to the affected seller prior to any proceeding before the Board, the proceeding itself will be informal, and its form will be flexible. A record will be made of all proceedings, but because these proceedings are not "hearings", as that term is used in Part 385 of the Commission's regulations, the full panoply of rights that may be available in "hearings" *per se* need not be afforded in proceedings before the Board.[4]

The Commission invited written comments on the interim rule and, on April 8, 1983, provided an opportunity for the oral presentation of data, views, and arguments. The Commission received five comments on the interim rule.[5] The Commission, upon consideration of the comments received, is amending the procedures established in the interim rule, as discussed below.

The Commission is adopting a similar but procedurally more specific rule that is designed to accomplish the same purposes as the interim rule. The Production-Related Costs Board will review disputes over generic or

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[1] The final rules establishing § 274.1104(d), generic delivery and compression allowances, are being issued simultaneously with this final rule. "Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978," Docket Nos. RM80-73-000, *et al.* [and] "Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," Docket Nos. RM80-74-000, *et al. See also*, Order No. 94-A in Docket No. RM80-47-002, issued January 24, 1983, 48 FR 5,190 (Feb. 3, 1983), III FERC Stats. and Regs. ¶ 30,421, *reh. denied*, Order No. 94-C in Docket Nos. RM80-47-002 through 012, issued May 24, 1983, 48 FR 24,039 (May 31, 1983), III FERC Stats. and Regs. ¶ 30,454.

[2] 48 FR 5,197 (Feb. 3, 1983).

[3] 48 FR 5,198.

[4] *Id.*

[5] The Commission received timely written comments from Columbia Gas Transmission Corp., Northern Natural Gas Co., Pogo Producing Co., Public Service Commission of the State of New York and Associated Gas Distributors, Southern California Gas Co. and Pacific Lighting Gas Supply Co. There were no oral presentations offered on the interim rule at the public hearing.

contract-based allowances under section 271.1104 that are referred to it in any of three ways: (1) By the Director of the Office of Pipeline and Producer Regulation or a designee as a result of a compliance audit by staff; (2) by complaint by any person or party to a section 110 transaction; or (3) by the Commission as appropriate, if section 110 issues arise in other proceedings. Although the collectability of an allowance by a seller is, as under the interim rule, the central issue to be decided by the Board, the final rule also addresses the obligation of the purchaser to pay such allowance, if the seller is eligible for it. As under the interim rule, the Board's proceedings will be informal but its decisions binding unless appealed to the Commission.

III. Discussion of Comments and Summary of Regulations

A. Compliance Audit Procedure

The interim rule established the Board to determine whether refunds are due as a result of a seller collecting an allowance for production-related costs in excess of the otherwise applicable maximum lawful price by an amount not authorized to be collected under § 271.1104. Under the interim rule, a matter can be referred to the Board only if there are two conditions precedent. First, a compliance audit conducted by Commission staff reveals probable non-compliance, normally over-collection, by the seller. Second, the issue of whether a refund is due cannot be resolved informally by staff and the seller and a refund report is not submitted.

Some of the commenters in this docket as well as commenters in related rulemakings [6] argue that purchasers and consumers of gas are not adequately protected by the compliance audit procedure. They state that there is no forum for the consideration of similar disputes when raised by a seller, purchaser, or consumer.

The Commission agrees that procedures resulting from audits alone may not provide sufficient chances to air issues of fact and law under section 110. On one hand, if disputes involve purely matters of contract interpretation, the parties may resort to federal or state courts or third party arbitration. On the other hand, absent a compliance audit, the interim procedure may leave parties without appropriate relief short of court action. Accordingly, the final rule provides that the Board shall consider complaints filed pursuant to § 385.206 which claim that an allowance is being charged, collected, or otherwise not paid in violation of § 271.1104 of the regulations. If a person or party wishes to file a complaint with the Commission, the complaint should be specific and supportable with regard to the facts.

In addition, paragraph (d)(4) of § 271.1105 of the final rule states that the Commission may, by order, refer appropriate matters to the Board for its consideration. For example, the Commission may wish to refer to the Board issues relating to specific payments of section 110 allowances that are raised by a protester to a purchased gas adjustment proceeding. Thus, the Board may resolve disputes raised by a complainant, referred by staff pursuant to a compliance audit, or referred by order of the Commission.

In sum, the Commission expects that disputes over section 110 allowances will frequently involve mixed questions of fact and law, including conflicting interpretations of the rules and the Commission's intent. Such issues are within the Board's expertise and therefore should be considered by the Board. The Board affords an appropriate and accessible forum and imposes a far smaller procedural burden on the parties than would court action or formal hearing. In the case of the compliance audit procedure, the final rule designates the Director of the Office of Pipeline and Producer regulation (OPPR) or his designee as the member of staff that would refer a matter to the Board.

It is important to note at this point that the Commission does not anticipate or intend that, by providing additional avenues for access to review by the Board, the caseload of that body will be increased substantially. The Commission expects that most section 110 disputes will be resolved among the parties to the transaction or as a result of a compliance audit and that the Board will act only in extraordinary cases.

B. Proceeding Before the Board

Under § 271.1105(b)(1) of the interim rule, the Board would conduct an "informal proceeding at which facts concerning the allowability of the production-related cost(s) shall be elicited." The proceeding would not be a "hearing" to which the requirements of Subpart E of Part 385 of the regulations apply.

One commenter requests that the Commission clarify the rights of a seller in any proceeding before the Board so as to allow the seller and other participants to prepare properly. In response to this request, § 271.1105(g)(2) of the final rule provides that parties will be given an opportunity to submit written comments, data, views, and arguments to the Board, and to participate in a hearing before the Board, if the Board finds that oral presentations would be useful. Although paragraph (g)(3) gives the Board the discretion to provide for other procedures that may be necessary for a full disclosure of the facts, the Commission believes that, in most cases, a hearing before the Board will not be a judicial or evidentiary-type hearing and there will be no cross-examination of persons presenting statements. Generally, as in other public hearings conducted by the Commission, the Board may ask questions of persons making oral presentations and may also ask any relevant questions that are submitted to the Board by the other participants.

Section 271.1105(g)(3) of the final rule further provides that the Board, in its discretion, may request additional written submissions from the parties, issue notices to carry out the purposes of the section, and provide any procedural relief.

The Commission believes that the procedures established in the final rule give the Board sufficient flexibility to accommodate the needs of the parties, develop efficient procedures, and make its determination impartially based upon a full and fair disclosure of the facts.

Two commenters ask the Commission to clarify the purchasers' status in a proceeding before the Board. Paragraph (b) of § 271.1105 of the final rule explicitly provides that the purchaser is a party to the proceeding. That paragraph states that the definition of "party" in § 385.102 applies, except that it also includes the seller or purchaser of natural gas in a transaction involving the disputed production-related costs.

In addition, the final rule makes several procedural changes and clarifications to the interim rule in response to commenters' concerns. Section 271.1105(e) of the final rule provides that a notice will be issued upon referral of a matter to the Board. The notice will be published in the Federal Register and served on all parties to the proceeding. The final rule also provides for interventions. Specifically, under § 271.1105(f), motions to intervene must be filed within 15 days of publication of the notice in the Federal Register.

C. Determinations of the Board

Under the final rule, the Board would issue an order that either determines the allowability of any disputed production-related costs or summarily disposes of all or some of the issues raised. The order is appealable to the Commission pursuant to § 385.1902 of the regulations

[6] *See* Order No. 94-C, *supra* note 1, 48 FR at 24,049.

because it is issued under authority delegated by the Commission. The Commission fears that the revised and broadened procedures may require the Board to consider disagreements, particularly in the form of complaints, that do not present genuine issues of material fact. In such cases, or if there is inadequate information about the first sale at issue, the Commission believes that the Board should not be obligated to render a determination on the merits of the dispute. Therefore, the final rule permits a summary disposition of all or some of the issues before the Board in a specific case. This affords the Board more flexibility to act expeditiously. It should also be noted that the rule allows substantive determinations on each allowance to be made separately, if more than one allowance is at issue in a particular case.

Two commenters raise other questions relating to the Board's determination. One requests the Commission to clarify whether, on review, the Commission will hold a full hearing or simply review the transcript.

Under § 385.1902 of the regulations, a party may appeal the Board's order by filing a petition within thirty days of issuance of the order. Any party may file an answer to the petition within ten days of service of the petition. The Commission would not ordinarily hold a full hearing. Rather, it would consider the petitions in light of the record established in the proceeding. If a hearing is held by the Board, the transcript would be available for the Commission's consideration of the appeal, as would be the written comments. If the Commission were to find the record inadequate to make a determination, it would have the option of sending the matter back to the Board or setting the matter for formal hearing.

The other commenter asks the Commission to clarify the effect of an order of the Board on other Commission proceedings. An order is issued by the Board pursuant to authority delegated by the Commission. Therefore, the order, if not appealed to the Commission under § 385.1902, has the effect of an order of the Commission. If, however, the Board's order is appealed, it is the Commission's action on the appeal that is final agency action and subject to rehearing.

D. Miscellaneous

One commenter requests that the Commission amend its regulations to provide that a pipeline is not required to flow-through refunds until such time as the seller actually pays these amounts to the pipeline. The Commission denies this request as unnecessary. The final rule establishes procedures for resolving disputes over production-related costs and ordering a seller to make refunds, if appropriate. A pipeline is not obligated to flow these refunds through to its customers until it actually receives them.

Another commenter argues that the Commission should require applications from sellers for prior Commission approval in order to be eligible to collect production-related costs under § 271.1104. The Commission adequately addressed this issue in Order No. 94–C[7] and further discussion here is unnecessary.

IV. Effective Date of Final Rule

In accordance with section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553, the final rule shall become effecive thirty days from the date of publication in the **Federal Register.**

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

In consideration of the foregoing, Part 271 of Title 18, Code of Federal Regulations, is amended as set forth below, effective October 31, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Part 271 is amended by revising § 271.1105 to read as follows:

§ 271.1105 Compliance procedures under the Production-Related Costs Board.

(2) *Applicability.* This section establishes a Production-Related Costs Board to resolve disputes regaridng:

(1) The appropriate allowance that a seller in a first sale is authorized to collect under § 271.1104 for production-related costs in excess of the otherwise applicable maximum lawful price; and

(2) The amount of refunds that may be due as the result of a seller in a first sale collecting an amount not authorized to be collected under § 271.1104.

(b) *Definitions.* The definitions of "decisional authority," "presiding officer," "party," "participant," and "respondent" in § 385.102 of this chapter apply, except that "party" also means the seller or purchaser of natural gas in a transaction involving production-related costs.

(c) *Nature of the Board.* (1) The Production-Related Costs Board (Board) is a panel of at least two members of the Commission staff that the Commission is designating as the presiding officer and decisional authority to make determinations under this section.

(2) The members of the Board are appointed by the Chairman of the Commission.

(3) Any decisions of the Board will become the Commission's decision unless Commission review is requested under paragraph (h) of this section.

(d) *Initiation of Proceedings.* (1) *General rule.* A proceeding before the Board may be initiated:

(i) By staff under paragraph (d)(2) of this section if, pursuant to a compliance audit and in accordance with paragraph (d)(2), it finds probable non-compliance with § 271.1104;

(ii) By any person or party that files a complaint in accordance with paragraph (d)(3) of this section; or

(iii) By Commission referral to the Board of any production-related cost issues, in accordance with paragraph (d)(4) of this section.

(2) *Referral to Board after compliance audit.* (i) *Notice.* If a compliance audit conducted by Commission staff indicates a probable non-compliance with § 271.1104 such that reimbursement or refund may be due, the Director of the Office of Pipeline and Producer Regulation or a designee (Director) will notify the seller of the probable violation in writing. A copy of the notice shall be sent to any other affected party.

(ii) *Response.* Within sixty days of the date of the Director's notice under this paragraph, the seller in alleged non-compliance must respond, as appropriate, by either:

(A) Filing with the Commission a refund report that identifies the subject contract(s) and specifies the amount of the overcharges and the interest to be refunded, the date(s) on which any overcharges were made, and the date(s) on which any refunds were paid; or

(B) Submitting a written statement to the Director that sets forth the reasons why it believes that no violation has occurred, or that a refund is not due or is not due in the amount stated in the Notice.

(iii) *Referral to Board.* The Director will refer the matter to the Board for resolution if, after the expiration of the sixty days from the date of the notice, the seller in alleged non-compliance:

(A) Has not responded in accordance with this paragraph;

(B) Has not filed a refund report with the Commission, as appropriate; or

(C) Has not resolved, to the Director's satisfaction, any question as to the collection or collectibility of an allowance for production-related costs.

[7] Order No. 94–C, *supra* note 1, 48 FR at 24,041.

(3) *Complaint Procedure.* The Board will consider any complaint, filed by any party or person in accordance with § 385.206 of this chapter, that alleges either that:

(i) An allowance for production-related costs was collected or is being charged by a seller contrary to § 271.1104 of this chapter; or

(ii) A purchaser is refusing to pay an allowance for production-related costs that it believes is contrary to § 271.1104 of this chapter.

(4) *Referral by the Commission.* The Commission may, by order, refer to the Board for disposition in accordance with this section, any production-related cost issue under § 271.1104 that may arise in other proceedings, as appropriate.

(e) *Notice by Board.* Upon referral of a matter to the Board under paragraph (d) of this section, the Board will initiate an informal proceeding by publishing in the Federal Register and serving on the parties a Notice that contains:

(1) A brief explanation of the nature of the dispute;

(2) The identity of the parties; and

(3) Any other appropriate matter.

(f) *Intervention.* A motion to intervene in a proceeding before the Board must be filed with the Commission in accordance with § 385.214 of this chapter not later than 15 days after publication of the Notice in the Federal Register under paragraph (e) of this section.

(g) *Proceedings before the Board.* (1) Any proceeding before the Board will be informal. Subpart E of Part 385 does not apply.

(2) Participants and parties will be given an opportunity to submit written comments, data, views, and arguments to the Board. If the Board finds that oral presentations would be useful, the parties will be afforded an opportunity to participate in a public hearing before the Board.

(3) At any time during the proceeding, the Board, in its discretion, may:

(i) Request additional written submissions from the parties;

(ii) Establish any procedures necessary for a full and fair disclosure of the facts or provide any procedural relief; and

(iii) Issue notices to carry out this section.

(h) *Determinations by the Board.* (1) As soon as practicable after receipt of the written comments or after a hearing, if one is held, the Board will issue an order either summarily disposing of the matter, wholly or in part, for good cause, or determining the allowability of any disputed amount and, if appropriate, requiring the seller to make a refund including interest calculated in accordance with the provisions of § 154.102 of this chapter. The Board will serve the order on the parties to the proceeding.

(2) Any order of the Board under this paragraph is final 30 days after issuance, unless, during that period, an aggrieved party files a petition for review pursuant to § 385.1902 of this chapter.

(i) *Referral to Enforcement Division.* Nothing in this section shall preclude Staff, the Board, or the Commission from referring matters involving disputed amounts under this section to the Enforcement Division of the Office of the General Counsel for appropriate action.

[FR Doc. 83-26540 Filed 9-28-83; 8:45 am]
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18 CFR Part 271

[Docket Nos. RM80-73-000, et al. and RM80-74-000 et al.; Order No. 334]

Delivery and Compression Allowances Under the Natural Gas Policy Act of 1978

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule and order granting in part and denying in part rehearing of interim rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this final rule to amend § 271.1104(d) of its regulations. This final rule adopts and clarifies the application of the allowances established in the interim rule that may be recovered by "first sellers," as defined by the Natural Gas Policy Act of 1978, for delivering (gathering and transporting) natural gas and for compression. This order also grants in part and denies in part application for rehearing of the interim rule.

EFFECTIVE DATE: This order will become effective October 31, 1983.

FOR FURTHER INFORMATION CONTACT:

Michael Stosser, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033

Louis J. Engel, Office of Pipeline and Producer Regulations, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8667.

SUPPLEMENTARY INFORMATION:

Before Commissioners: A. G. Sousa, Acting Chairman; Georgiana Sheldon, J. David Hughes, and Oliver G. Richard III.

Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978; Docket Nos. RM80-73-000, RM80-73-001, RM80-73-002, RM80-73-003.

Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978; Docket Nos. RM80-74-000, RM80-74-001, RM80-74-002, RM80-74-003.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing final regulations that implement section 110 [1] of the Natural Gas Policy Act of 1978 (NGPA) [2] by providing that a "first seller" [3] of natural gas may receive, without prior application, allowances to recover costs incurred for delivering [4] or compressing that gas. The final rule revises, but substantively retains, the interim rule promulgated on January 24, 1983.[5] The interim and final rules specify the generic allowances which may be collected for particular production-related activities and imposes limitations on those allowances.[6]

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[1] NGPA section 110(a) provides, in pertinent part, that:

. . . a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover . . . any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

[2] 15 U.S.C. 3301-3432 (Supp. IV 1980).

[3] NGPA section 2(21) defines first sale as:

(A) Any sale of any volume of natural gas:

(i) To any interstate pipeline or intrastate pipeline;

(ii) To any local distributor company;

(iii) To any person for use by such person;

(iv) Which precedes any sale described in clauses (i), (ii), or (iii); and

(v) Which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

[4] "Delivery" is defined as gathering and transportation. *See* CFR 271.1104(c)(3) (revised 1983).

[5] Interim Rule, "Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978 and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," 48 FR 5,190 (Feb. 3, 1983), Docket No. RM80-73-000, *et al.*, issued January 24, 1983 [hereinafter cited as *interim rule*].

[6] For recovery of costs incurred for other production-related costs, *see* Order No. 94-A, "Final Rule and Order on Rehearing: Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," 48 FR 5,190 (Feb. 3, 1983), Docket No. RM80-47-002, issued January 24, 1983, [hereinafter cited as *Order No. 94-A*], *reh. denied,*

Continued

II. Background

The Commission first issued regulations dealing with gathering, transportation, and compression allowances under section 110 of the NGPA, in the first set of interim regulations issued on the effective date of the NGPA.[7] Under these regulations, certain sellers qualified for allowances above the applicable ceiling prices for certain costs they incurred to gather, transport, or compress natural gas. In most cases, however, the sellers had to apply to the Commission before such an allowance could be collected.

In July of 1980, in Order No. 94, the Commission revised the interim rules relating to gathering and compression allowances.[8] The Commission suspended further action on individual applications for gathering and compression allowances and informed the public of its intent to initiate a separate rulemaking proceeding which would establish industry-wide allowances for those production-related activities.

Shortly after issuing Order No. 94, the Commission began this rulemaking proceeding through a Notice of Inquiry.[9] In the notice, the Commission solicited written comments from the public on representative allowances developed by the Commission staff. The Commission was particularly anxious to receive comments from manufacturers, builders and operators of gathering and compression facilities. The Commission staff proposed specific amounts for the allowances. The data and underlying presumptions used to develop the allowances were summarized and discussed in a staff report appended to the notice.

On January 24, 1983, in response to the fifty-one written comments on the Notice of Inquiry, the Commission issued the interim rule establishing industry-wide delivery and compression allowances under NGPA section 110. Included with the rule were detailed appendices reproducing information obtained from commenters and containing Commission analysis of this and other information. Also issued on that date were Order Nos. 94–A [10] and 94–B.[11] While these orders defined the eligibility criteria for collection of allowances for production-related costs, the interim rule established the amounts of two of those allowances. This set of the Commission's rules was effective March 7, 1983.[12] Order Nos. 94–A and 94–B were final rules. The Commission invited written comments, and, on April 8, 1983, provided the public with the opportunity for oral presentation of data, views, and arguments on the interim rule.

Following the issuance of the interim rule, 16 commenters from various interests including producers, pipelines, local distribution companies, public service commissions and customers submitted written comments,[13] and three of these presented oral comments at the hearing.[14] In addition, the Commission received 8 petitions or motions to reconsider or clarify the interim rule.[15]

Based upon a review of the oral and written comments, the Commission adopts a final rule that establishes the delivery allowances set forth in the interim rule. It also imposes the same limitations on eligibility and collection of those allowances. For a pre-NGPA constructed delivery system, the allowance is 5 cents per MMBtu. For a post-NGPA constructed delivery system, the allowance is 7 cents per MMBtu for the first mile of gas haul, or a portion thereof, plus 2 cents for each additional mile of gas haul, not to exceed a maximum compensable haul of 20 miles, or an allowance of 45 cents per MMBtu. For a post-NGPA constructed compression facility, the allowance is 6 cents per MMBtu for each stage of compression, not to exceed three stages or 18 cents.

III. Response to the Comments

A. General Comments

In Order Nos. 94–A and 94–B, the Commission responded to many of the issues raised by the commenters to the interim rule. At the rehearing stage, in Order No. 94–C and 94–D, the Commission responded at length to several additional section 110-related arguments. Many of these issues are presented here. For example, commenters in this docket argue that the Commission failed to consider the effect of the rules implementing NGPA section 110 on the current natural gas market.[16] Others address the rules for qualifying for the allowance [17] and effects on area rate clauses.[18] Insofar as the responses

Order No. 94–C, "Order Denying Rehearing and Denying Petitions for Stay of, or Further Comment On, Final Rule," 48 FR 24,039 (May 31, 1983), Docket Nos. RM80–47–002–012, issued May 24, 1983, [hereinafter cited as *Order No. 94–C*].

[7] "Interim Regulations Implementing the Natural Gas Policy Act," 43 FR 56,448 (Dec. 1, 1978), Docket No. RM79–3, issued December 1, 1978.

[8] Order No. 94, "Order Amending Interim Regulations, Establishing Policy and Seeking Further Comment," 45 FR 53,099 (Aug. 11, 1980), Docket No. RM80–47, issued July 25, 1980 [hereinafter cited as *Order No. 94*].

[9] Notice of Inquiry, "Gathering the Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," 45 FR 84,814 (Dec. 23, 1980), Docket Nos. RM80–73 and RM80–74, issued December 16, 1980 [hereinafter cited as *notice of inquiry*].

[10] In Order No. 94–A, the Commission amended its regulations for production-related costs. The new rules replaced an application procedure with a self-executing mechanism to permit first sellers, under the express terms of their gas sales contracts, to add to their maximum lawful prices amounts necessary to recover production-related costs borne by them.

[11] Order No. 94–B, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act; Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations Issued in Order No. 68," 48 FR 5,190 (Feb. 3, 1983) Docket No. RM80–47–003, issued January 24, 1983, *reh. denied*, Order No. 94–D, "Order Denying Rehearing and Denying Stay of Order No. 94–B," 48 FR 24,051 (May 31, 1983), Docket No. RM80–47–003, *et al.*, issued May 24, 1983 [hereinafter cited as Order No. 94–D]. In this order, special provisions were made for first sellers of natural gas priced under NGPA sections 105 and 106(b) who incur production-related costs.

[12] The allowances established in the interim rule are available, subject to specific limitations, for deliveries made on or after July 25, 1980, the date on which Order No. 94 was issued. *See* Order No. 94–A, 48 FR at 5,168–5,169. In Order No. 94, the Commission had stated that the industry-wide allowances to be established in the rulemaking process would apply to sales made on or after the date of that order. 45 FR at 53,107–53,108.

[13] The Commission received timely comments from Southern California Gas Company and Pacific Lighting Gas Supply Company; Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; Southern Union Gathering Company; Grace Petroleum Corporation; Public Service Commission of the State of New York and Associated Gas Distributors; Natural Gas Pipeline Company of America; Public Service Commission of Wisconsin; Pennsylvania Natural Gas Associates; Columbia Gas Transmission; and Indicated Producers (Phillips Petroleum Company, *et al.*). The Commission received late comments from Champlin Petroleum Company and United Gas Pipe Line Company.

[14] Associated Gas Distributors; Southern Union Gathering Company; and Indicated Producers (Phillips Petroleum Company, *et al.*).

[15] The Commission received a timely petition for rehearing of the interim rule from Exxon Company, U.S.A. (Docket No. RM80–73–002), a late-filed Petition for Clarification and Application for Rehearing filed by Southern Union Gathering Company (Docket No. RM80–73–003), a Petition for Reconsideration filed by Associated Gas Distributors, a Response of the Public Service Commission of the State of New York in Support of Associated Gas Distributors' Petition for Reconsideration, an Answer of Indicated Producers (Phillips Petroleum Company, *et al.*) to Petition for Reconsideration, a Petition for Reconsideration filed by UGI Corporation, an Application for Reconsideration filed by Undersigned Producers, Damson Resources Company, *et al.*, and a Petition for Reconsideration and Clarification of Michigan Wisconsin Pipe Line Company. These petitions, applications, and motions will be discussed as comments. Requests for clarification are mentioned at this time because certain petitioners styled the same arguments alternatively as bases for requests for clarification or rehearing and because late filed applications for rehearing are treated as applications for reconsideration or clarification.

[16] Order No. 94–C, 48 FR at 24,041–44.

[17] Order No. 94–C, 48 FR at 24,041, 24,043–44, and Order No. 94–D, 48 FR at 24,053–54.

[18] Order No. 94–C, 48 FR at 24,043–44, and Order No. 94–D, 48 FR at 24,054–56.

in the Order No. 94 series of orders are applicable here, the Commission incorporates them here and refers the reader to its analyses in those documents.

B. Delivery Allowances

The interim rule established two types of allowances based on the date of commencement of construction of the delivery system. If construction of the delivery system commenced before November 9, 1978 (old system), the seller may collect 5 cents per MMBtu for gas delivered, irrespective of the length of the delivery system. If construction of the delivery system commenced on or after November 9, 1978 (recent system), the seller may collect 7 cents per MMBtu for the first mile of haul, or fraction thereof, measured from the wellhead or lease separator, plus 2 cents per MMBtu for each mile of haul, or fraction thereof, not to exceed 20 miles. In a manner similar to this final rule, the interim rule imposed general limitations on when, where, and how both of these allowances may be collected.

First, if a gas sales contract specifically provides that a first seller may collect an amount for delivering the gas, the interim rule permitted the seller to collect the lesser of that amount or the allowance. If the parties agree contractually to an amount for delivery that is less than the allowances, the generic allowances do not apply.

The interim rule imposed a second limitation that permits the seller to collect a delivery allowance only at the "final" first sale location. The preamble to the interim rule describes this as the point of delivery by a seller to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. This final first sale location is distinguished from other first sale locations primarily by the transfer of the gas for value that normally occurs at this point, to a pipeline, a local distribution company, or an end user.

Third, the interim rule required that if the allowance is divided among several parties who perform this activity, it is the responsibility of the seller authorized to collect that allowance to properly allocate it.

The interim rule also provided several limitations on recent delivery systems. These specify how the appropriate allowance is to be determined and how certain abuses could be prevented. The gas delivery must be delivered to a point of commingling with other gas. The length of the delivery line must be measured from a specific point. The line of measurement must be continuous. The overall distance eligible for computation of the allowance may not exceed 20 miles, or an allowance of 45 cents. In the preamble to the interim rule, the Commission stated that, in order to collect the total allowance, the final first seller must determine the unit allowance based upon the distance from the well to the final first location, determine the amount of MMBtu's sold from each of the wells, multiply the amount of the unit allowance by the MMBtu's of the gas sold, and then make a pro rata distribution of the allowance collected based upon the length of delivery line he owns and the length of delivery line another owns. Under the NGPA, there may be more than one "first sale" of any gas stream. Without a limitation which permits only the last "first seller" in this chain to collect the allowance, there may be repeated collections. The interim and final rules do not provide generic allowances according to any system divisible by the transfer of title to the gas, except insofar as the final first seller is authorized to make an equitable distribution. The Commission believes that the mechanism for collection adopted in the rule is both fair and efficient. [19]

1. *Allowance for old delivery systems*

Three commenters addressed the amount of the allowance established for old delivery systems, the construction of which commenced prior to November 9, 1978. Two producers argue that the 5 cent allowance fails to provide adequate cost-recovery, whereas a distributor argues that the allowance is too high.

Of the commenters who argue in favor of an allowance greater than 5 cents per MMBtu, one submitted a cost study in support of its argument that the allowances established understated the actual costs incurred by producers and resellers. The cost analysis evaluates old delivery systems in terms of current costs. The study concludes that the 5 cent allowance barely covers operating and maintenance (O&M) expense, leaving nothing for capital recovery. Therefore, the commenter suggests that a more appropriate allowance would be in excess of 8 cents per MMBtu. The other commenter proposes a special cost-of-service methodology in lieu of the allowance.

In support of the argument that the 5 cent allowance should be reduced, a commenter states that the 10 percent inflation factor used by the Commission to establish an allowance that accounts for the cost of money over time is speculative and excessive. This commenter presents no underlying studies or rationale in support of its argument, but merely argues that the 10 percent inflation projection is too high.

In establishing the allowance for old delivery systems in the interim rule, the Commission considered several factors, including ongoing O&M expenses and capital cost recovery. It used both its own cost studies and those submitted by commenters for both construction and O&M expense and recognized that most of the investment costs of those systems have been recovered. However, while the Commission's primary concern in determining an appropriate allowance was with cost-recovery, it balanced other factors. The allowances contained in area rate clauses that are effective under existing contracts and the Natural Gas Act, for example, did not afford total recovery of the costs of providing delivery services. The area allowances for delivery, which ranged from 0.4 cent to 2.5 cents, were established years ago on a nationwide basis. As a result of the interim rule, operating through area rate clauses, many of the allowances previously fixed by gas sales contracts have been escalated to 5 cents per MMBtu. Many sellers, especially those in the more productive gas supply areas, such as the Texas Gulf Coast and South Louisiana, may now collect 5 cents per MMBtu, which is several times the amount they were previously permitted.

There are, however, two more fundamental issues that had to be kept in mind in prescribing reasonable allowances for the old systems. First, the Commission considered whether eligibility for the delivery allowances in the interim rule should be less restrictive than the qualifications needed for the area-wide gathering allowances. In Order Nos. 94 and 94-A, the Commission removed the requirement that a producer provide some off-lease

[19] The following example, which was also included in the interim rule, illustrates this procedure. Assume gas is being delivered from two wells, each with a delivery line 5 miles long, commingled at a point on a reseller's delivery line which is 15 miles long from the point of that commingling to the final first sale location. Assume, also, that the Btu content of the gas produced and sold from each well is 100 MMBtu. Delivery for each well is 100 MMBtu for a distance of 20 miles. If construction of the delivery system commenced on, or after, November 9, 1978, based only on the distance of the haul, the allowance for each well would be 7 cents for the first mile and 2 cents for each additional mile, or 45 cents. This figure, multiplied by the Btu content of the gas sold, 45 cents times 100 MMBtu, yields a total allowance for each well of $45.00. The reseller must then apportion that amount to each of the sellers. Each seller, with a haul distance of 5 miles, would receive 7 cents for the first mile and 2 cents for each additional mile, totaling 15 cents, multiplied by the amount of gas produced and sold, 100 MMBtu, or $15.00. The reseller would retain $30.00 for delivery from each well, or $60.00 for both wells. Of course, this apportionment will depend upon the contract terms of the seller and the reseller and of the reseller and the pruchaser.

delivery as a qualification for the area-wide gathering allowances under the Natural Gas Act. Previously, the Commission had required that, in order to qualify for the allowance, the seller first had to expend money for substantial off-lease gathering from at least two wells, usually along major distances of line. Without the off-lease delivery requirement, a seller need not incur such costs in order to qualify for applicable allowances under section 110. Moreover, the seller may collect such an allowance regardless of the amount of gas gathered or the number of wells involved.

Second, the Commission considered the benefits conveyed upon first sellers by related proceedings implementing NGPA section 110. The Commission recognized that, prior to the passage of the NGPA, the financial viability of many sellers was largely dependent upon their revenues from transportation of gas and liquids which covered the total cost of their operations, including expenses for several production-related services. The gathering allowance under the Natural Gas Act generally afforded only a small portion of the total proceeds collected by the seller. While the NGPA did not alter the gathering and transportation transactions of resellers of gas, the regulations promulgated to implement that statute did influence the renegotiation of many old contracts in ways that permit any seller of gas to receive the additional benefits of NGPA section 110. The Commission's current rules implementing NGPA section 110 now provide for collection of several production-related allowances for services other than delivery and compression, such as treating, liquefying, or conditioning natural gas (§ 271.1104(c)(7)). These allowances, most of which were not available under the Natural Gas Act prior to passage of the NGPA, combined with the delivery and compression allowances, provide representative compensation to sellers that perform production-related services.

In establishing the allowance, the Commission also considered a range of allowances resulting from the O&M expense and the capital expenses not already recovered by representative sellers in other portions of their rates and charges. In order to determine capital expenses, the studies conducted by commenters and reviewed by staff evaluated construction costs and costs of various sizes of pipe. In order to determine the O&M expense, the studies examined cost-of-service analyses for connecting-type and collecting-type lines. In light of the level of allowances available under NGA area rate clauses and the commenters' recommendations, the Commission sought the most reasonable allowance, balancing the factors discussed above and the overall effect of the allowance on the continued operation of old delivery systems subject to preexisting contractual agreements. The allowance selected also provides some compensation for other production-related costs, such as processing, treating, and conditioning, that are incurred in conjunction with production of pre-NGPA gas.

The Commission determined that an allowance of 5 cents would afford adequate cost recovery for representative old delivery systems without the risk of overcompensation. It further tested the adequacy of the allowance for the near future by increasing the O&M expense levels at the various inflation rates that are possible before 1985, the time of deregulation of some categories of gas. The Commission determined that a representative annual inflation rate of 10 percent is suitable for the next three years, based on the historical annual inflation rates of the last five years, which varied from 8 percent to 13 percent. Even assuming some reasonably predictable fluctuations in the inflation rate that the Commission applied to the allowance, the generic allowance would not be so affected that it would move outside of the range of reasonable costs used to determine the 5 cents allowance. Therefore, the Commission continues to believe, after review of the available data, assumptions, and the comments, that the 5 cents per MMBtu is neither excessive nor inadequate.

2. *The Limitations on Collecting the Delivery Allowances for Recent Systems*

The Commission received several comments which addressed the limitations imposed on recent delivery systems. These include the commingling requirement, the method of measuring the distance, and the 20-mile limitation. They are individually considered below.

a. *Commingling Requirement.*—The interim rule prohibited recovery of the delivery allowance for recent delivery systems, unless the gas delivered is commingled with other gas. The interim rule provided that, in the case of gas from a single gas well, the gas must be delivered to a point of commingling with gas from other wells. In the case of gas produced from an offshore platform, the gas from two or more wells must be commingled before delivery, even if delivery occurs at the platform. In the case of oil wells producing natural gas, delivery of the gas must extend downstream from the lease or field separator to a point of commingling with gas from other wells or other lease or field separators.

The purpose of this requirement, which is retained in the final rule, is to ensure that, for a seller to be eligible for the delivery allowance, it must in fact provide a delivery service. This may not occur in those circumstances where, for example, a pipeline-purchaser builds most or all of the line that connects a single productive well to the transportation system. In such a case, the cost of delivery is borne by the pipeline and included in its cost of service. The commingling test affords a convenient check on recovery of the allowance in such cases because no commingling with other gas would occur at the point of entry into a connecting line owned by a pipeline, *i.e.*, when the seller does not incur a significant part of the costs of delivery.

The Commission emphasizes its concern that eligibility to recover the allowance should relate to performance of a service and not necessarily to the length of the seller's delivery line. In other words, the Commission will presume that, as a general rule, if a pipeline-purchaser builds a collection line to pick up gas from a first seller, the first seller has not incurred significant costs related to the delivery function and may not obtain the allowance, *unless* the first seller or sellers have gathered gas from more than one well before the point of transfer for value to that purchaser. It is less arbitrary to determine whether sellers have performed the delivery function and thereby deserve the allowance, based on whether such "commingling" has occurred, than to attempt to devise a standard length of delivery line that a seller must build from the wellhead in order to be eligible for the first 7 cents of the allowance. By means of the commingling criterion, the rule is designed to assist sellers who perform gathering services that optimize delivery, so-called "packaging," or who otherwise incur the cost of delivery. This approach should result in savings to consumers by limiting the availability of the allowances and may discourage economic waste.

The commenters who address this requirement believe that the commingling requirement in the interim rule was ambiguous and urge the Commission to either clarify it or to eliminate it. Specifically, six of the commenters argue that the rule, as worded, prohibits single-line delivery.

Two commenters believe that this was an unintended consequence of the rule and suggest that the Commission clarify the requirement.

In the preamble to the interim rule, the Commission stated that "the gas must be delivered to a point where entry causes commingling with other gas." The term "other gas" means any gas other than the gas from a single well or separator. "Other gas" includes the gas delivered from other wells *and* the gas in a purchaser's main line. Therefore, a single-well delivery line to the final first sale location, at which point the gas from that well is combined with gas from other wells, or to a point in the pipeline's main line, qualifies a first seller for the allowance; the seller has performed a gathering or delivery function and incurred significant costs doing so before the gas transfers for value to the buyer. However, if the pipeline-purchaser runs an extension line from the pipeline's system in order to connect to a line from a single well or even at the wellhead itself, it is the pipeline that performs the delivery function and it would therefore be inappropriate to permit that first seller to collect the allowance. In that instance, no commingling occurs at or prior to the point of first sale because the purchaser's collecting line contains no other gas.

Consistent with this approach, the Commission does not intend that the commingling requirement operate so as to preclude collection of the delivery allowance for recent delivery systems in the case of direct sales to end users. In making direct sale deliveries to end users, sellers definitely perform the service of delivery in order to qualify for the allowance. This is the single instance where no pipeline transportation occurs between the wellhead and the end-use. Therefore, a first seller delivering gas to an end user need not commingle that gas with other gas in order to qualify for the allowance. The regulation has been amended to provide an exception to the commingling requirement in this case, in order to clarify the Commission's original intent.

The Commission notes that a commingling requirement is not new. Although stated in different terms, this requirement is patterned after the qualification requirements under the old area gathering allowances. These requirements typically provided that a seller was obligated to deliver gas to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline. These requirements resulted in commingling of gas and encouraged optimal delivery services. Similarly, the commingling requirement in this rule is simply a method of affording the allowance to the person actually performing a service and, therefore, incurring the costs. A seller whose gas is picked up by the purchaser, virtually at the wellhead, should not qualify for the generic allowance. Nevertheless, there may be circumstances when a seller incurs significant delivery costs, even though the final first sale entails no gathering or commingling and occurs, not on the pipeline's main line, but on its connecting line. In such cases, the commingling requirement may create a "special hardship, inequity, or unfair distribution of burdens" and the Commission will entertain an application for adjustment under NGPA section 502(c).

The Commission recognizes that, as a general rule, a pipeline-purchaser will not construct gathering lines to receive small volumes of gas at or near the wellhead. However, a pipeline may find itself, through changed market conditions, in an unequal contract bargaining position, which would force it to agree to perform a delivery function in exchange for a guaranteed gas supply. Such pipeline connections at the wellhead may, therefore, prove more common.

b. *Procedure for Measuring the Distance and the 20-Mile Limitation.*— The interim rule required that, in order to collect the allowance, the seller measure the distance of a continuous line of gas haul from the wellhead (gas wells), platform (offshore wells), or lease or field separator (gas from crude oil) to the final first sale location. In addition, the Commission placed a maximum overall limitation of 20 miles on this line of measurement.

One commenter, an interstate pipeline company, characterizes the measurement requirement as an unduly burdensome aspect of collecting the allowance and suggests a modified procedure for measuring the distance. The modified procedure it proposes would apply to gas from multiple wells delivered to a single point on the buyer's line. In such cases, the allowance would be calculated based on the total mileage from the delivery point to the furthest point of commingling, and all the gas flowing through the system would be adjusted to that rate. This approach would increase the allowable adjustment for some gas volumes, but no allowance would be permitted for the length of line begining at the well bore and ending at the point of commingling. The commenter states that this procedure would fairly approximate the actual costs incurred, while eliminating the administrative and operational burdens inherent in the current procedure.

The Commission does not believe that the procedure in the interim rule will unduly burden sellers. The measurement requirement is designed to distribute the allowance proceeds fairly and equitably between higher- and lower-cost delivery systems. The Commission intended that this procedure would be self-executing. The means for qualifying for the allowance and the limitations on measuring the distance were imposed because they are necessary in order to implement a self-executing procedure. Further, the Commission believes that the benefits of a self-executing procedure that inure to all parties to a transaction outweigh the burden on the final first seller to determine, collect, and distribute the allowances. Aside from the efficiency benefits to each first seller in a chain of first sellers, this procedure allows the Commission to provide generic allowances that account for actual variations in costs with a delivery system, such as affording a higher allowance for the costlier services near the wellhead.

The Commission believes that the line of gas haul must be tracked in a continuous line in order that the allowance is collected uniformly, *i.e.*, without repeated application of the 7 cents allowance for the first mile of gas haul. The Commission based the allowance of 7 cents per MMBtu for the first mile of gas haul upon comments and cost studies which demonstrate that well-connecting, small diameter, lines have a higher unit cost than gas-collection, large diameter, lines. These comments and cost studies justified a higher allowance for the initial haul, and they support an allowance of 7 cents per MMBtu. In light of the above considerations, the Commission finds inadequate the proposed alternative procedure for measuring the distance. That procedure would prohibit collecting an allowance of 7 cents for the costly well-connecting lines, and it would disproportionately reward sellers with delivery lines nearest to the delivery point.

One commenter suggests that the 20-mile limitation be clarified to permit application of the maximum delivery allowance on a self-implementing basis for gas hauls in excess of 20 miles. The Commission did not intend to preclude collection of the allowance on a self-executing basis for gas hauls in excess of 20 miles. Therefore, in situations where the gas haul exceeds 20 miles,

and the seller elects not to file an application under NGPA section 110 for an allowance on a fully distributed cost basis, the seller may collect the maximum delivery allowance of 45 cents per MMBtu (7 cents for the first mile of gas haul plus 2 cents for each additional mile of gas haul (2×19)=38 cents)).

3. *Offshore Delivery*

The interim rule provides that a first seller may collect either the old or the recent delivery allowances for cost incurred to deliver gas from the offshore, depending on the date construction of the facilities commenced. Overall, the comments indicated that the rule was unclear as to whether the allowances for recent delivery systems could be collected for offshore delivery. Commenters were split over whether an allowance was warranted for offshore delivery.

On one hand, two of the commenters argue that the Commission could not have intended to permit the delivery allowances for offshore delivery. As the basis for this contention, these commenters cite the Commission's rationale for the commingling requirement, that is, that a seller should not be permitted a delivery allowance when the buyer bears more of the delivery costs. In support of their argument, these commenters cite the following hypothetical situation. A buyer takes delivery at the metering facilities located on the seller's platform of gas from many wells. These wells typically have short delivery lines leading from the wellhead, which is located on the platform, to a commingling facility or "manifold" and into the purchaser's connecting line, also located on the platform. The commenter nevertheless fears that the seller would receive an allowance for each of these short lines of delivery.

On the other hand, two commenters interpret the rule as permitting application of the delivery allowances for recent offshore delivery systems and ask that the Commission confirm that interpretation in its final rule. One commenter compares offshore production to onshore production and states that an offshore platform is set at a central point in the field from which wells are drilled directionally to various completion points, as much as one mile away. The commenter, therefore, concludes that even though a buyer may take delivery at the platform, the seller offshore, like a seller onshore, has performed the service of bringing all of the gas to a central point in the field.

The Commission reiterates that the delivery allowances for recent delivery systems may be collected for offshore delivery, just as for onshore delivery. In the interim rule, the Commission stated:

> In the case of gas produced from an offshore platform, the gas must be commingled and delivered from two or more wells *at the platform* emphasis added.[20]

The Commisssion clearly intended that a seller who delivers gaswell gas that is commingled with other gas at or on a platform should qualify for the recent delivery allowance, regardless of the length of any single delivery line located on the platform. In Order No. 94, the Commission took a similar position with respect to offshore gathering allowances, based in part on the fact that the approach had met with no objection. Moreover, comments on the Notice of Inquiry in this docket request the recent delivery allowance for gas delivered to a purchaser at or on an offshore platform.

The Commission believes that the commenter objecting to the recent delivery allowances for offshore delivery place an undue emphasis on the relative length of the delivery lines. Assuredly, the commingling requirement was designed to preclude recovery of the allowance if the seller were not performing any significant delivery services, particularly when, in the case of onshore production, the purchaser collects the gas near the wellhead. This normally means that the seller has constructed a short delivery line. Nevertheless, the objective of the requirement is to optimize delivery arrangements by covering the significant delivery costs incurred. Admittedly, short delivery lines are common in offshore delivery. However, delivery offshore differs from delivery onshore in one important respect. Offshore delivery generally involves much greater costs in relation to the length of delivery line. An essential part of the cost of delivery offshore is a portion of the sizeable investment in the platform, which is a multimillion dollar structure necessary for both production and delivery.

The Commission received comments that discuss the costliness of offshore delivery relative to onshore delivery costs, even in cases where purchasers take delivery at the platform. The cost of the platform is as much a production-related cost as it is a production cost. Therefore, offshore delivery must be said to include more than delivery lines and compressors.

The Commission agrees with the commenter who finds that the service that a seller performs offshore by delivering gas from several wells and bringing it to the platform is comparable to the service an onshore seller performs, both in terms of function and expense. Therefore, the Commission believes that any offshore seller that delivers the gas to a central point in the field, *i.e.*, the platform, performs the same function as an onshore seller and that compensation for offshore delivery is, therefore, necessary to balance the higher costs involved in offshore delivery, despite the possibility of relatively short lines.

Two commenters request that the Commission clarify whether the delivery allowance may be collected for offshore delivery of casinghead gas, *i.e.*, gas produced in conjunction with oil. The Commission stated in the interim rule:

> . . . In the case of oil wells producing natural gas, delivery of the gas *must extend downstream from the lease or field separator to a point of commingling* with gas from other wells or other leases or field separators.[21] (emphasis added)

One of these commenters noted that, if this statement were to apply to platform deliveries, sellers would not be eligible to collect the allowance when the platform contains only oil wells because only a single separator is normally installed on the platform, meaning that no commingling occurs. The other commenter argues that the allowances should be provided because delivery of casinghead gas at the platform is a functional equivalent of delivery of gas at a central point in the field.

The Commission has determined that a first seller may not collect the delivery allowance for offshore delivery of casinghead gas. Casinghead gas is delivered from an oil wellhead located on the platform to a separator that is also located on the platform. If the commingling of gas from delivery lines which extend from two or more wells to the lease separator occurs upstream, rather than downstream, from that separator, the allowance may not be collected. The reason for not creating an exception to the commingling requirement in this case is that a delivery line which extends from an oil wellhead is used primarily to delivery oil, not gas. While the Commission agrees that delivery at a platform offshore is equivalent to delivery of gas onshore to a central point in the field, the Commission will only permit a first seller who delivers gas offshore to collect the allowance if the gas from the field separator is commingled with other gas, either from other wells or from other leases or field separators.

[20] 48 FR at 5,185.

[21] 48 FR at 5,185–86.

4. *Miscellaneous Delivery Issues*

a. *An Allowance for a Combination of Old and Recent Systems.*—The interim rule provided that:

> [W]hen new facilities are constructed to attach a new well to an old delivery system, the total allowance will be the sum of the allowance applicable to old delivery systems and to recent delivery systems. In other words, the 5 cents will be permitted for the old system and the 7 cents plus 2 cents allowances will be permitted only for the recent system.[22]

One commenter presents the following hypothetical situation involving the connection of a new well to an old delivery system. Assuming that the well connecting line is two miles in length and the old delivery line is one mile in length. The first two miles would receive 9 cents (7 cents + 2 cents) and the third mile would receive 5 cents for a total allowance of 14 cents. On the other hand, if the full three miles is a post-NGPA delivery system, it would receive a total allowance of only 11 cents (7 cents + 4 cents). The commenter argues that, if this hypothetical seller were allowed to collect 14 cents, it would be overcompensated.

The Commission will continue to permit a seller to collect the allowance, as appropriate, for the use of combined recent and the old systems in order to promote efficient and economic delivery of gas. A seller should be encouraged to make maximum use of any existing delivery system. The Commission agrees with the commenter that the seller using such a combined system should not, as a general rule, collect more than if it had built an entirely new line. However, the hypothetical cited is an aberration. Rarely will a seller attach new lines to an old system that will provide delivery of only 1 mile. In light of the uniform 5 cents per MMBtu allowance for all delivery by means of pre-NGPA facilities, the disproportionate allowance for the combined system cited by the commenter would only exist where the old portion of the delivery system is two miles or less in length. If a seller utilizes a greater length of pre-NGPA line, which will be the norm when such a system is available for collection, there would be none of the theoretical "overcompensation" cited by the commenter.

As in any generic allowance based on representative costs, operating expenses and capital costs may exceed or fall short of the allowance in specific cases. The Commission believes that, despite the varity of configurations of delivery systems in the natural gas industry, delivery costs are relatively uniform. It is, therefore, the Commission's judgment that the allowances established will result in adequate but not excessive cost-recovery and will not result in significant over or under-collection of revenues.

With respect to an issue related to the combination of old and recent delivery systems, the Commission offers the following clarification. If a seller replaces a portion of an old delivery system on or after November 9, 1978, the question arises whether that seller is eligible to collect the allowance applicable to recent delivery systems for that portion of the system replaced. The Commission believes that such situations present unique questions of fact. Because replacement of part of an old delivery system may be equivalent to maintenance, it would normally be inappropriate to permit the seller to collect the allowance as if the replacement line were a recent delivery system. However, the replacement may entail significant investment in, or a significant portion of, the entire delivery system. In light of this fact, the Commission does not wish to foreclose the possibility that the recent delivery allowance may be permitted for replacement of part of an old delivery system. Any seller that incurs unrepresentative replacement costs for which the 5 cents allowance would work and "special hardship, inequity, or unfair distribution of burdens" may, therefore, apply to the Commission for an adjustment under NGPA section 502(c).

b. *Aid in Construction Transactions.*—The interim rule required that the gas haul distance be measured from the wellhead, offshore platform, or lease separator to the point of the "final" first sale. One commenter argues that this requirement would preclude collection of a delivery allowance for those delivery lines, the construction of which was paid for by the producer, but title to which was held by the gas purchaser. Payment for the construction of such facilities is generally referred to as an "aid in construction." Because the delivery allowance may only be collected at the final first sale location, and because under these circumstances the final first sale location remains at or near the wellhead, the producer would be precluded from receiving compensation for the cost of the delivery system it has subsidized. Therefore, the commenter suggests that the Commission modify the interim rule to permit the first seller to collect a delivery allowance (if contractually authorized to do so) for that portion of the delivery system located downstream of the final first sale but which was constructed and paid for by the first seller.

The commenter's request for allowances for delivery services rendered after the point of a final first sale is both outside the scope of the interim rule and would violate the scheme of Title I of the NGPA, which addresses only first sale transactions. The commenter focuses unduly on the location of a first sale and concludes that manipulation of that location may affect the eligibility of a first seller to collect an allowance under NGPA section 110. This notion is erroneous. The most important consideration in separating those delivery costs that are eligible for section 110 treatment from those that must be recovered under a pipelines's cost of service, as the Commission's definition of "final first sale" in this final rule suggests, is the status of the entity to whom the gas is sold under the NGPA, rather than where the sale takes place. The eligible production-related activities performed in conjunction with a first sale occur anywhere on the system after the wellhead but always upstream of a first sale. When the gas is sold in a first sale to a person also not eligible to be a first seller, NGPA section 110 no longer applies.

Another factor leads the Commission to discount the commenter's suggestion that the payor of aid in construction has performed an eligible service. The allowances established by the Commission were designed to compensate a first seller for costs it incurred to perform production-related activities. The Commission established qualifying requirements, defined in two parts, that are retained in the final rule. First, the gas sales contract governing the first sale must show that the seller has agreed to provide a specified production-related service. Second, there must be some evidence that the purchaser has agreed to pay the seller for providing that service apart from an amount paid for the gas. The Commission does not believe that a contribution of money by the seller to aid the purchaser to construct a delivery system that the purchaser owns constitutes the kind of contractual obligation to perform delivery service by the seller necessary to meet the qualification requirements.

C. Compression Allowances

The interim rule established generic allowances for costs incurred by a seller for compressing natural gas in order to effectuate delivery of that gas to any

[22] 48 FR at 5.185.

interstate pipeline, intrastate pipeline, local distribution company, or any person for use by such person. If construction commenced before November 9, 1978, no generic allowance is allowed.[23] If construction of the compression facility commenced on or after November 9, 1978, a qualifying seller may collect an allowance of 6.0 cents per MMBtu for each stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), with the overall allowance not to exceed three stages.

Commenters raised several issues regarding the compression allowance. Several commenters favor an allowance for pre-NGPA compression. Of these commenters, some argue that the Commission should permit compensation for replacement or upgraded compression facilities. Some of the commenters address the Commission's method of setting the compression allowance. These issues are individually discussed below.

1. *Allowance for Pre-NGPA Compression*

The Commission did not establish a compression allowance for compression facilities, the construction of which commenced prior to November 9, 1978, on the basis that rates charged for the sale of gas prior to the enactment of the NGPA included compensation for investment in compression facilities constructed prior to that date. Several commenters state that the Commission erred in assuming that capital costs for old compression have been recovered.

Without any supporting documentation, one commenter states that some rates under the Natural Gas Act included a small component for on-lease compression cost recovery perhaps designed to compensate the seller for a production cost, not a production-related cost eligible for recovery by means of Order No. 94–A and the interim rule. In any case, the commenter argues, this recovery could not be quantified. This commenter argues in favor of an allowance for pre-NGPA compression and provides a cost study to support an allowance of 3.1 cents per Mcf per stage of compression, designed to recover capital charges and operating and maintenance expenses. At the very least, another commenter argues, the Commission should permit compensation for all current operating expenses and fuel costs incurred.

[23] 48 FR at 5,186.

The Commission has found no instance in which compression allowances were separately provided for under the Natural Gas Act prior to the passage of the NGPA. As discussed in the preamble to the interim rule,[24] the area and national rate proceedings did not provide compensation for compression costs incurred as a production-related activity. Therefore, in developing the NGPA section 110 allowances, the Commission concluded that, prior to the passage of the NGPA, interstate sellers of old gas did not have any expectation of collecting an allowance for production-related compression costs. However, investors in pre-NGPA facilities can reasonably be assumed to have anticipated and provided for other means of recovering the necessary costs of compression. This contrasts with the separate delivery allowances devised under the NGA for the long-term recovery of capital.

When Congress enacted NGPA section 110, it raised the possibility that a special allowance for investments in compression would be available to first sellers. The Commission, in its interim regulations, issued on December 1, 1978, established application procedure whereby sellers could obtain their compression costs, except for gas priced under NGPA sections 104, 105 and 106. Subsequently, Order No. 94 removed even these exclusions, and suspended the application procedure for all NGPA-priced categories of gas in favor of a generic approach.[25] The interim rule in this docket applied generic allowances for compression facilities the construction of which commenced on or after November 9, 1978, to all NGPA-priced categories of gas. The Commission afforded the allowances to both interstate and intrastate sellers of gas because of its belief that to establish different allowances for production-related costs for sellers of sections 105 and 106(b) gas would discriminate against the intrastate markets and frustrate the purpose of the NGPA to eliminate the dual natural gas market that had arisen under the Natural Gas Act. In order to establish a similar consistency of approach, the interim rule did not provide allowance for pre-NGPA compression facilities which are used to effectuate delivery of intrastate gas because it did not establish a similar allowance for pre-NGPA compression facilities which are used to effectuate delivery of interstate gas. The final rule retains the structure of the interim allowances.

[24] 48 FR at 5181–82 and 5197–88.

[25] See, *supra*, note 8.

2. *Replacement and Upgrading of Compression Facilities*

The interim rule restricted the compression allowance to facilities, the construction of which commenced on or after November 9, 1978. The Commission defined the term "commencement of construction" as the date on which site preparation was begun. The interim rule did not specifically address whether the replacement or upgrading of pre-NGPA compression units is eligible for the compression allowance as the addition of postenactment facilities.

Several commenters address this absence of express authorization. They argue that the Commission should permit a compression allowance for facilities the construction of which commenced prior to November 9, 1978, and which are entirely or partially replaced, upgraded, enlarged, or consolidated after November 9, 1978. These commenters argue that an allowance is justified because these modifications represent major capital expenditures and because they inprove the efficiency of gas delivery.

Under the interim rule, the addition of new stages of compression or the substitution of an entire unit, if installed on or after the date of enactment, would have qualified for the allowance. The Commission wishes to make its intent express in that regard and has amended the rule to state this. The Commission will permit a first seller to collect an allowance not to exceed 6 cents per stage of compression plus fuel, if the first seller operates a pre-NGPA constructed compressor facility and finds it necessary to replace the compressor or add at least one stage of compression (as defined by the interim rule in terms of compression ratios), in order to effectuate delivery in a first sale, and the related additional construction or work is commenced on or after November 9, 1978. A first seller may collect the compression allowance for the replacement of an entire facility which uses any type of compressor to effectuate delivery in a first sale. The Commission notes that the most commonly used field compressor is the reciprocating type. If such a compressor is used continuously over long periods of time, it will eventually require replacement. Therefore, the Commission will permit the allowance for total replacement of the compressor. "Commencement of construction" in such cases relates to the date of removal of the old compressor.

A first seller may also collect the compression allowance if it adds at least one stage of compression either

due to declines in wellhead or flowing pressures or due to an increase in the working pressure of the buyer's line. The allowance is permitted for these types of upgrading because they are necessary to effectuate delivery. Therefore, the first seller may collect a compression allowance for the stage of compression added to the facility on or after the date of enactment.

The Commission is nevertheless concerned that qualifying replacement or upgrading be made only if it is necessary to do so. For example, the seller may not replace the entire compressor and claim the allowance, if only a minor repair is required. Similarly, the seller may only add as much additional compression as is necessary to effectuate delivery. Because these allowances are self-executing, the Commission must rely on market forces to monitor such practices. However, the Commission's NGPA enforcement authority is also a deterrent to abuse.

3. *Determining the Compression Allowance.*

a. *Compression Ratios.*—In the Notice of Inquiry, the Commission proposed to set the compression ratio at 4.5 to 1 per stage of compression and defined it as representing the overall pressure required for delivery into the buyer's pipeline to the flowing wellhead pressure. Upon review of the NOI comments and staff studies included in the interim rule, the Commission reduced the compression ratio to 3.5 to 1 per stage of compression and defined it as representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression. The Commission reduced and redefined the compression ratio because it believed that the new ratio was less variable, more accurate, and more easily ascertainable.

Two commenters address the compression ratio established and its definiton. One commenter argued that the Commission should have retained the compression ratio at 4.5 to 1. In support of its argument, this commenter asserts, without support, that a ratio set at 4.5 to 1 is more reasonable and would be less costly to consumers.

In response to this cost argument, the Commission believes that use of the higher compression ratio per stage will not reduce the overall compression allowance in the long run, although it may have that result initially. The comments reviewed during preparation of the interim rule indicate that too high a ratio is inefficient and will most likely result in higher operating costs over the life of a facility and shorter compressor life. Over the life of the activity, a higher compression ratio would result in inefficient operation and misuse of fuel that would add to the costs eventually borne by consumers.

Another commenter recommends modification of the ratio and states that the Commission's methodology fails to consider that line pressure declines as distance increases. This commenter argues that a ratio set at 3.5 to 1 penalizes first sellers whose compressors are located at the most cost-effective locations. The commenter proposes that the overall compression ratio be determined by multiplying the actual compression ratio of the first compressor by that of the second compressor, and, in the case of three stages of compression, by multiplying the actual compression ratio of the second compressor by that of the third compressor.

The Commission believes that it is unnecessary to change the compression ratio and the method of computing the overall compression allowance as set out in the interim rule. The Commission staff studies adequately support the proposition that a compression ratio of 3.5 to 1 per stage of compression promotes efficient use of the compressors, is more easily ascertainable, and is the more representative of normal operations than a compression ratio of 4.5 to 1 per stage of compression. The latter ratio would cause excessive heat, result in undue wear and tear on the compressor, and require much higher fuel consumption.

The commenter's argument in support of a higher overall compression ratio to account for declines in line pressure is misleading because it presumes that line pressure always declines significantly as distance increases. In developing the compression ratio, the Commission took into account the fact that usual decreases in pipeline pressure occur at the approximate rate of 2 pounds per square inch (psi) per mile. These pressure decreases are not ordinarily significant. The Commission recognizes that significant decreases in pressure do exist, but are usually caused by lease or plant separation or extraction of liquids and liquefiable hydrocarbons. The compression requirement to make up for pressure losses due to the removal of these hydrocarbons, in most cases, would not benefit the natural gas customers and would not qualify as a compression production-related cost allowance, unless removed as a result of treating, liquefying or conditioning the gas. Therefore, the Commission does not agree with the commenter's arguments. The compression ratio at 3.5 to 1 per stage of compression, as defined in the interim rule, will therefore be retained.

b. *Load Factor.*—In establishing the allowance in the interim rule, the Commission used representative compressor sizes which compress 1 MMcf of natural gas per day in one, two, and three stage configurations. In the cost studies that it used to establish the generic allowance for compression, the Commission adjusted the gas volumes to be compressed downward by 5 percent to reflect its finding that compressors rarely operate at 100 percent of the compressor's rated capacity, that is, compress 100 percent of the gas volumes all the time. In setting the allowance, the Commission used representative compressor sizes and volumes to be compressed, based upon assumed compression ratios. The compression allowance is based on the performance of representative compressors in typical compression situations. Therefore, the studies were predicated on the assumption of 95 percent of the volumes compressed by representative compressors at a 3.5 to 1 compression ratio.

Without support for its arguments, one commenter argues that a load factor of 95 percent was too high because it ignored the current state of natural gas markets in which actual deliveries are presently running far below the level which would permit compressors to operate at a 95 percent load factor. Furthermore, it conflicted with the assumptions underlying the Commission's policy statement on maximum take or pay levels.[26] The commenter proposes that a more reasonable and justifiable load factor would be 75 percent or less. In support of this proposal, the commenter argues that a seller installs compression facilities based upon the initial needs of the well. These needs decline as reserves are depleted and, therefore, the compressor's efficiency is diminished.

The Commission has, in Order No. 94–C previously analyzed the effect of the rules implementing section 110 of the NGPA on the current natural gas market. [27] The commenter's discussion of the Commission's take-or-pay policy statement merely echoes that argument. The commenter offers no support for its conclusion that most compressors operate at load factors of 75 percent either because of the current natural gas

[26] Statement of Policy, "Take or Pay Provision in Gas Purchase Contracts," 47 FR 57,268 (Dec. 23, 1982), Docket No. PL83–1–000, issued December 16, 1982.

[27] *See, supra*, note 16.

market or the limitations on the exercise of take-or-pay provisions.

In response to the commenter's argument that the final rule provide a higher allowance for compression needs that arise from normal decline in pressure and reserves and therefore declining deliverability, the Commission points out that the final rule permits collection of the allowance if a seller adds a necessary stage of compression to a pre-NGPA facility in order to compensate for such declines. Therefore, the Commission's judgment is still that a 95 percent load factor is representative of compression operations overall. Since the Commission has found a generic allowance feasible and equitable, it finds no merit in establishing allowances on a case-by-case evaluation of the compression needs of every seller. The generic allowance was designed to cover representative compression activities. There may, of course, be sellers that incur "special hardship, inequity, or unfair distribution of burdens" as a result of the cost of its particular compression problems. In such cases, however, the seller has the option of applying to the Commission for an adjustment under NGPA section 502(c).

4. *Compensation for Fuel Costs for Post-NGPA Compression*

The interim rule permits a first seller to receive compensation for the actual cost of fuel or power used in operating a post-NGPA compression facility. The Commission concluded that the fuel used to operate a compression facility is a valuable commodity, whether it is natural gas, oil, or electric power.

One commenter argues that an allowance for compressor fuel is unnecessary because the six cents per stage of compression is adequate to compensate the producer for all aspects of the production-related activity. However, this commenter provides no data to support its contention.

Based on its studies in the interim rule, the Commission believes that the cost of fuel that a first seller incurs for running a compression facility is an operating expense eligible for separate inclusion in the generic allowance. The Commission views the cost of fuel as a distinct compression cost and not part of the capital costs and O&M expenses used to calculate the compression allowance. Therefore, like the interim rule, the final rule also permits a qualifying first seller to add its cost of fuel used to perform the compression activity to the generic six cents allowance.

D. Issues Common to Both Delivery and Compression

Several of the issues raised by the commenters raise procedural and substantive criticisms that were common to both the delivery and the compression allowances.

1. *Procedural Issues*

a. *Notice and Comment.*—Several commenters raise the issue that the interim rule failed to meet the notice and comment requirements of section 553 of the Administrative Procedure Act of 1946 (APA), 5 U.S.C. 553 (1976). The following is a brief procedural history of the interim rule. In 1980, the Commission issued Order No. 94 revising the interim regulations implementing the NGPA.

Pursuant to Order No. 94, on December 16, 1980, the Commission commenced this rulemaking proceeding to establish industry-wide gathering and compression allowances through a notice of inquiry and stated that the next step in the rulemaking process would be a notice of proposed rulemaking. In response to fifty-one comments filed, the Commission issued the interim rule. In the interim rule, the Commission acknowledged that it had indicated in the Notice of Inquiry that it would issue a Notice of Proposed Rulemaking subsequent to its review of the comments in response to the Notice, but that it believed that a proposed rule at that time was unnecessary.

Some of the commenters argue that the Commission failed to comply with APA section 553 because it did not provide the public with adequate notice and an opportunity to comment prior to issuing the interim rule. These commenters also point to the Commission's statement in the notice of inquiry that it intended to issue a notice of proposed rulemaking. One of these commenters, who also petitioned the court for a stay of the effect of the rule,[28] argues that because an interim rule has the same effect as a final rule, comments filed after an interim rule do not satisfy the requirements of the APA.

Other commenters take the opposite view. In support of their argument, they cite the long procedural history of all the rules implementing NGPA section 110. These commenters views the NGPA section 110 rules as an overall scheme, involving the same issues, but of which the interim rule was only a portion. They point to the numerous comments filed in response to all of the related proceedings, as well as to the comments filed for the two stages of this proceeding as dealing with the same issues.

The Commission believes that it has met the requirements of the APA by giving the public more than adequate notice prior to issuing the interim rule and sufficient opportunity to participate in the formulation of the interim rule. Furthermore, the procedures established by the Commission for oral presentation of data, views, and arguments in anticipation of this final rule comply with the requirements of NGPA section 502(b).

In the Notice of Inquiry, the Commission stated that it would issue a Notice of Proposed Rulemaking as the next step in this proceeding. However, prior to issuing the interim rule, the Commission decided that it was unnecessary to issue a Notice of Proposed Rulemaking or to hold a public hearing prior to issuing the interim rule. This decision was based on events which occurred in this and in the related NGPA section 110 proceedings. The Commission believed that delay of the interim rule would have worked a hardship on both the gas-consuming and gas-producing public. In light of widespread public participation in the proceeding and the extensive comments received in response to the Notice of Inquiry, further requests for comment in the absence of effective Commission action would have been unnecessary and otherwise inadvisable.

The Commission had previously determined, in its Order No. 94, that the industry-wide allowances that it would establish would apply to sales made on or after the date of that order. The interim rule would therefore be retroactive to July 25, 1980. The Commission was anxious not to delay collection of the allowances due to the absence of an effective rule. Such delay would increase the retroactive liability of gas consumers for deliveries dating from July 25, 1980. Furthermore, the NGPA would deregulate a large quantity of gas sales in 1985. Therefore, the later that a rule on the allowances took effect, the shorter the remaining period of future deliveries over which that retroactive liability could be spread. The public interest warranted implementing the rule and that the public interest would not have been served by additional public procedures before an interim rule issued.

The Commission stated in the interim rule and in Order No. 94–A that, after a long delay, it was implementing all aspects of NGPA section 110. Prior to

[28] On February 11, 1983, a petition for review of the interim rule and on February 18, 1983, a motion for stay of the interim rule were filed in the Court of Appeals for the D.C. Circuit. These were subsequently transferred to the Court of Appeals for the Fifth Circuit. That court is presently considering the issue of sufficient notice and comment.

issuing the interim rule, the Commission reviewed not only the comments filed in response to the notice, but also the comments filed in response to Order No. 94 and related proceedings. The Commission firmly believes that, throughout these proceedings, the public received notice of the relevant issues and was afforded adequate opportunity to comment.

b. *Generic Rule Is Inappropriate.*—The interim rule established generic allowances based on studies of costs for typical delivery and compression systems. It was intended that these representative allowances would adequately recoup delivery and compression costs under most normal situations. However, the Commission recognized that abnormal situations may exist and consequently, it established procedures for first sellers who operate unrepresentative systems to apply for appropriate compensation for those operations. There may be instances where a production-related function is so atypical that collecting only the generic allowance would work a "special hardship, inequity, or unfair distribution of burdens" on the first seller. That seller has available the opportunity to apply for adjustment under NGPA section 502(c). (*See also* 18 CFR 271.1104(g).) The Commission emphasizes that this procedure must meet the test under NGPA section 502(c). The Commission nevertheless emphasizes that it wishes to avoid case-by-case review of section 110 costs as a result of attempts by sellers to obtain full cost recovery in every situation where the first seller believes the allowance can be shown to be even slightly inadequate.

Four of the commenters object to the Commission's use of representative costs to establish the generic allowance. Three of these commenters argue that the generic allowances are inadequate because of the peculiarities of their production circumstances. In addition, these commenters are dissatisfied with both the adjustment procedure under NGPA section 502(c), and with the application procedure under § 271.1104(g) of the Commission's regulations. One commenter suggests that a seller be permitted the option of choosing either relief procedure. Another commenter opposes any procedure that would permit producers to recover higher costs in excess of the generic allowances, arguing that the Commission intends only cost-recovery based on industry-wide averages. Alternatively, the commenter proposes that, if the Commission decides to permit a seller to recover under its relief procedures, it should also limit a seller to recovery of actual costs incurred if those costs are less than the generic allowance.

The Commission firmly believes that the generic allowances that it is establishing for delivery and compression are suitable and equitable substitutes for case-by-case determination of costs. As stated previously, there may exist unrepresentative situations that render a generic allowance grossly insufficient to compensate the seller to its costs. The Commission acknowledges that the generic allowances were based upon cost-recovery for representative systems, and that unrepresentative costs were not included in the costs used to establish the generic allowances. Accordingly, the Commission provides for cost recovery under § 271.1104(g) of its regulations, for those systems which are unrepresentative, and applications for adjustment under NGPA section 502(c), for cases of "special hardship, inequity, or unfair distribution of burdens." The alternative procedures are only permitted in unrepresentative situations. They are not, as characterized by one commenter, employed whenever the seller believes the allowances are inadequate.

2. *Substantive Issues*

a. *Renegotiation of Existing Contracts.*—The interim rule permitted any qualifying seller to collect delivery and compression allowances. In light of the Commission's consistent indications that it would provide for allowances for production-related costs incurred by a seller pursuant to NGPA section 110, it was unnecessary for the rule to require that sellers renegotiate existing contracts in order to qualify.

Two commenters propose that, prior to qualifying for the allowances for production-related costs, producers should be required to renegotiate terms in existing contracts which permit those costs. In support of its argument, one of these commenters reasons that, if a gas sales contract does not currently specify that the seller may collect a specific amount for delivering the gas, an allowance for delivery and compression had undoubtedly been included in the contract to provide for such compensation.

The commenters seem to have misunderstood the qualification requirements of the interim rule. The interim rule specifically provides that, in order to receive the allowance, a qualifying first seller must have express contractual authority to obtain such compensation. While existing contracts may implicitly include recovery of production-related costs, renegotiation would afford an opportunity to include express authorization where none existed previously. The commenter also argues that a gas sales contract which does not currently reference such contractual authority should not qualify for the allowance. The Commission agrees. Furthermore, as the commenter suggests, if a seller without such express authorization seeks to collect the allowance, it should have to renegotiate the contract.

b. *Qualifying Date.*—In establishing the amounts of the allowances, the interim rule distinguished between delivery and compression facilities the construction of which commenced before or after the date of enactment of the NGPA. The Commission defined the term "commencement of construction" to mean the date site preparation was begun.

Three commenters oppose this distinction and propose three alternative dates for distinguishing categories of facilities eligible for the allowances: (1) February 19, 1977, the date incentive price categories were established under NGPA sections 102, 103, and 107; (2) the date the facilities were put into operation or service to deliver or compress the gas; and (3) the effective date of Order No. 94, July 25, 1980.

The Commission used November 9, 1978, to distinguish between the construction of old and recent systems because that date marks the effectiveness of NGPA section 110, the section which granted the Commission authority to establish these allowances. Under the NGPA, commenters propose February 19, 1977, the date incentive price categories were established under NGPA sections 102, 103, and 107. By means of these sections, Congress intends to promote additional production of gas through the incentive price categories. The intent does not apply to section 110, which was designed to provide the Commission with the authority to establish compensation for production-related costs. The Commission believes that the well qualification date for determination of the maximum lawful price for these categories of gas is irrelevant to the effective date of NGPA section 110, which was designed to establish production-related allowances for all NGPA-priced categories.

Other commenters argue that the date on which deliveries are begun is more precise and easily ascertained because the date on which construction commenced is known only to the seller. The Commission finds that the date on which construction commenced reflects

a more important consideration in terms of a seller's decision to incur major capital expenditures to construct the operations than the date deliveries are begun. The Commission believes that the date that distinguishes between old and recent systems should be based on the decision to invest in the operation under the set of assumptions about compensation for that investment that are operable at the time. The decision to invest is represented more adequately by the date on which site preparation is begun, not the date on which deliveries are begun.

The commenter who favors July 25, 1980, the date on which Order No. 94 was issued, merely states that that date would provide a reasonable and verifiable distinction between old and recent systems. The Commission believes that any date would meet such criteria. More importantly, a seller who had filed an application to recover delivery and compression allowances under NGPA section 110 prior to July 25, 1980, is eligible to collect the allowances retroactive to the date of its application. Therefore, to that seller, July 25, 1980, may prohibit collection of the compression allowance or, in the case of delivery, may result in collection of a lesser allowance.

The Commission retains the distinction between old and new systems divided according to the date of commencement of construction. Because the capital expenditures incurred form the basis of the generic allowances, the Commission must rely upon the date that most closely corresponds to the decision to make those expenditures.

c. *Inflation Adjustment.*—The interim rule provided for the allowances for recent delivery systems and for compression facilities without express adjusting for inflation. Two commenters argue that failure to adjust the allowances for inflation was unreasonable and constituted an abuse of the Commission's discretion. One of these commenters, in conclusionary and general terms, asserts that Congress intended to allow gas prices to escalate with inflation and that, therefore, inflation adjustments were necessary to enable full recovery of costs incurred for production-related services. Similarly, the other commenter cites NGPA section 101(a) as Congress' attempt to keep the price of gas on a constant dollar basis, and states that future reevaluation by the Commission could not make up for lost dollars. Therefore, the commenters conclude that an adjustment should be applied annually on April 1 based upon the prior calendar year's GNP Implicit Price Deflator.

While the Commission recognizes that inflation is a factor in the cost of production-related activities, it believes that the generic allowances established in the interim rule were set at a level which would adquately compensate first sellers for the services rendered both at present and for the near future, particularly until the time at which phased deregulation of most gas occurs. NGPA section 101 is inapplicable because it sets out the inflation adjustment for escalations of the base price for natural gas priced under wellhead pricing sections of the NGPA. The Commission believes that an inflation adjustment for these production-related costs is unnecessary, although it has chosen to provide an application procedure which would allow first sellers who are not being adequately compensated for production-related costs to apply for an adjustment. The Commission will also accept applications for adjustment under NGPA section 502(c) if the test under that section is met. The Commission believes that, due to the uncertainty in market conditions and the economic climate surrounding the industry, the use of an automatic escalator is inappropriate.

d. *Procedure for Collecting the Allowance.*—The interim rule provides that, in the case of consecutive "first sales," both the delivery and compression allowances may only be collected by the final first seller. The final first seller is then required to make a "fair and proportional" distribution of the allowance to any prior first seller who incurred delivery and compression costs in connection with the sale of the gas to the final first seller.

One commenter argues that the accounting necessary to determine and recover the generic allowances can be extremely burdensome and difficult to administer. Instead, it recommends that a first seller may choose an optional method for recovering such costs based upon a cost-of-service methodology, taking account of operating and maintenance expenses plus a rate of return.

In establishing allowances under section 110, the Commission sought to develop a self-executing procedure. While it could undertake to determine the appropriate amount of the allowance on behalf of the seller and ensure that it is properly distributed, that burden properly belongs to the first sellers involved. In addition, the interim rule imposed the obligation to collect and distribute the allowance on the final first seller in order to insure an expeditious means of providing all the sellers with their costs. The final first seller who is closest to the total allowance can best determine the total amount, ensure that the measurement and other limitations on the allowances are met, and apportion the total allowance to any other first sellers, if any. If the Commission were to adopt the commenter's proposal and establish an optional procedure, the Commission might become involved in arbitrating disputes relating to apportioning the allowances. This result is undesirable because it could minimize the benefit of a self-executing procedure and would delay collection of the allowance.

e. *Protest Procedures.*—One commenter proposes that the Commission expand the interim rule to establish protest procedures to provide the purchaser with an opportunity to contest a production-related cost allowance. This commenter argues in favor of providing a purchaser with an opportunity to formally protest a charge by a seller for production-related costs incurred. Absent this procedure, the purchaser who agrees to pay those charges, reflected in its purchased gas acquisition filings pursuant to section 154.38 of the Commission's regulations, may subject itself to numerous suits by its customers challenging the allowances paid.

The interim and final rules reflect a balance betwen the Commission's interest in developing a self-executing procedure for collecting delivery and compression allowances with the concerns expressed by the commenter's proposal. The Commission believes that the efficiency benefits of a self-executing procedure would be negated if a buyer and, possibly, customer intervenors were permitted to challenge every allowance claimed by a seller. The purpose of the generic rule is to provide a representative allowance which would apply to most operations. This is not to discount the importance of having a suitable forum available for redress if there if there are overcollections in violation of the final rule. There is an obligation on pipeline purchasers to pay allowances only insofar as there exists contractual authorization for the first seller to collect them and the seller falls under the rule. That Obligation is enforced under section 4 of the Natural Gas Act. However, other parties, including Commission staff, may wish to challenge the collection of allowances in some cases. In such cases, an informal proceeding could be initiated to examine that facts and law under the final refund procedure, issued at the same time as

this final rule in Docket No. RM83–6–000.[29]

IV. Effective Date of Final Rule

This final rule reestablishes the procedures, standards and allowances currently in effect in the interim rule. While the regulations have been rewritten for purposes of clarification, the final rule makes no substantive change in the meaning or application of the existing rule. Therefore, in accordance of section 553(d) of the APA, this final rule shall become effective 30 days from the date of publication in the **Federal Register.**

V. Section by Section Summary.

As discussed, in response to the comments which request clarification, the Commission has amended the regulation in the interim rule for the purpose of clarity. The following summary outlines each of the subparagraphs in the amended regulation.

1. Section 271.1104(d)(1) *General Rule.* This subparagraph sets out the general rule under which a seller may qualify to collect an allowance for delivery of gas to any interstate pipeline, intrastate pipeline, local distribution company, or any person for use by such person, or for compression used to effectuate such delivery.

2. Section 271.1104(d)(1)(i) *For Old Delivery Systems.* This subparagraph provides that for delivery of gas through a delivery system, the construction of which commenced prior to November 9, 1978, the applicable allowance is 5 cents per MMBtu, regardless of the length of the delivery system.

3. Section 271.1104(d)(1)(ii) *For Recent Delivery Systems.* This subparagraph provides that for delivery of gas through a delivery system the construction of which commenced on or after November 9, 1978, the applicable allowance is 7 cents per MMBtu for the first mile of gas haul plus 2 cents per MMBtu for each additional mile of gas haul, not to exceed a maximum distance of 20 miles (an allowance of 45 cents). In order to be eligible for the allowance, the gas hauled must be commingled with other gas at or before the point of the final first sale.

4. Section 271.1104(d)(1)(iii) *Combined Old and Recent Delivery Systems.* This subparagraph provides that a qualifying first seller who delivers through a delivery system that combines an old system and a recent system may collect that portion of the allowance applicable to the old system plus that portion of the allowance applicable to the recent system.

5. Section 271.1104(d)(1)(iv) *For Compression Facilities.* This subparagraph establishes the allowance for qualifying compression activity, compression used to effectuate delivery, where the construction of the facility was commenced on or after November 9, 1978. The allowance is also permitted for an pre-NGPA facility if, after the date of enactment of the NGPA, a seller totally replaces a compression or upgrades compression by at least one stage.

6. Section 271.1104(d)(1)(v) *Collection and Distribution.* This subparagraph, which applies to both the delivery and the compression allowances, provides that the final first seller who is eligible to collect the allowance must make a fair and proportional distribution of that allowance to any other eligible first sellers.

VI. Action on Application for Rehearing of the Interim Rule

On February 23, 1983, the Commission received a timely application for rehearing of the interim rule from Exxon Company, U.S.A. The application claims that the interim rule was arbitrary and capricious and an abuse of discretion because it failed to (1) clearly state that gas delivered from an offshore platform is entitled to the newly prescribed delivery allowances; (2) grant any compression allowance for facilities, the construction of which commenced prior to November 9, 1978; (3) adopt as the cut-off date for the allowance, the date on which the facility was put into operation to compress or deliver gas to the pipeline, as opposed to the date of site preparation adopted in the rule; (4) allow inflation adjustments to be applied to the amount it prescribed for delivery and compression allowances; and (5) find area rate clauses to be sufficient to collect compression allowances, as well as delivery allowances.

The Commission addresses all of the contentions set forth in the Exxon application in its discussion of the comments, above. This preamble clarifies that a delivery allowance is permitted for offshore delivery. The Commission agrees with Exxon on this point and grants its application to the extent of the clarification.[30]

However, with respect to the remaining issues, the Commission disagrees with the applicant. The discussion above explains why it is appropriate to exlude pre-NGPA compression [31] and why it is inappropriate to adjust the post-NGPA delivery and compresssion allowances for inflation.[32] It presents the Commission's rationale for choosing the date of enactment of the NGPA to distinguish between old and recent delivery systems. Finally, it incorporates as applicable here the Commission's discussion in Order No. 94–D of the effect of area rate clauses on the delivery and compression allowance.[33] In light of the considerations discussed in this document, the changes proposed by Exxon are inappropriate.

The Commission orders:

The application for rehearing of the interim rule is granted to the extent discussed above and is denied with regard to the remaining issues. However, the Commission emphasizes that, because the Commission is finalizing its regulations in this order, it will consider any applications to rehear the final rule.

(Natural Gas Act, as amended, 15 U.S.C. 717–717w (Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects Contained in Part 271

Natural gas, High-cost gas, Tight formations.

In consideration of the foregoing, § 271.1104(d) of Chapter 1, Title 18, of the Code of Federal Regulations, are established as final rules and amended as set forth below, effective 30 days after publication in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

In section 271.1104, paragraph (d)(1) is revised, and paragraphs (d)(2) and (d)(3) are amended by adding titles at the beginning of those paragraphs, all to read as follows:

§ 271.1104 Production-related-costs.

* * * * *

(d) *Amounts necessary to recover production-related costs*—(1) *General rule.* Except as otherwise provided in subparagraphs (d) (2) and (3) of this section, the amount necessary to recover

[29] *See,* Final Rule, "Regulations Implementing Refund Procedures Under Subpart K of Part 271 for Production-Related Costs," Docket No. RM83–6–000. Under the Final Rule a person may file a complaint alleging that an allowance is being charged, collected, or not paid in violation of § 271.1104 of the Commission's regulations.

[30] *See supra* pp. 24–29.

[31] *See supra* pp. 35–38.

[32] *See supra* pp. 54–57.

[33] *See supra* p. 8.

a production-related cost borne by a seller delivering gas to any interstate pipeline, interstate pipeline, local distribution company, or any person for use by such person is the lesser of the amount that the seller is expressly authorized to collect under the terms of the contract for the recovery of the cost, as evidenced under paragraph (c)(4)(ii)(A) of this section, or the appropriate allowance permitted under this subparagraph.

(i) *For old delivery systems.* For delivery of any natural gas for which the maximum lawful prices are specified in this Part, except any gas under Subparts E and F of this Part, through a delivery system, the construction of which commenced prior to November 9, 1978, the seller may collect an amount not to exceed five cents ($0.05) per MMBtu, regardless of the length of the delivery system.

(ii) *For recent delivery systems.* For delivery of any natural gas for which the maximum lawful prices are specified in this Part, through a delivery system, the construction of which commenced, on or after November 9, 1978, the seller may collect an amount not to exceed seven cents ($0.07) per MMBtu for the first mile of gas haul, or fraction thereof, plus two cents ($0.02) per MMBtu for each additional mile of gas haul, or fraction thereof, measured in a continuous line of gas haul from the single gas wellhead, platform, or first lease separator to a maximum distance of 20 miles (maximum allowance of forty-five cents ($0.45) per MMBtu)). Except for direct sales to a person for use by such person, the gas hauled must be commingled with other gas at or before the point of the final first sale in order to be eligible for the allowance under this clause. For purposes of this subparagraph, "final first sale" is the first sale, as defined in NGPA section (2)(21), at which a volume of natural gas is transferred for value to a purchaser that will not also be a first seller of that gas.

(iii) *Combined old and recent delivery systems.* If the seller delivers any natural gas for which the maximum lawful prices are specified in this Part, through a delivery system that combines both a delivery system the construction of which commenced on or after November 9, 1978, and a delivery system the construction of which commenced prior to November 9, 1978, the seller may collect the applicable allowances under paragraphs (d)(1) (i) and (ii) of this section.

(iv) *For compression facilities.* For compressing natural gas by compressor facilities, the construction of which commenced on or after November 9, 1978, used to effectuate delivery of such gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by each person, the seller may collect an amount not to exceed:

(A) six cents ($0.06) per MMBtu for each qualified stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), not to exceed three stages; plus

(B) the cost of fuel or power to drive the compressor.

(C) For purposes of the compression allowance under this clause, "construction" of facilities includes the complete and necessary replacement of old facilities with new facilities and the necessary addition of any new stage of compression to existing facilities.

(v) *Collection and distribution.* Any person collecting any allowance under this subparagraph must make a fair and proportional distribution of that allowance to any other first seller who, by sales made to that person, incurred delivery or compression costs to effectuate delivery of the gas sold by that person.

(2) *Delivery Allowances for sales subject to NGPA sections 105 and 106(b).* * * *

(3) *Allowances for costs other than for delivery or compression.* * * *

* * * * *

[FR Doc. 83-26545 Filed 9-28-83; 8:45 am]

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18 CFR Parts 271 and 274

[Docket No. RM83-3-000 and RM81-12-000; Order No. 336]

Reduction in Filing Requirements for Well Category Applications Under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations Under Section 108 of the Natural Gas Policy Act

Issued: September 27, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978. The new rules amend Parts 271 and 274 of the Commission's regulations by eliminating certain types of applications for well category determinations and reducing the information to be filed with other well category determination applications. Specifically, the Commission is adopting, among other things, procedures which eliminate determinations on a well-by-well basis for new OCS leases under section 102, eliminate multiple applications for certain proration units in new onshore production wells under section 103, eliminate applications for requalification as a stripper well under section 108, and eliminate applications under section 107 for deep gas produced from certain completion locations. The new rule is part of the Commission's ongoing program to review its filing requirements and reduce unnecessary burdens on regulated entities by eliminating unnecessary filing requirements.

The Commission is also adopting final regulations, originally adopted as an interim rule, for section 108 temporary pressure buildup determinations. The regulations provide that a previously qualifying stripper well that produces gas in excess of an average of 60 Mcf per production day for a 90-day production period will not lose its stripper well status if the jurisdictional agency issues a temporary pressure buildup determination for that well. These regulations are codified in 18 CFR 271.804(e).

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., N.E. Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. sections 3301-3132 (Supp. V 1981), for new natural gas and gas produced from new Outer Continental Shelf leases (NGPA section 102), new, onshore production wells (NGPA section 103), high-cost natural gas (NGPA section 107), and stripper well natural gas (NGPA section 108). The amendments eliminate the need for filing certain types of applications for well category determinations and reduce the information to be filed with other well category determination applications. Additionally, the Commission is finalizing an interim rule issued in 1981, relating to temporary pressure buildups in wells qualifying as stripper wells under section 108 of the NGPA.

The Commission is eliminating the requirement to file applications in four situations. First, the Commission is establishing an expedited procedure which allows the U.S. Department of Interior, Minerals Management Service, to make only one determination for all wells drilled on a new Outer Continental Shelf (OCS) lease. Second, the Commission is amending the regulations to allow a section 103 determination to apply to gas produced from all proration units penetrated by the wellbore, so long as each proration unit receives a well completion permit from the appropriate state or federal agency and is the first completion in the proration unit. A second section 103 filing is required only when the well is the second well in a given proration unit. Third, the Commission is eliminating the requirement that a new application be filed to requalify a well as a section 108 stripper well after it disqualifies for exceeding the applicable natural gas production limits. Fourth, the Commission is eliminating applications for deep gas produced from completion locations in a well that are deeper than the completion location in that well that previously received a final section 107 deep gas determination.

The Commission is also eliminating the requirement that certain types of information be filed with applications. For the most part, this information includes location plats, directional drilling surveys, maps, and certified copies of certain records.

This final rule is part of the Commission's ongoing program to review its filing requirements and reduce unnecessary burdens on regulated entities by eliminating requirements that are not necessary to the performance of the Commission's regulatory responsibilities. This rule reduces the annual burden imposed by the filing requirements for well category determinations by approximately twenty-five percent.

In addition to adopting revisions to filing requirements for well category determinations, the Commission is also adopting final regulations, originally adopted as an interim rule, for the section 108 temporary pressure buildup exception to stripper well regulations. The interim rule, issued in Docket No. RM81-12-000 on January 15, 1981, (46 FR 6901 (Jan. 22, 1981)), provided a special rule governing the temporary overproduciton of natural gas from section 108 stripper wells. The Commission believes it is appropriate to consolidate these two dockets because the issues are closely related.

II. Background

The NGPA requires that the appropriate state or federal agency (jurisdictional agency) make a well category determination (determination) that natural gas meets the qualifications of one of the pricing categories found in NGPA sections 102, 103, 107, and 108 in order for a producer to collect the maximum lawful price authorized for that category.[1] The jurisdictional agencies' well category determinations are submitted to the Commission for review,[2] and are reversed by the Commission if not supported by substantial evidence in the record.

The Commission implemented this statutory scheme by issuing regulations prescribing both the minimum filing requirements for applications for well category determinations and the procedures to be used by the Commission to review such determinations.[3] Because the NGPA comprehensively revised the scheme for natural gas pricing, the Commission's regulations adopted a cautious approach to implementing the statute.

Since these regulations were issued, the Commission, jurisdictional agencies, and producers have gained considerable experience under this regulatory scheme. Based on this experience and as part of its burden reduction program, the Commission proposed to refine its implementation of the NGPA well category determination process and reduce the burden imposed on both natural gas producers and jurisdictional agencies.[4] The Commission requested comments on its proposal by January 7, 1983, and received 21 comments, four comments from jurisdictional agencies and 17 comments from producers and pipelines.

III. Discussion

The Commission is making two general types of changes in its filing requirements. The first type eliminates certain applications for well category determinations under several NGPA sections. The second type eliminates the filing of certain geologic or geographic information and certified copies of certain records for applications under several NGPA categories. Based on its experience in reviewing well category determinations and its field audit program, the Commission believes that these application and information requirements are not necessary for an effective NGPA compliance program and are, therefore, an unnecessary burden on regulated entities.

The Commission believes that the filing requirements which remain after the changes adopted in this final rule are sufficient to establish that a well category determination is supported by substantial evidence in the record. The comments submitted to the Commission generally support the Commission's effort to reduce the burden on industry and jurisdictional agencies and specifically support the proposals made by the Commission. Two commenters agree and none disagree that the substantial evidence review standard will still be met with the filing requirements that remain.

A. Elimination of Certain Applications for Well Category Determinations.

1. *New OCS Lease*

Natural gas produced from a new lease[5] on the Outer Continental Shelf (OCS) qualifies as new natural gas under section 102 of the NGPA. Currently, the Commission requires that a separate application and well category determination be made for each well drilled on a new OCS lease. *See* 18 CFR 274.202 (a) and (B) (1983).

In the Notice of Proposed Rulemaking, the Commission proposed two changes to the regulations. First, the Commission proposed amending its regulations to

[1] Other categories of natural gas are self-implementing and do not require a determination by a jurisdictional agency prior to qualifying for the ceiling price for that category. These are sections 104, 105, 106, and 109.

[2] These determinations become final 45 days after receipt by the Commission, unless within that time period, the notice of determination or the application for a determination is withdrawn (18 CFR 275.202 (c) and (d) (1983)) or the Commission makes a finding that the determination is either incomplete (*id.* at § 275.202(b) (1983)) or is not supported by substantial evidence in the record on which the determination was made or is not consistent with information in the Commission's public record and which was not part of the record on which the determination is made. (*Id.* at § 275.202(a) (1983)).

[3] Interim regulations were issued on December 1, 1978. Interim Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79-3, issued December 1, 1978, 43 FR 56,448 (December 1, 1978). Final regulations were issued thereafter. Final Regulations Implementing Filing Requirements of the Natural Gas Policy Act of 1978, Order No. 65, Docket No. RM80-15, issued January 4, 1980, 45 FR 3,890 (January 21, 1980); Minimum Filing Requirements for Applications to Jurisdictional Agencies for Determinations of Eligibility for Various Categories of Natural Gas, Order No. 65-A, Docket No. RM80-15, issued February 29, 1980, 45 FR 15,523 (March 11, 1980) and 45 FR 45,905 (July 8, 1980); Commission Determinations and Review of Jurisdictional Agency Determinations, Order No. 34, Docket No. RM79-3, issued June 14, 1979, 44 FR 34,475 (June 15, 1979); Final Part 275 Regulations under the Natural Gas Policy Act of 1978, Order 34(R), Docket No. RM79-3, issued August 13, 1979, 45 FR 17,129 (March 18, 1980).

[4] Docket No. RM83-3-000, issued November 23, 1982, 47 FR 53,097 (November 30, 1982).

[5] NGPA section 2(9) defines "new lease," as an OCS lease entered into on or after April 20, 1977 of submerged acreage. 15 U.S.C. 3301(9) (Supp. v 1981).

require only one determination for all gas produced from a new OCS lease. The Commission stated that well-by-well determinations were not statutorily required, since section 102(c)(1)(A) of the NGPA covers natural gas "produced from a new lease," rather than gas produced from a "well," as does, for example, the definition of "new onshore wells" in section 102(c)(1)(B). The Commission also believed that rendering determinations on a well-by-well basis on a new OCS lease was unnecessary and burdensome because *any* well producing from a new OCS lease will comply with the requirements of the NGPA and qualify for the section 102 price. The commenters agree with the Commission's analysis and support the proposed rule. Accordingly, the Commission is adopting the proposed rule by eliminating the requirement that a determination be made for each well producing from a new OCS lease.[6]

The second proposed change establishes an expedited procedure for making such determinations. After drilling and completing a well on a new OCS lease, a producer currently must file an application (FERC Form No. 121), an oath statement, and a copy of the OCS lease, to qualify production from the well for the section 102 price. In lieu of filing an application for each well, the Commission proposed to simplify this procedure by allowing the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is gas produced from a new OCS lease. The proposal would require the jurisdictional agency (U.S. Department of Interior, Minerals Management Service (MMS)) to file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination would then be subject to Commission review in the same manner as other jurisdictional agency determinations. 18 CFR 275.201 through 275.206 (1983).

The Commission also proposed a blanket notice of determination procedure that would allow new leases that have been granted by the MMS prior to the effective date of the final rule to take advantage of this new rule. Under this blanket notice procedure, MMS would send the Commission a notice identifying those leases within 60 days from the effective date of this rule, which the Commission would publish in the **Federal Register**. Any gas produced from a well drilled on a new lease included in this blanket notice would be eligible for the section 102 maximum lawful price beginning on the date the blanket notice is filed at the Commission. Any gas produced from a well on those leases before the blanket notice is filed would not be eligible for the section 102 price prior to that date unless a separate section 102 application had been filed for that well.

As with the elimination of the well-by-well determinations, all the commenters support the Commission's proposals to institute an expedited determination procedure and commend the Commission's proposed new procedures. One commenter supports the blanket notice of determination procedure because it effectively includes in the new rule gas produced from new leases already granted by the MMS.

The Commission believes that the proposed rules substantially reduce the filing requirements for wells producing from new OCS leases, while ensuring statutory compliance with the NGPA. For this reason, and the reasons discussed above, the Commission is adopting the rules as proposed in the Notice of Proposed Rulemaking.

2. *New, Onshore Production Wells*

Natural gas produced from wells which meet certain definitional criteria set forth in section 103 of the NGPA can qualify as natural gas produced from a new, onshore production well.[7] These criteria relate to the date the well was drilled, well-spacing requirements, and certain proration unit[8] restrictions. The Commission's regulations implementing section 103 do not define the term "new, onshore production well," but rather incorporate by reference the statutory definition in section 103(c) of the NGPA. 18 CFR 271.303 (1983).

In Order No. 149, the Commission clarified its regulations implementing section 103 and stated that a determination was required for each proration unit penetrated by the same wellbore in order to collect the section 103 price for gas produced from that proration unit.[9] The Commission reasoned that a determination was necessary for each proration unit penetrated by the same wellbore in order to ensure that each well completed in a proration unit did not violate the proration unit restrictions in NGPA section 103(c)(3).

The requirement that multiple completions in the same wellbore receive a section 103 determination has resulted in an unwarranted burden on jurisdictional agencies, the Commission, and on parties involved in these multiple proceedings for the same well. Accordingly, the Commission proposed to amend its regulations to reduce this burden while ensuring that the section 103 price is not collected for any gas which does not qualify under the applicable standards.

Specifically, the Commission proposed to amend the regulations to provide that a jurisdictional agency determination that a well is a "new, onshore production well" covers all gas produced from that well provided that the gas is produced from a proration unit which has received a well completion permit or receives in the future a well completion permit from the appropriate regulatory agency (permitting agency). The Commission stipulated that this proposal only applies to gas that is produced from a proration unit in which the subject completion is the first completion in that proration unit.[10] The

[6] This does not alter the statutory requirement that gas must be produced from a subsurface location underlying the new lease. Thus, if a well is directionally drilled across lease lines, and the gas is not produced from the completion intervals underlying the new lease, the gas would not qualify for the section 102 price.

[7] Section 103(c) defines "a new, onshore production well" in the following manner:

(c) *Defintion of New Onshore Production Well*—For purposes of this section, the term "new, onshore production well" means any new well (other than a well located on the Outer Continental Shelf)—

(1) the surface drilling of which began on or after February 19, 1977;

(2) which satisfies applicable Federal or State well-spacing requirements, if any; and

(3) which is not within a proration unit—

(A) which was in existence at the time the surface drilling of such well began;

(B) which was applicable to the reservoir from which such natural gas is produced; and

(C) which applied to a well (i) which produced natural gas in commercial quantities or (ii) the surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

15 U.S.C. 3313(c) (Supp. V 1981).

[8] NGPA section 2(8) defines "proration unit". In brief, a proration unit is part of a reservoir which a state or federal jurisdictional agency determines can be effectively and efficiently drained by a single well. 15 U.S.C. 3301(8) (Supp. V 1981).

[9] Clarification of Regulations Regarding New, Onshore Production Wells, 46 FR 29,697 (June 3, 1981), (Order No. 149, Docket No. RM81-31). Applications for rehearing of Order No. 149 have been filed and are pending before the Commission.

[10] Under the Commission's regulations implementing section 315 of the NGPA, certain producers are required to make a "bona fide offer" 20 days before their contract expires if a final section 103 determination is made 45 days or more before the contract expiration date; and if a final section 103 determination is made within 45 days of the contract expiration date, the bona fide offer must be made within 20 days of the final determination. 18 CFR 277.203(a)(2)(iii) and 277.205(b) (1983). For purposes of this requirement, the time for making the bona fide offer would start to run for all gas produced from that well on the date that the well is finally determined to be a new, onshore production well. This would be consistent

Continued

Commission was concerned that it could not rely on the state well permitting process to ensure that the proration unit restrictions in section 103(c)(3) would be met for second wells in a proration unit. Thus, the Commission proposed that a producer must file a new application in order to collect the section 103 price for production from a proration unit in which the subject completion is the second completion in that unit, even if a well completion permit has been granted for that completion location.

The Commission believes that the proposed amendments ensure that the section 103 price is collected only for gas which meets the three requirements in section 103(c)(1) through (c)(3): Date of commencement of surface drilling, well-spacing requirement, and proration unit restrictions.

With one exception, the proposed rule ensures that the surface drilling requirement is met by reference to the initial determination. The original determination made by the jurisdictional agency and reviewed by the Commission ensures that all gas produced from the well, regardless of the proration unit from which it is produced, will be from a well the surface drilling of which commenced "on or after February 19, 1977."

The exception involves a section 103 determination granted under the reentry policy established in Docket Nos. GP83–9–000 and GP83–10–000 [11] as a result of the *L & B* decision.[12] Under that policy, separate determinations must be made for gas produced from proration units not identified in the original determination. The Commission is continuing this policy in this final rule by providing that a determination granted under the section 103 reentry policy covers gas produced only from the proration units approved in that determination. This requirement is necessary to ensure the integrity of the Commission's policies concerning incentive price qualification for gas produced from reentry operations.

The second requirement—compliance with state or federal well-spacing requirements—is met by requiring each section 103 completion to receive a well completion permit issued by the permitting agency. The purpose of the well-permitting process generally is to ensure that well-spacing requirements are met. Thus, the grant of a well completion permit to complete a well at a certain location ensures that a producer has met the section 103 requirement relating to compliance with well-spacing requirements.

Finally, the third requirement relating to proration unit restrictions is satisfied by requiring the subject completion to be the first completion in the proration unit for which the well completion permit is granted. A well that is the first completion in a proration unit will satisfy by definition the NGPA's proration unit restrictions in section 103(c)(3). If a completion in a well is the second completion in a proration unit, the proration unit restrictions can only be satisfied if the "well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit * * *." 18 CFR 271.305(b) (1983). In the second instance, a new section 103 determination, including the "effective and efficient" finding, will have to be made. Because the amended rule only covers the first completion in a proration unit, this third criterion is satisfied.

The Commission specifically requested comments on the proposed rule regarding the second completion in a proration unit issue. The comments generally support the Commission's initiative to reduce the filing burdens imposed by the current regulations and note that the proposed amendments ensure that the statutory requirements will be satisfied. The commenters agree that the state well permitting process sufficiently ensures that the spud date requirement under section 103(c)(1) is satisfied and the well spacing requirements under section 103(c)(2) are met. In addition, the commenters note, the Commission's proposal satisfies the section 103(c)(3) proration unit requirements. Specifically, eight commenters agree with the Commission's concerns regarding the second completion in a proration unit, citing instances in which a permit would legitimately issue under state law, but in which the section 103(c)(3) proration unit restrictions would not be met, *e.g.*, test wells and oil wells. Three other commenters suggest that the Commission could rely on the state permitting process for second completions in a proration unit, but fail to offer reasons supporting this belief.

The Commission is adopting the proposed rule with the one exception for the reasons stated above. The new rules satisfy the statutory restrictions in section 103(c) of the NGPA while eliminating most multiple applications for different completions in the same wellbore. The Commission believes, however, there is one issue that must still be clarified.

Gas produced from a completion location which meets the qualifications that the completion is the first completion in the proration unit and that another completion location in the well received a section 103 determination is automatically eligible for the section 103 maximum lawful price beginning on the date this final rule is effective. However, gas produced from such a completion location before the effective date of this final rule is subject to the policies delineated in Order No. 149, which require an application for determination for each completion location.

The policies adopted by the Commission in Order No. 149 were based on the Commission's concern that the proration unit restrictions in NGPA Section 103(c)(3) were satisfied. The Commission now believes that the state permitting process will ensure that the statutory restrictions are satisfied for gas produced from a proration unit in which the subject completion is the first completion in that proration unit.

3. *Stripper Well Natural Gas*

Under section 108(b) of the NGPA and the Commission's current regulations, a well can qualify as a stripper well if it produces an average of 60 Mcf or less per production day of nonassociated natural gas for a 90-day production period. The Commission's regulations define "nonassociated natural gas" by reference to a sliding scale ratio of natural gas production to crude oil production.[13] As a general matter, if a stripper well produces over an average of 60 Mcf per production day for any 90-day production period (60 Mcf limit),[14] it will lose its qualification as a stripper well. Only gas production and not oil production is taken into account for purposes of disqualification.[15] Once

with the Commission's theory that gas from any proration unit in the well is covered by the initial determination that a well is a new, onshore production well, subject only to the grant of a well permit for each proration unit and the well being the first completed in the unit.

[11] TXO Production Corp., 23 FERC ¶ 61,299 (May 27, 1983); Sun Exploration and Production Co., 23 FERC ¶ 61,300 (May 27, 1983).

[12] L&B Oil Co., Inc. v. Federal Energy Regulatory Commission, 665 F.2d 758 (5th Cir. 1982).

[13] 18 CFR 271.803(b) (1983). For example, if three barrels of crude oil are being produced, then less than 30 Mcf of natural gas per day must be produced in order for the well to qualify as a stripper well.

[14] In certain circumstances, a well can qualify as a stripper well even though it exceeds 60 Mcf of gas production if the increased production was caused by a seasonal fluctuation, an enhanced recovery technique, or a temporary pressure buildup. 18 CFR 271.804(d), 271.804(e) and 271.805(e) (1983).

[15] When a well disqualifies as a stripper well, the operator and purchaser of the gas produced from such well must give a written notice of disqualification to the jurisdictional agency, the Commission, and the operator or purchaser, as appropriate. 18 CFR 271.805(a) (1983).

disqualified, a seller can no longer collect the maximum lawful price under section 108. If the well's production again falls within the production limits of the sliding scale definition of nonassociated natural gas, it can requalify as a stripper by filing for and obtaining a new section 108 well category determination.

a. *Section 108 Applications.* The production of many stripper wells often fluctuates around the ceiling of 60 Mcf of natural gas per production day. Multiple applications have been filed for many stripper wells when production from the wells temporarily exceeded the 60 Mcf limit and subsequently returned to qualifying levels. The regulations, as currently written and interpreted, thus impose on operators of such wells the significant burden of filing a new determination application each time their wells requalify following a temporary period of overproduction.

To eliminate multiple determinations for the same well, the Commission proposed to amend its regulations to provide that production in excess of the 60 Mcf limit of natural gas, limits the seller of such natural gas from collecting the maximum lawful price under section 108, but does not affect the original determination that the well is a stripper well.[16] The Commission also proposed that when the well subsequently produces within the production limits imposed by the sliding scale definition of nonassociated natural gas, that is, with reference to oil production, for a 90-day production period, the seller could resume collecting up to the section 108 price without filing a new determination application because the well had already been determined to be a stripper well. During the period of disqualification, the seller would be limited to collecting the otherwise applicable maximum lawful price.

Commenters generally support the Commission's proposals to eliminate the need for a new determination to requalify as a stripper well every time a stripper well temporarily produced above the 60 Mcf limit. These commenters note that the Commission's proposal ensures that stripper well production will continue to be monitored and yet alleviates a filing burden imposed by the current regulations.

[16] The original determination is based on the minimum filing requirements in § 274.206 of the Commission's regulations. This proposal would not amend § 274.206 nor would it reduce any filing requirements for the original determination. These requirements form the evidentiary basis which supports the continuing regulatory qualification of the well.

The Commission agrees with the commenters that this new procedure alleviates the administrative burden of filing new applications for stripper well determinations, yet still ensures compliance with the maximum lawful prices established under the NGPA. Therefore, it will not require a redetermination process for a stripper well simply because it temporarily overproduces. The Commission, therefore, is adopting the proposed regulation insofar as it allows a stripper well to maintain its stripper well determination even after a seller loses the right to collect a maximum lawful price under section 108 for such gas.

The Commission is, however, making one change to its proposal. Under its proposal, a well would disqualify solely by reference to gas production. The Commission presumed that once a well met the production limits in the initial determination, oil production would continue at *de minimus* levels and thus meet the definition of nonassociated gas in the NGPA. Therefore, oil production was not considered further. To requalify for the section 108 ceiling price, the Commission proposed that a well meet both the oil *and* gas production limits in the definition of nonassociated gas. Several commenters recommend that the Commission adopt a *requalification* standard based only on gas production, that is, without reference to oil production. These commenters note the Commission's statement in Order No. 44 (Docket No. RM79-73, 44 FR 49,656, August 24, 1979) that as a general matter, gas production increases when oil production increases. These commenters assert that reservoir characteristics are not likely to change and that the Commission's reasoning leads to the conclusion that when gas production decreases, oil production will proportionally decrease. Hence, there is no need to continue to consider oil production in terms of whether the well qualifies for the section 108 price.

Based on this reasoning and the additional reasons stated below, the Commission is persuaded to adopt a requalification standard based only on gas production. In making these changes to the regulations implementing section 108 of the NGPA, the Commission is mindful of a report recently issued by the General Accounting Office (GAO).[17] In one part of that report, the GAO criticizes the Commission for not taking oil production into account for purposes of disqualifying a well as a stripper well. The Study asserts that the Commission does not have the administrative discretion under section 108 of the NGPA to disregard oil production after initial qualification.

[17] Report to the Chairman, FERC, Need to Revise Eligibility for One Natural Gas Price Category and Eliminating Backlog in Refund Control Work, GAO/RCED-83-3 (August 18, 1983).

While section 108 of the NGPA defines "nonassociated" gas, the Conference Report specifically states that the conferees intend the Commission to define what constitutes nonassociated gas and contemplate that a *de minimis* amount of oil may be produced from a well without disqualifying it as a stripper well. In exercising its administrative discretion, the Commission initially adopted a sliding scale of gas and oil production limits that must be met to ensure that gas produced from a well qualified as nonassociated gas. However, based on its experience in considering well characteristics and the considerable administrative burden that would be placed on the producer, the jurisdictional agencies and the Commission, the Commission believes that additional consideration of oil production beyond the initial determination is not necessary to ensure compliance with the section 108 limitation to nonassociated gas.

Based on its experience in reviewing well characteristics and the comments, the Commission believes that gas production will generally increase and decrease commensurately with the increase and decrease in oil production and is an appropriate parameter for indicating oil production. Because of this correlation, and because oil production is considered in the initial determination for stripper well qualification, and a finding is made that such production is *de minimus*, the Commission believes it is appropriate to presume that oil production continues to remain at *de minimus* levels provided the well is producing less than an average of 60 Mcf per production day.

Moreover, there are technical and administrative difficulties in monitoring oil production. Approximately 50 percent of all stripper wells are located in states which require oil production reports on an annual basis only, if reports are required at all. In many states, oil is reported on a lease basis where the lease has many producing oil wells and the oil production is not measured for each well on the lease. Additionally, oil wells produce into storage tanks, and for wells producing relatively small amounts of oil, measurements and sales from the tanks are taken at infrequent intervals such as every three to six months. Further, since many tanks typically collect oil from more than one well and many states

require reporting only on a lease basis, oil production from each well is often not actually measured. Thus, constant monitoring of oil production on a well-by-well basis would involve a significant and expensive change in typical producer operations. Additionally, the purchasers of the natural gas and oil from a well are seldom the same. At present, the typical gas purchaser does not track the oil production levels from the wells from which it purchases gas. If the Commission were to require constant oil monitoring, it is unclear how purchasers could ensure that they paid no more than legally allowed without a new, expensive program to timely monitor oil production.

The Commission believes that the substantial administrative burden of constant oil monitoring as suggested by GAO is too great in contrast to the significance of the issue. While stripper well determinations account for 38 percent of the total NGPA filings at the Commission, production from stripper wells amounts to only approximately 4 percent of total annual production. The amount of natural gas produced from stripper wells that also produce oil is considerably less, and of that amount, even a smaller amount is from stripper wells which experience increases in oil production without corresponding increases in gas production. According to figures compiled by the Interstate Oil Compact Commission (IOCC),[18] only 16 percent of the gas produced in the United States in 1981 was produced from oil wells. Applying that figure to stripper well production, only 0.64 percent of U.S. annual production is from stripper wells which produce oil. these same IOCC figures show that approximately 50 percent of all stripper wells are in states where the average production from oil wells ranges from 0.3 to 1.6 barrels per day. After balancing the administrative burden on all concerned against the benefits to be derived from constant monitoring of oil production, the Commission believes that it has appropriately used its administrative discretion to arrive at a reasonable implementation of the NGPA limitation to nonassociated gas.

Three clarifications are necessary. First, three commenters note that the Commission's proposed rule is ambiguous regarding the effective dates of qualification for the section 108 ceiling price and request clarification on this point. The right to collect a maximum lawful price under section 108 will recommence on the first day following a 90-day production period in which natural gas production does not exceed an average of 60 Mcf per production day. Thus, the disqualification period begins on the first day after the 90-day disqualifying period and ends on the last day of the 90-day requalifying period.

The second clarification relates to the effect these new procedures will have on seasonally affected wells. Under the Commission's current regulations a well designated as seasonally affected disqualifies if it produces over an average of 60 Mcf per production day for a 12-month period. The amendments adopted by the Commission in this final rule continue this policy and specifically provide that a seasonally affected stripper well which is disqualified may requalify as a seasonally affected well only by receiving a new seasonally affected determination. However, under the rules adopted today, such a well, as any stripper well, could again become qualified (and thereafter disqualified) for the section 108 ceiling price without receiving another determination based on production averages over 90-day production periods.

The third clarification relates to the effect these rules will have on a recognized enhanced recovery technique determination under § 271.806(a)(2). Specifically, the Commission emphasizes that a recognized enhanced recovery technique cannot be applied to a well during a period in which the gas production exceeds the 60 Mcf limit. Such a restriction is necessary to ensure that a stripper well is qualified to receive the section 108 ceiling price when production is above the 60 Mcf limit only if the excess production above the 60 Mcf limit is the result of the application of enhanced recovery techniques.

The amendments to these section 108 rules adopted in this order are prospective only. Thus, for any stripper well the new rules apply to any 90-day production period ending on or after the effective date of this final order.[19]

b. *Production Increases Due to Temporary Pressure Buildup.* The Commission adopted an interim rule in Docket No. RM81-12-000 [20] § 271.804(e)), that provides that a previously qualifying stripper well that produces gas in excess of an avergage of 60 Mcf per production day for any 90-day production period will not lose its stripper status if the jurisdictional agency issues a temporary pressure buildup determination for that well.[21] In order to obtain this determination, the interim rule requires the applicant to establish that:

(1) The excess rate of production was due to a pressure buildup when the well was temporary shut-in;

(2) The total production for the relevant 90-day production period did not exceed 5400 Mcf; and

(3) The well would have produced at a rate not exceeding the 60 Mcf limit had the well been continually open to the line during that period.

The Commission issued the interim rule to permit a well that produces over an average of 60 Mcf per production day for any 90-day production period to retain its stripper status if the increased production was caused by a temporary pressure buildup in the wellbore. In the interim rule, the Commission stated that this situation arises when a stripper well is temporarily shut-in to permit, for example, pipeline or wellhead maintenance or repair. During the shut-in days, pressure builds up in the wellbore. When the well is reopened to the line, gas is produced at a higher than normal rate of production, but the shut-in days do not qualify as "production days" for purposes of determining the well's rate of production (NGPA section 108(b)(3)). Consequently, the well's average rate of production may exceed the 60 Mcf limit, and the well would lose its stripper well classification because a fewer number of days are used to compute average daily production.

The interim rule also requires the jurisdictional agency to make a finding that the well would have produced within the stripper well limits if the well had been continually opened to the line. This requirement enables the jurisdictional agency to review each situation on a case-by-case basis. In addition, the jurisdictional agency must find that the total production for the relevant 90-day production period did not exceed 5400 Mcf. The Commission imposed this production ceiling to insure that the statutory production limit for stripper wells is not exceeded.

[18] The Oil and Gas Compact Bulletin, Volume XLI, Number 2, December 1982.

[19] The Commission is aware, however, that certain applicants have already made requests for waiver of the existing stripper well regulations. The Commission plans to address cases involving sales made prior to the Commission's final order described here on a case-by-case basis.

[20] Interim Rule under section 108 of the NGPA concering Temporary Pressure Buildup in Qualifying Stripper Wells, 46 FR 6901 (January 22, 1981).

[21] The Commission has previously recognized two situations in which a stripper well may exceed the 60 Mcf per production day limit without losing its stripper well status: seasonally affected production (§ 271.804(d)) and production increases due to recognized enhanced recovery techniques (§ 271.805(e)).

Eleven comments were filed in this docket and were generally supportive of the Commission's interim decision to recognize the continuing qualification of a legitimate stripper well. However, two commenters oppose the Commission's interim rule on statutory and administrative grounds; one believes the rule increases the administrative burden for stripper wells, and the other believes the Commission has no statutory authority to adopt this rule

The Commission disagrees with the commenters who oppose the interim rule on statutory and administrative grounds. Production from a well often varies as a result of a temporary pressure buildup in a well. A rule that ignores this fluctuation would place an undue administrative burden on producers, states and the Commission. The Commission believes that once a well qualifies as a stripper well, the provision permitting it to remain qualified as long as production does not exceed 5400 Mcf for a 90-day production period where the production was due to a temporary pressure buildup is both practical and within the spirit and intent of the law.

Four commenters suggest the 5400 Mcf limit effectively disqualifies stripper wells that usually produce near the 60 Mcf ceiling. These commenters note that the ceiling is unrelated to the rule's objective, and that the Commission should delete this requirement. The commission believes the 5400 Mcf ceiling is an appropriate restriction since the language in the NGPA imposes for a stripper well a maximum production ceiling of an average of 60 Mcf per production day during any 90-day production period.

Commenters also question whether a stripper well shut-in due to market conditions will qualify under the rules established in the interim rule. The commission recognizes that wells have been shut-in because of falling market demand for gas,[22] and notes that the reason for the shut-in is not a determining factor in the jurisdictional agency's determination that the shut-in resulted in a temporary pressure buildup.

Upon review of these comments, the Commission believes that the interim rule is consistent with the statutory requirements in section 108 and removes undue administrative burdens which may result when a stripper well experiences increased daily gas production as a result of a temporary pressure buildup. For these reasons, the Commission is adopting the interim rule as a final rule with two minor changes.

First, the Commission is amending the temporary pressure buildup regulations to clarify that the rule applies to wells for which a section 108 application has been filed at the jurisdictional agency, but which have not yet received a final determination. The existing regulations reach this same result because the petition for a temporary pressure buildup determination can be filed at any time after a notice of disqualification has been given for any well that disqualifies if an application for a section 108 determinations is pending at the jurisdictional agency.

Second, the Commission is rewording the regulations adopted in § 271.804(e)(2)(ii) to reflect the Commission's intent when it adopted the interim rule concerning disqualified stripper wells. One commenter requested the Commission clarify this rule. The interim rule was intended to apply to any previously qualifying stripper well, and defined this as any well which "has not been disqualified prior to the 90-day production period in which the temporary pressure buildup occurs." (§ 271.804(e)(2)(ii)). The commenter noted that this wording excludes any stripper well that disqualified, and subsequently requalified, prior to the temporary pressure buildiup period. Thus, the Commission is amending the language to clarify that a well is eligible under the rule if it is qualified for section 108 ceiling price at the time the temporary pressure buildup occurs, regardless of the existence of prior disqualification periods.

c. *Notice Requirements.* Since the Commission proposed to eliminate the filing of well category determination applications with the jurisdictional agency to requalify stripper wells, the Commission also proposed to amend the filing requirements for disqualification notices and protest petitions.

Currently, under § 271.805(a), the operator and purchaser are required to notify the appropriate jurisdictional agency, the Commission, and each otther, when a stripper well's production exceeds the 60 Mcf per production day limit. Since the operator will no longer have to receive a new section 108 determination in order to again be eligible to collect the section 108 ceiling price when production again falls to below stripper limits, that operator will no longer have to file a new section 108 application with the jurisdictional agency; consequently the jurisdictional agency does not need to receive a notice of the disqualification of that well.[23] The Commission, therefore, proposed to eliminate this requirement.

Commenters support eliminating the disqualification notice requirement to the jurisdictional agency, and one commenter suggests the Commission eliminate the disqualification notice completely. The Commission believes that stripper well production should be closely monitored and that the remaining disqualification notice requirements ensures this result. In addition, this requirement puts the purchaser and producer on notice that the production from the stripper well should not be priced at the section 108 rate. For this reason, the Commission is adopting the proposed rule which only eliminates the disqualification notice filing requirement to the jurisdictional agency.

In addition, the Commisssion proposed to amend § 271.805(b), by requiring that a copy of a petition filed under § 271.806 with the jurisdictional agency need be served only on the purchaser and not the Commission. Such petitions are either motions contesting a notice by a purchaser that a stripper well is disqualified, or petitions for a determination that the increased production is the result of an application of a recognized enhanced recovery technique, the result of seasonal fluctuation, or temporary pressure buildup. No commenters address this issue. The Commission is adopting this proposed rule since it believes that it is not necessary to forward a copy to the Commission because a copy of the petition is part of the determination sent later to the Commission by the jurisdictional agency.

In the Notice of Proposed Rulemaking, the Commission discussed stripper well requalifications, but did not propose any regulations concerning notification in the event of requalification. Several commenters request clarification of the requalification requirements, especially the notice and protest procedures. Commenters believe that it is primarily the seller's responsibility to notify the buyer that the well has requalified and to provide the necessary information to establish that the well is again in compliance with the section 108 requirements.

[22] Petition for Waiver of Rule, Independent Oil and Gas Asssociation of West Virginia, Ashland Exploration Inc., Docket No. GP82-45-000, filed June 11, 1982.

[23] The jurisdictional agency does however need to receive a notice of disqualification for a well that disqualifies as a seasonally affected well, since an operator must file a new application for a seasonally affected determination in that case. The Commission is therefore retaining the regulations that require the operator to file the notice of disqualification with the new application for a seasonally affected determination.

The Commission believes that although a notice of requalification may be important to the purchaser as well as to the producer, the issue of notice of requalification should be determined by the parties. Since the record keeping systems for each company are so varied, the Commission believes that the parties are in a better position to determine the issue of requalification notice. The Commission emphasizes that a stripper well's continuing qualification is based solely on the well's production activity and is not contingent upon the filing of notices of disqualification or requalification.[24] This policy ensures that the right to receive the maximum lawful price under section 108 is only determined by the well's production history.

Commenters also suggest that the Commission provide a procedure that allows a purchaser to challenge the requalification of a stripper well. The Commission agrees and is amending the disqualification protest procedures already established by the Commission in § 271.806(b) to include a requalification protest procedure.

The disqualification protest procedure in § 271.806(b) permits an operator to contest a purchaser's disqualification notice. This procedure grants a jurisdictional agency the right to consider this protest in accordance with the procedures it utilizes to make initial section 108 determinations. The Commission is expanding this procedure to include a requalification protest procedure. The Commission believes that a jurisdictional agency has the expertise to resolve any dispute arising concerning the levels of production of a stripper well, and the procedures already established in the regulations provide the necessary vehicle.

4. *Natural Gas Produced From Wells Below 15,000 Feet*

The price of natural gas produced from completion locations below 15,000 feet (deep gas) in wells whose surface drilling began on or after February 19, 1977, has been deregulated under section 121(b) of the NGPA. Section 107(c) of the NGPA requires, however, that a well category determination be made to ensure that the gas qualifies as deep gas.

The Commission currently requires an application to be filed for gas produced from each completion location below 15,000 feet. Thus, under current practice, a new application is required for gas produced from a completion location that is deeper than the completion location that already has been the subject of an affirmative determination that gas produced therefrom is deep gas. For example, if gas produced from a completion location at 15,500 feet already has been determined to be deep gas, the Commission's current practice requires that a new application be filed for gas produced from the same well at a completion location at 16,500 feet.

The Commission considers the second application in the above example unnecessary because gas produced from a completion location deeper than a completion location in the same well already determined to qualify under section 107(c)(1) must by definition also be deep gas. Thus, the Commission proposed to amend the regulations so that any application for a determination under section 107(c)(1) that gas is deep gas covers gas produced from the completion location named in the application and gas produced from any deeper completion location in the same well.

Commenters who address this issue support the Commission's proposal. However, two commenters state that the Commission should broaden this proposal by deleting the application requirement for gas produced from a completion location that is shallower than a completion location which has already received an affirmative section 107(c)(1) determination. The commenters note that the well completion or recompletion report indicates the depth of completion intervals and is adequate assurance that gas from an already deregulated deep gas well continues to be produced from below 15,000 feet.

The Commission does not agree with these comments. The filing requirements established in the regulations for these "uphole completions" are necessary to enable the jurisdictional agencies to verify that the completion location is below 15,000 feet. The jurisdictional agency must review the well completion report and relevant portions of the well log to corroborate the depth of the completion location. The Commission believes these requirements should be retained.

The Commission is adopting the proposed rule which provides that an application for a section 107(c)(1) determination covers gas produced from the completion location named in the application and gas produced from any deeper completion location in the same well.

The amendments adopted in this final rule are prospective in operation. Therefore, gas produced from a completion location deeper than the completion location designated in the determination is eligible for the section 107 deregulated price without the filing of another application beginning on the date this final order becomes effective.

B. Reduction in Filing Requirements

In addition to eliminating the applications discussed above, the Commission is reducing the information to be filed with some applications by eliminating the filing of various types of geographic information and certified copies of certain records. Comments generally support the proposals in this regard.

1. *New Natural Gas Under Section 102(c)(1)(B)(ii)*

Natural gas qualifies as "new natural gas" under section 102 if the well producing the gas is 1,000 feet below the deepest completion location of each marker well [25] within 2.5 miles of the new well. To establish that this geographic test is met, the Commission's regulations require that applicants file, among other things, the following:

(1) A directional drilling survey, if required by the jurisdictional agency;

(2) A location plat;

(3) A list identifying the location and depth of the subject well relative to all marker wells within 2.5 miles of the subject well; and

(4) Oath statements by the applicant that the 1000 foot geographic test is met.

Based on its experience in implementing section 102, the Commission believes that the burden imposed by these requirements can be reduced without compromising its obligations under the NGPA. Accordingly, the Commission proposed to eliminate the requirements that location plats and directional drilling surveys be filed.[26]

Two commenters address the Commission's proposal to eliminate the location plats. One commenter supports the Commission's proposal noting that the Commission could rely on the applicant's oath statement to ensure compliance with the NGPA. The other commenter is not persuaded that the

[24] Failure to comply, however, with the disqualification notice requirements is a violation of the Commission's regulations and may result in the assessment of penalties set forth in section 504 of the NGPA. 15 U.S.C. 3413(c)(2) (Supp. V 1981).

[25] NGPA section 2(5)(A) defines "marker well" as any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before April 20, 1977. 15 U.S.C. 3301(5)(A) (Supp. V 1981).

[26] Under the Commission's regulations, a jurisdictional agency may require additional information beyond that required by the Commission. 18 CFR 274.201(c) (1983). These proposals are intended to affect only that information filed for the Commission's purposes, and not to alter a jurisdictional agency's authority to require additional information.

producer's oath statement is a sufficient substitute for the location plat.

The Commission believes that it can eliminate the location plats and directional drilling surveys from the filing requirements for a section 102(c)(1)(B)(ii) determination, since the possibility of a Commission audit of the producer and jurisdictional agency records, in conjunction with the producer's oath statement, will ensure compliance with the statute. The degree of added assurance of compliance given by the plats and surveys is outweighed by the filing burden to the producer.

In order to substantiate that the well qualifies under the 1,000 foot deeper test, the Commission also proposed that an applicant identify only the depth of the *deepest* completion location of any marker well located within 2.5 miles of the subject well. Under the current regulations, the applicant must identify the depth of *all* marker wells. Since the determination well must be 1,000 feet deeper than the deepest marker well completion location, only the marker well with the deepest completion location is relevant. The commenters do not address this issue. The Commission continues to believe that the substituted 1,000 foot deeper requirement in addition to the other filing requirements and field audits are sufficient to ensure compliance with section 102(c)(1)(B)(ii) of the NGPA and is adopting the rule as proposed.

2. *New Onshore Reservoir Under Section 102(c)(1)(C)*

Under section 102(c)(1)(C) of the NGPA, natural gas produced from a reservoir which did not produce natural gas in commercial quantities before April 20, 1977,[27] qualifies as "new natural gas" under section 102 of the NGPA. To establish that the gas is produced from such a reservoir, § 274.202(d)(1)(ii) of the Commission's regulations requires that an applicant provide "[g]eological information sufficient to support a determination that the reservoir is a new onshore reservoir."

In many instances, the information submitted by applicants duplicates information previously filed with the jurisdictional agency for the purpose of establishing that this reservoir is a new reservoir, as defined in the NGPA, or new field for state regulatory purposes. In lieu of submitting geological information which has already been submitted to the jurisdictional agency, the Commission proposed allowing an applicant to file a copy of any state order designating a new reservoir or granting new field status to a reservoir in which a well is completed and for which the determination is sought.

Two commenters support the Commission's proposal and agree with the Commission that a copy of a state order designating new reservoir status to a reservoir is adequate for NGPA compliance purposes. The Commission believes that where the state order exists, the Commission can rely on this order for the purposes of reviewing determinations made under section 102(c)(1)(C) to see if they are supported by substantial evidence in the record,[28] and is adopting this proposal in the final rule. The Commission notes, however, that if no state order exists designating a new reservoir status to a reservoir in which a well is completed, the applicant must still submit sufficient geological information to satisfy the filing requirements.

3. *Tight Formation Gas Under Section 107(c)(5)*

Under section 107(c)(5) of the NGPA, the Commission has designated natural gas produced from geological formations known as "tight formations" as high-cost gas.[29] Tight formation gas is eligible for a special incentive price if it meets certain qualifications. One of these qualifications is established by the present requirement that an applicant file a map showing that the well for which the well category determination is sought is located within a designated tight formation. 18 CFR 274.205(e)(1)(ii) and 274.205(e)(2)(iii) (1983).

The Commission has on file the geographic descriptions of all designated tight formations and incorporates the delineation of the tight formation in its regulations at section 271.703(d). The jurisdictional agencies which recommend the tight formations to the Commission also have access to this data. With the tight formation description and the precise well location designated on the well completion report which must be filed with an application, the Commission believes it can determine whether the well is located within the tight formation boundaries. Accordingly, the Commission proposes to eliminate the map filing requirement for both new tight formation gas and recompletion tight formation gas applications.

Three commenters address this issue and support the Commission's proposal. One commenter notes that more accurate information describing the location of the well can be found in the well completion report which must be filed as part of the application.

For the reasons stated above, the Commission is adopting the proposal which eliminates the map filing requirements for both new tight formation gas and recompletion tight formation gas.

4. *Certified Copies*

Many of the Commission's regulations implementing the NGPA require an applicant to submit "certified copies of records relied on by the applicant," if the jurisdictional agency so requires. The Commission believes that it is not necessary for its regulations to authorize jurisdictional agencies to require certified copies. If a jurisdictional agency determines that such information is necessary, it may require the filing of that information pursuant to § 274.201(c) of the Commission's regulations. Accordingly, the Commission proposed deleting this requirement from the various sections in which it is contained.[30] The comments did not address this issue. The Commission is adopting this proposal in the final rule.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[31] requires certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities."[32] The Commission is not required to make an RFA analysis if it certifies that a rule will not have a "significant economic impact on a substantial number of small entities".[33]

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the appropriate RFA definition.[34] This rule

[27] Qualification under section 102(c)(1)(C) is subject to the behind-the-pipe and withheld gas exclusions. Section 102(c)(1)(C) (ii) and (iii), 15 U.S.C. 3312(c)(1)(C) (ii) and (iii) (Supp. V 1981).

[28] The Commission has already approved alternative filing requirements for applications filed with the Railroad Commission of Texas which are the same as the proposed requirements for new natural gas and new onshore reservoirs. 18 CFR 274.208(d) (1983). Because this rule makes these requirements unnecessary, they are being deleted in this final order.

[29] Regulations Covering High-Cost Natural Gas Produced from Tight Formations, 45 FR 56,034 (August 22, 1980), (Order No. 99).

[30] This requirement appears in the following sections of the Commission's regulations: § 274.202(c)(1)(vii); § 274.202(c)(2)(viii); § 274.202(d)(1)(vii); § 274.203(g); § 274.204(e); § 274.205(a)(6); § 274.205(b)(6); § 274.205(c)(6); § 274.205(d)(6); § 274.205(f)(10); § 274.206(a)(11); § 274.206(b)(6); § 274.206(c)(7); § 274.206(d)(6); § 274.206(e)(8); § 274.208(a)(1)(v); § 274.208(b)(1)(v); § 274.208(c)(1)(v); § 274.208(d)(1)(viii); and § 274.208(e)(1)(v).

[31] 5 U.S.C. 601 through 612 (Supp. V 1981).

[32] *Id.* at section 603(a).

[33] *Id.* at section 605(b).

[34] *Id.* at section 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981).

Continued

could affect most of these entities by eliminating filing requirements that are unnecessary. This rule does not impose any additional regulatory burdens. Thus, while this rule has a beneficial impact on small entities, the Commission believes that this impact will not be "significant." Accordingly, the Commission certifies that this rule, will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act and Effective Date

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3502 (Supp. V. 1981), and OMB's regulations, 48 FR 13,666, 13,694 (1983) (to be codified at 5 CFR Part 1320). OMB has 60 days, which it can extend to 90 days by notifying the Commission, to approve, modify, or disapprove these information collection provisions. Inquiries relating to the information collection provisions in this rule can be made to: Nancy M. Rizzo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Comments on these information collection provisions should be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

This rule will become effective November 28, 1983. If OMB's approval and control number has not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981))

List of Subjects

18 CFR Part 271

Natural gas, Incentive prices

18 CFR Part 274

Natural gas, Incentive prices.

In consideration of the foregoing, the Commission is amending Parts 271 and 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. Section 271.303 is amended by revising it to read as follows:

§ 271.303 Definition of new, onshore production well.

(a) For purposes of this subpart, the term "new, onshore production well" means a well which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be a new, onshore production well (as defined in section 103(c) of the NGPA).

(b) A determination that gas is produced from a well that qualifies as a "new, onshore production well" applies to:

(1) Any natural gas produced from any completion location for which the applicable state or federal agency grants a well completion permit, provided the completion location is the first completion location in the proration unit and the surface drilling of the well began on or after February 19, 1977; or

(2) Any natural gas for which a finding has been made under § 271.305 of this subpart.

2. In § 271.804, A. paragraph (e)(2) is revised to read as follows:

§ 271.804 Special Rules.

* * * * *

(e) * * *

(2) A previously qualifying stripper well is a well which:

(i) Has been determined by a jurisdictional agency to qualify as a stripper well pursuant to this subpart, or is the subject of a pending application before a jurisdictional agency, and

(ii) If disqualified, has requalified prior to the 90-day production period in which the temporary pressure buildup occurs.

* * * * *

B. New paragraph (f) is added to read as follows:

§ 271.804 Special Rules.

* * * * *

(f) *Enhanced recovery technique wells.* An enhanced recovery technique cannot be applied to a well during any 90-day production period in which the production exceeds an average of 60 Mcf per production day.

3. In § 271.805, paragraphs (a) through (d) are revised, paragraph (e) is designated as (g), and new paragraphs (e) and (f) are added, all to read as follows:

§ 271.805 Continuing qualification.

(a) *General Rule for Qualification.* The maximum lawful price specified in § 271.802 shall apply to gas produced from:

(1) A well for which an application has been filed under Part 274 or a determination has been made under Part 274 that the well produced nonassociated natural gas at a rate not exceeding an average of 60 Mcf per production day for a 90-day production period; or

(2) A well for which an application has been filed under Part 274 or has been designated a seasonally affected well (as defined by § 271.803(b) of this subpart) at a rate not exceeding an average of 60 Mcf per production day for any 12-month period.

(b) *General Rule for Disqualification.* The maximum lawful price specified in § 271.802 shall not apply to a well otherwise qualified under paragraph (a) of this section which produces an average of more than 60 Mcf of natural gas per production day for any 90-day production period or any 12-month production period for seasonally affected wells without regard to the production of crude oil. The ceiling price for gas produced from such a disqualified well shall be the otherwise applicable maximum lawful price.

(c) *General Rule for Requalification.* The maximum lawful price specified in § 271.802 shall apply to natural gas produced from a well which was qualified under paragraph (a)(1) of this section but was disqualified under paragraph (b) of this section provided the production from that well decreases to a level not exceeding an average of 60 Mcf of natural gas per production day for a new 90-day production period without regard to the production of crude oil. An application to a jurisdictional agency is not required to requalify under this paragraph. Natural gas produced from a well which was qualified under paragraph (a)(2) of this section but was disqualified under paragraph (b) of this section can requalify as stripper well natural gas under this section but only be requalified as natural gas produced from a seasonally affected well by receiving a new jurisdictional agency seasonally affected determination that the natural gas qualifies under § 271.804(d) of this subpart.

(d) *Notice of disqualification.* (1) Unless exempt under § 271.804(d)(3), the operator and any purchaser of natural gas shall give written notice if a well has been disqualified under paragraph (b) of this section.

(2) Notice required under paragraph (d)(1) of this section shall be given within 90 days after the last day of the 90-day or the 12-month production period in which the increased production of natural gas occurred.

(3) Such notice shall be served on the Commission and on the operator and any purchaser, as appropriate.

(e) *Petition under § 271.806.* (1) The operator or purchaser may file with the jurisdictional agency:

(i) A motion contesting the disqualification or requalification under paragraph (b) or (c) of this section, and include a copy, if applicable, of the notice filed under paragraph (d) in the motion;

(ii) A petition for a determination under § 271.806 that the increased production of natural gas is:

(A) The result of the application of an enhanced recovery technique;

(B) If the well has not been designated as seasonally affected, the result of seasonal fluctuations; or

(C) The result of pressure buildup which occurred when the well was temporarily shut-in.

(2) A petition or motion filed under paragraph (e)(1) of this section may be filed at any time after notice is given under paragraph (d) of this section. A copy of the petition or motion and of the notice required under paragraph (d)(1) of this section shall be provided to the purchaser or operator, as appropriate.

(f) *Collection subject to refund.* An operator who files a petition or motion under paragraph (e) of this section may collect, subject to refund, the maximum lawful price set forth in §271.802:

(1) from the last day of the 90-day or the 12-month production period in which production from the well exceeded an average of 60 Mcf per production day, if such petition or motion is filed within 150 days of the last day of such 90-day or 12-month period or

(2) from the date such petition or motion is filed in all other cases.

(g) *Filing requirements for increased production based on enhanced recovery techniques.* * * *

4. In § 271.806, paragraph (b) is revised to read as follows:

§ 271.806 Jurisdictional agency determinations and Commission review.

* * * * *

(b) *Motion contesting a disqualification or a requalification.* The jurisdictional agency shall treat a motion contesting a disqualification or a requalification under § 271.805(e)(1)(i) as if it were an application for initial determination and shall comply with the application provisions of Subpart A of Part 274 of this chapter.

* * * * *

PART 274—[AMENDED]

5. In § 274.104, paragraph (a), introductory text, is revised and a new paragraph (c) is added to read as follows:

§ 274.104 Notice to the Commission.

(a) *Affirmative determinations.* Except as provided in paragraph (c) of this section, within 15 days after making a determination that natural gas qualifies under this part for a maximum lawful price, the jurisdictional agency shall give written notice of such determination to the Commission. Unless alternative notice requirements under § 274.207 have been approved, such notice shall include the following:

* * * * *

(c) *Affirmative determinations under section 102(c)(1)(A).* Notification to the Commission by the U.S. Department of the Interior Minerals Management Service of OCS leases issued on or after April 20, 1977, will constitute a determination that natural gas produced from such lease qualifies as new natural gas under section 102(c)(1)(A). Such notification shall be given within 60 days after the grant of a new OCS lease and shall include the lease number, the area and block number, and the date on which the lease was issued by the Secretary of the Interior. Such notification will be treated as a notice of determination under Part 275.

6. In § 274.202, paragraph (a)(1) is removed; paragraphs (a)(2) and (a)(3) are redesignated as (a)(1) and (a)(2); paragraph (b) is removed; paragraphs (c) through (e) are redesignated as (b) through (d); and a new paragraph (e) is added to read as follows:

§ 274.202 New natural gas.

* * * * *

(e) *Determinations under section 102(c)(1)(A).* Once notification to the Commission by the U.S. Department of the Interior Minerals Management Service is made in accordance with § 274.104(c) of this Part, no further filings are required to qualify natural gas subject to section 102(c)(1)(A).

§ 274.202 [Amended]

7. Section 274.202(a) is further amended by:

A. In newly redesignated paragraph (a)(1), the reference to "paragraph (c)" is revised to read "paragraph (b)"; and

B. In newly redesignated paragraph (a)(2), the reference to "paragraph (d)" is revised to read "paragraph (c)".

8. In § 274.202, newly redesignated paragraph (b) is amended as follows:

A. In paragraph (b)(1)(vi), the reference to "; and" is revised to read ".";

B. Paragraph (b)(1)(vii) is removed;

C. Paragraph (b)(2) (iv), (v), and (viii) are removed;

D. Paragraphs (b)(2) (vi) and (vii) are redesignated as (b)(2) (iv) and (v) respectively;

E. In newly redesignated paragraph (b)(2)(v), the reference to "; and" is revised to read ".";

F. Paragraph (b)(2)(iii) is revised to read as follows:

§ 274.202 New Natural Gas.

* * * * *

(b) * * *

(2) * * *

(iii) Identification of the deepest completion location of the marker well with the deepest completion location of all marker wells located within 2.5 miles of the well for which the determination is sought;

* * * * *

§ 274.202 [Amended]

9. In § 274.202, newly redesignated paragraph (c) is amended and revised as follows:

A. Paragraph (c)(1)(vii) is removed; and

B. Paragraph (c)(1)(ii) is revised to read as follows:

§ 274.202 New Natural Gas.

* * * * *

(c) * * *

(1) * * *

(ii)(A) A copy of the state order issued on or after April 20, 1977, designating new field or reservoir status to the subject reservoir, or

(B) If a state order is not available, such geological information shall be submitted which includes to the extent reasonably available to the applicant at the time the application is filed:

(*1*) Well logs;

(*2*) Bottom hole or surface pressmure surveys;

(*3*) Well potential tests;

(*4*) Formation structure maps;

(*5*) Subsurface cross-section charts; and

(*6*) Gas analyses.

If any of the information specified in paragraph (c)(1)(ii)(B) (*1*) through (*6*) of this section has already been filed in a previous application for determination with the same jurisdictional agency, and such application and determination of eligibility for such application are on file with the Commission, the applicant may submit, in lieu of such information, a

statement identifying such information and the application by jurisdictional agency docket number, FERC docket or control number, and the API well number.

* * * * *

C. In paragraph (c)(1)(v), the reference to "§ 272.202(e)" is revised to read "§ 274.202(d)";

D. In paragraph (c)(1)(vi), the reference to "paragraphs (d)(2) and (e)" is revised to read "paragraphs (c)(2) and (d)"; and the reference to "; and" is revised to read ".";

E. In paragraph (c)(2), the reference to "paragraph (e)" is revised to read "paragraph (d)";

F. In paragraph (c)(2)(ii)(A), the reference to "paragraph (d)(1)(i)" is revised to read "paragraph (c)(2)(i)";

G. In paragraph (c)(2)(ii)(B), the references to "paragraph (d)(1)(ii)(A)" are revised to read "paragraph (c)(2)(ii)(A)";

H. In paragraph (c)(2)(ii)(C), the reference to "paragraph (d)(1)(ii)(B)" is revised to read "paragraph (c)(2)(ii)(B)" and the reference to "paragraph (d)(1)(ii)(A)" is revised to read "paragraph (c)(2)(ii)(A)";

I. In paragraph (c)(2)(ii)(D), the reference to "paragraph (d)(1)(ii)(C)" is revised to read "paragraph (c)(2)(ii)(C)";

J. In paragraph (c)(2)(ii)(D)(*2*), the reference to "paragraph (d)(2)(ii)(A)" is revised to read "paragraph (c)(2)(ii)(A)"; and

K. In paragraph (c)(2)(iii)(B), the reference to "paragraph (d)(2)(iii)(A)" is revised to read "paragraph (c)(2)(iii)(A)".

§ 274.203 [Amended]

10. In § 274.203, paragraph (g) is removed.

§ 274.204 [Amended]

11. In § 274.204,

A. Paragraph (e) is removed;

B. Paragraphs (f) and (g) are redesignated as (e) and (f) respectively;

C. In paragraph (d)(3), the reference to "paragraphs (f) and (g)" are revised to read "paragraphs (e) and (f)";

D. In newly redesignated paragraph (e), the reference to "paragraphs (a) through (e)" is revised to read "paragraphs (a) through (d)".

§ 274.205 [Amended]

12. Section 274.205 is amended by removing paragraph (a)(6); by removing paragraphs (b)(6), (c)(6), (d)(6), and (f)(10); by removing paragraphs (e)(1)(ii); by redesignating (e)(1) (iii) and (iv) as (e)(1) (ii) and (iii) respectively; and by removing (e)(2) (iii) and redesignating (e)(2) (iv) and (v) as (e)(2) (iii) and (iv) respectively.

13. In § 274.205, paragraph (a) is revised to read as follows:

§ 274.205 High-Cost Natural Gas.

(a) *Deep, high-cost natural gas.* (1) A person seeking a determination for purposes of Part 272 that natural gas is deep, high-cost natural gas shall file an application with the jurisdictional agency. An application filed under this paragraph shall cover natural gas produced from the completion location identified in the application and any deeper location that may be completed after the date of the application.

(2) An application required by paragraph (a)(1) of this section shall contain the following items:

(i) FERC Form No. 121;

(ii) All well completion reports for the well for which a determination is sought;

(iii) The log heading together with the relevant portion of the well log or well servicing company reports or such other information which will corroborate the depth of the completion location reported in the well completion report;

(iv) Directional drilling surveys, if available; and

(v) A statement by the applicant, under oath, that the surface drilling of the well for which the applicant seeks a determination began on or after February 19, 1977, that the well completion location is located at a true vertical depth of more than 15,000 feet, and that the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusions.

* * * * *

§ 274.206 [Amended]

14. In § 274.206, paragraphs (a)(11), (b)(6), (c)(7), (d)(6), and (e)(8) are removed.

§ 274.206 [Amended]

15. Section 274.206 is amended as follows:

A. In paragraph (b)(5), the reference to "§ 271.805(a)(3)" is revised to read "§ 271.805(d)(3)";

B. In paragraph (c), the reference to "§ 271.805(e)" is revised to read "§ 271.805(g)";

C. In paragraph (e)(2)(ii), the reference to "§ 271.805(a)" is revised to read "§ 271.805(d)";

16. In § 274.206, paragraphs (e)(2) (i), (f), introductory text, and (f)(2) (i) and (ii), are revised to read as follows:

§ 274.206 Stripper Well Natural Gas.

* * * * *

(e) * * *

(2) * * *

(i) The original determination qualifying the well as a stripper well or the pending application before a jurisdictional agency, and

* * * * *

(f) *Motion contesting a disqualification or requalification.* An operator or purchaser seeking a determination under § 271.806(b), of a motion contesting a disqualification or requalification, shall file:

* * * * *

(2) * * *

(i) The original determination qualifying the well as a stripper well or the pending application for the stripper well determination, and

(ii) If applicable, the notice of disqualification filed by the purchaser pursuant to § 271.805(d);

* * * * *

§ 274.208 [Amended]

17. In § 274.208,

A. Paragraph (a)(1)(v) is removed and paragraph (a)(1)(vi) is redesignated as (a)(1)(v);

B. Paragraph (b)(1)(v) is removed and paragraph (b)(1)(vi) is redesignated as (b)(1)(v);

C. In paragraph (b)(2)(i), the reference to "(v)" is revised to read "(iv)".

D. Paragraph (c)(1)(v) is removed and paragraph (c)(1)(vi) is redesignated as (c)(1)(v);

E. Paragraph (d) is removed;

F. Paragraph (e) is redesignated as paragraph (d);

G. Newly redesignated paragraph (d)(1)(v) is removed and newly redesignated paragraph (d)(1)(vi) is redesignated as (d)(1)(v).

§§ 274.205 and 274.206 [Amended]

18. In § 274.205(b)(5), § 274.205(c)(5), § 274.205(d)(5), § 274.205(f)(9)(ii), § 274.206(b)(5), § 274.206(c)(6), and § 274.206(d)(5), the reference to "; and" is revised to read ".".

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7914]

Income Taxes; Tax Treatment of Capital Gains for Purposes of the Foreign Tax Credit Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the tax treatment of capital gains for purposes of computing the foreign tax credit limitation with respect to changes made by the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations provide the public with guidance needed to comply with these provisions.

DATE: The regulations are generally effective for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1983, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 904(b) of the Internal Revenue Code of 1954 (48 FR 668). All of the amendments were proposed to conform to changes made by sections 1031(a), 1031(c), 1034(a) and 1034(b) of the Tax Reform Act of 1976 and section 403(c)(4) (A) and (B) and section 701(u)(2) (A), (B), (C), and (D), and (u)(3) (A) and (B) of the Revenue Act of 1978. A public hearing was neither requested nor held. After careful consideration of all comments received regarding the proposed amendments, the regulation is adopted as proposed by this Treasury decision with the following changes. Paragraphs (b)(1), (b)(3) and (b)(6) of § 1.904(b)-1 and paragraph (b) of § 1.904(b)-2 were revised to make clear that section 904(b) (except as otherwise provided under section 904(b)(3)) applies to all gains which are treated as capital gains under any section of the Internal Revenue Code. Paragraph (b)(8) of § 1.904(b)-1 was revised to provide that, in computing the foreign tax credit limitation fraction, section 1231 gains and losses from sources both within and without the United States are aggregated and that the character of the gain or loss thus determined is to apply in computing both the numerator and denominator of the foreign tax credit limitation fraction. A minor, clarifying change was also made under paragraph (c) of § 1.904(b)-3.

Regulatory Flexibility Act and Executive Order 12291

The Service has concluded that the regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. Chapter 6]. The Commissioner of Internal Revenue has also determined that this regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these regulations is Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR [66] 1.861-1 Through 1.997-1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 which were set forth in the Notice of Proposed Rulemaking appearing in the **Federal Register** of January 6, 1983 (48 FR 668), are hereby adopted as set forth below.

PART 1—[AMENDED]

The following §§ 1.904(b)-1, 1.904(b)-2, 1.904(b)-3, and 1.904(b)-4 are added immediately following § 1.904-5 to read as set forth below:

§ 1.904(b)-1 Treatment of capital gains for corporations.

(a) *In general.* For purposes of computing the foreign tax credit limitation of corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income of a corporation from sources without the United States includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Foreign source capital gain net income (as defined in paragraph (b)(2) of this section), reduced by

(ii) The rate differential portion (as defined in paragraph (b)(5) of this section) of foreign source net capital gain (as defined in paragraph (b)(4) of this section).

(2) *Inclusion in entire taxable income.* The entire taxable income of a corporation includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Capital gain net income (as defined in paragraph (b)(1) of this section), reduced by

(ii) The rate differential portion of net capital gain (as defined in paragraph (b)(3) of this section).

(3) *Treatment of capital losses.* The taxable income of a corporation from sources without the United States shall be reduced by an amount equal to—

(i) Any net capital loss (as defined in paragraph (b)(6) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income for the taxable year, less

(ii) An amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain (from all sources).

(b) *Definitions.* For purposes of section 904(b) and §§ 1.904(b)-1 through (b)-3, the following definitions shall apply:

(1) *Capital gain net income.* The term "capital gain net income" means the excess of the gains from the sales or exchanges of capital assets over the losses from such sales or exchanges. Such term shall include net section 1231 gain, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains. In determining capital gain net income, gains and losses which are not from the sale or exchange of capital assets but which are treated as capital gains and losses under the Internal Revenue Code are included.

(2) *Foreign source capital gain net income.* The term "foreign source capital gain net income" means the lesser of—

(i) Capital gain net income from sources without the United States, or

(ii) Capital gain net income (from all sources).

(3) *Net capital gain.* The term "net capital gain" means the excess of the net long-term capital gain (including net section 1231 gain) for the taxable year over the net short-term capital loss for such year, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains. In determining net capital gain, gains and losses which are not from the sale or exchange of capital assets but which are treated as capital gains and losses under the Internal Revenue Code are included.

(4) *Foreign source net capital gain.* The term "foreign source net capital gain" means the lesser of—

(i) Net capital gain from sources without the United States, or

(ii) Net capital gain (from all sources).

(5) *Rate differential portion.* The term "rate differential portion" of foreign source net capital gain,

or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).

(6) *Net capital loss.* Except as provided in § 1.904(b)–2(b), the term "net capital loss" means the excess of the losses from sales and exchanges of capital assets over the sum allowed under section 1211. For purposes of paragraph (a) of this section, the term "net capital loss" includes any amounts which are short-term capital losses under section 1212(a). Net capital losses do not include losses from the sales or exchanges of capital assets which are not treated as capital losses under the Internal Revenue Code. In determining net capital loss, gains and losses which are not from the sale or exchange of capital assets but which are treated as capital gains and losses under the Internal Revenue Code are included.

(7) *Allocation and apportionment.* For purposes of this section and §§ 1.904 (b)–2 and (b)–3, the rules under § 1.861–8(e)(7) with respect to the allocation and apportionment of losses are to be applied with respect to losses on the sale, exchange or other disposition of property.

(8) *Computation of net section 1231 gain.* For purposes of this section and § 1.904(b)–2, the netting of section 1231 gains and losses is determined by aggregating the gains and loss from sources both within and without the United States. The gain or loss determined by this aggregation determines the character of the section 1231 gains (and losses allocable or apportionable thereto) from sources without the United States and from all sources for purposes of computing the foreign tax credit limitation fraction.

(c) *Illustrations.* The principles of paragraph (a) of this section may be illustrated by the following examples:

Example (1). Corporation A had the following business taxable income, capital gains and capital losses for 1979:

	In thousands		
	For eign source	U.S. source	All sources
Business income	$1,200	$2,000	$3,200
Long-term capital gain	300	200	500
Long-term capital loss	0	400	400
Short-term capital gain	100	400	500
Short-term capital loss	200	300	500

For purposes of computing the foreign tax credit limitations, the foreign source taxable income and the entire taxable income of A are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$300	$100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	100	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a)$200	(b)$100
Net capital gain	(c)200	(d)100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $100,000, and foreign source net capital gain is $100,000.

Step (4) Compute taxable income from sources without the United States, using $^{18}/_{46}$ as the rate differential portion, as follows:

Foreign business income + Foreign source capital gain net income $-{}^{18}/_{46}$ (foreign source net capital gain)

$1,200,000 + $100,000 $-{}^{18}/_{46}$ ($100,000) (39,130)=$1,260,870

Step (5) Compute the entire taxable income as follows:

Business income + Capital gain net income $-{}^{18}/_{46}$ (net capital gain)

$3,200,000 + $100,000 $-{}^{18}/_{46}$ ($100,000) (39,130)=$3,260,870

Example (2). Corporation B had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	For-eign source	U.S. source	All sources
Business income	$1,200	$2,000	$3,200
Long-term capital gain	300	200	500
Long-term capital loss	500	100	600
Short-term capital gain	600	200	800
Short-term capital loss	100	200	300

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of B are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	$200	$100
Net short-term capital gain	500	500
Net short-term capital loss	0	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $300	(b) $400
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $300,000 and foreign source net capital gain is zero.

Step (4) Compute taxable income from sources without the United States, using $^{18}/_{46}$ as the rate differential portion, as follows:

Foreign business income+Foreign source capital gain net income$-{}^{18}/_{46}$ (foreign source net capital gain)

$1,200,000+300,000$-{}^{18}/_{46}$ (0)=$1,500,000

Step (5) Compute the entire taxable income as follows:

Business income+Capital gain net income$-{}^{18}/_{46}$ (net capital gain)

$3,200,000+$400,000$-{}^{18}/_{46}$ (0)=$3,600,000

Example (3). Corporation C had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	For-eign source	U.S. source	All sources
Business income	$1,200	$2,000	3,200
Long-term capital gain	200	500	700
Long-term capital loss	600	100	700
Short-term capital gain	300	400	700
Short-term capital loss	500	100	600

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of C are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	$400	0
Net short-term capital gain	0	$100
Net short-term capital loss	200	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain which is the lesser of (a) or (b) and the lesser of (c) or (d) respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($600,000) and the capital gain net income from sources within the United States ($700,000). In this case, $600,000 of net capital loss allocable or apportionable to sources without the United States reduces $600,000 of net long and short-term capital gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $400,000 and net capital gain is zero, so an amount equal to 18/46 multiplied by $400,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net captial gain) − paragraph (a)(3)(i) adjustment − paragraph (a)(3)(ii) adjustment

$$\$1,200,000+0-0-\$600,000+\tfrac{18}{46}\frac{(\$400,000)}{(\$156,522)}=\$756,522$$

(ii) The entire taxable income is as follows:

Business income + Capital gain net income—18/46 (net capital gain)

$3,200,000 + $100,000 − 0 = $3,300,000

Note that no adjustment under paragraph (a)(3) is made with respect to the denominator.

Example (4). Corporation D had the following gains, and capital losses in business taxable income, capital 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$2,000	$2,500	$4,500
Long-term capital gain	100	200	300
Long-term capital loss	100	100	200
Short-term capital gain	300	400	700
Short-term capital loss	800		800

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionate to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	500	100

Step (2) Next compute capital gain net income and net capital gain from sources with the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) 0
Net capital gain	(c) 0	(d) 0

Step (3) Next compute foreign source capital net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long- and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($500,000), and the capital gain net income from sources within the United States ($500,000). In this case, $500,000 of net capital loss allocable or apportionable to sources without the United States reduces $500,000 of net long- and short-term gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $100,000 and the net capital gain is zero, so an amount equal to 18/46 multiplied by $100,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign business income + Foreign source capital gain net income −18/46 (foreign source net capital) gain − (paragraph (a)(3)(i) adjustment − paragraph (a)(3)(ii) adjustment)

$$\$2,000,000+0-0-\$500,000+18/46\ \overset{(\$100,000)}{(\$39,130)} = \$1,539,130$$

(ii) The entire taxable income is determined as follows:

Business income + Capital gain net income − 18/46 (net capital gain)

$4,500,000 + 0 − 0 = $4,500,000

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§ 1.904(b)–2 Treatment of capital gains for other taxpayers.

(a) *In general.* For purposes of computing the foreign tax credit limitation of persons other than corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income (as defined in paragraph (b)(2) of § 1.904(b)–1), reduced by an amount determined by multiplying foreign source net capital gain (as defined in paragraph (b)(4) of § 1.904(b)–1) by the percentage specified under section 1202(a).

(2) *Inclusion in entire taxable income.* The entire taxable income of a taxpayer other than a corporation shall include gains from the sale or exchange of capital assets only to the extent of capital gain net income (as defined in paragraph (b)(1) of § 1.904(b)–1), reduced by an amount determined by multiplying net capital gain (as defined in paragraph (b)(3) of § 1.904(b)–1) by the percentage specified under section 1202(a).

(3) *Treatment of capital losses.* The taxable income from sources without the United States shall be reduced by:

(i) Any net capital loss (as defined in paragraph (b) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income, less

(ii) An amount equal to the excess of net capital gain from sources within the United States over net capital gain, multiplied by the percentage specified under section 1202(a).

(b) *Definition of net capital loss.* For purposes of paragraph (a) of this section, the term "net capital loss" means the excess of the losses from the sale or exchange of capital assets treated as capital losses under the Internal Revenue Code and any carryforward as determined under section 1212 over the amount allowed under section 1211(b). In determining net capital loss, gains and losses which are not from the sale or exchange of capital assets but which are treated as capital gains and losses under the Internal Revenue Code are included.

(c) *Illustrations.* The principles of paragraph (a) of this section are illustrated by the following examples:

Example (1). X, an individual, has $1,500,000 of foreign source taxable income and $2,500,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$300	$500	$800
Long-term capital loss	100	500	600
Short-term capital gain	100	400	500
Short-term capital loss	100	200	300

For purposes of computing the foreign tax credit limitation, for foreign source taxable income and the entire taxable income of X are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$200	$200
Net long-term capital loss	0	0
Net short-term capital gain	0	200
Net short-term capital loss	0	0

Step (2) Next compute capital gain net income and net capital gain from sources without United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $200	(b) $400
Net capital gain	(c) 200	(d) 200

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $200,000 and foreign source net capital gain is $200,000.

Step (4) Compute taxable income from sources without the United States, using 0.60 as the percentage specified in section 1202(a), as follows:

Foreign taxable income (exclusive of capital gains and losses) + Foreign source capital gain net income − 0.60 (foreign source net capital gain)

$1,500,000 + $200,000 − 0.60($200,000) = $1,580,000

Step (5) Compute the entire taxable income as follows:

Taxable income (exclusive of capital gains and losses) + Capital gain net income − 0.60 (net capital gain)

$4,000,000 + $400,000 − 0.60 ($200,000) ($120,000) = $4,280,000

Example (2). Y, an individual, has $2,000,000 of foreign source taxable income and $3,000,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$200	$800	$1,000
Long-term capital loss	700	100	800
Short-term capital gain	100	300	400
Short-term capital loss	300	200	500

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of Y are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the United States	All sources
Net long-term capital gain	0	$200
Net lon-term capital loss	$500	0
Net short-term capital gain	0	0
Net short-term capital loss	200	100

Step (2) Next compute the capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the United States	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is also zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($700,000) and the capital gain net income from sources within the United States ($800,000). In this case, $700,000 of net capital loss allocable or apportionable to sources without the United States reduces $700,000 of long and short-term capital gain in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the difference between net capital gain from sources within the United States and net capital gain (from all sources), multiplied by the percentage specified under section 1202(a). In this case, the net capital gain from sources within the United States is $700,000 the net capital gain is $100,000 and the percentage specified under section 1202(a) is 0.60.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign income (exclusive of capital gains and losses) + Foreign source capital gain net income − 0.60 (foreign source net capital gain) − (paragraph (a)(3)(i) adjustment − paragraph (a)(3)(ii) adjustment)

$$\$2{,}000{,}000 + 0 - 0 - \$700{,}000 + \underset{(\$360{,}000)}{0.60(\$600{,}000)} = \$1{,}660{,}000$$

(ii) The entire taxable income is as follows:

Taxable income (exclusive of capital gains and losses) + Capital gains net income − 0.60(net capital gain)

$\$5{,}000{,}000 + \$100{,}000 - \$60{,}000 = \$5{,}040{,}000$

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§ 1.904(b)-3 Sale of personal property

(a) *General rule.* For purposes of section 904 and the regulations thereunder, there shall be included as gain from sources within the United States any gain from sources without the United States arising from the sale or exchange of a capital asset which is personal property (as defined in § 1.1245-3(b)). For purposes of this paragraph, gain from the sale or exchange of a capital asset shall include net section 1231 gain, but shall not include gain from the sale or exchange of a capital asset which is not treated as capital gain. However, gains and losses which are not from the sale or exchange of capital assets but which are treated as capital gains and losses under the Internal Revenue Code are included. The special source rules provided under this section shall be applied on an item by item basis with respect to the sale of personal property within any taxable year, except that if substantially all the assets of a trade or business (within the meaning of section 368(a)(1)(C) are sold within any one country within any taxable year, the gains and losses from such sales of such assets shall be netted before applying the source rules under this section.

(b) *Special rules.* Paragraph (a) of this section shall not apply in each of the following cases:

(1) In the case of an individual, if the property is sold or exchanged within the country or possession of the individual's residence.

(2) In the case of a corporation if the property is stock in a second corporation, and is sold in a country or possession in which the second corporation derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of this paragraph (b)(2) of this section the gross income of any foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation. Thus, the gross income of a foreign corporation for this purpose includes income from all sources, which is not specifically excluded from gross income under any other provisions of the Code.

(3) In the case of any taxpayer, if the property is personal property (other than stock in a corporation) which is sold or exchanged in a country or possession in which the property is used in a trade or business of the taxpayer, or in which the taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred (or, in case of a taxpayer other than an individual, for such part of such period as the taxpayer has been in existence, but in no event less than a 12-month period). In the case of property sold or exchanged by a partnership, trust, or estate, the determination required by the preceding sentence shall be made at the level of the partnership, trust (other than a grantor trust), or estate. For purposes of this paragraph (b)(3) of this section, the gross income of any foreign corporation (or other entity) shall be computed in the same manner as if the foreign corporation were a domestic corporation (or a domestic entity).

(c) *Exception.* Paragraph (a) of this section shall not apply to a sale of personal property if the gain (determined under chapter 1 of the Internal Revenue Code and computed on an item by item basis as provided under paragraph (a) of this section) from the sale or exchange of the personal property is subject to an income, war profits, or excess profits tax (including a tax withheld with respect to nonresident aliens or foreign corporations) with respect to a foreign country or a possession of the United States in which the sale or exchange occurs, and the rate of tax imposed by such country or possession applicable to such gain is 10 percent or more. For purposes of this paragraph, the tax must be 10 percent or more of the total amount of gain (whether ordinary or capital) arising from the sale or exchange of the item of personal property.

(d) *Application of source rules.* In determining the foreign country or possession where property is sold or exchanged for purposes of paragraphs (b) and (c) of this section, and the foreign country or possession where gross income is derived for purposes of paragraphs (b)(2), (b)(3) and (e) of this section, the source of any gain or income shall be determined by applying the

principles under section 861, 862, and 863 and the regulations thereunder.

(e) *Gain from liquidation of certain foreign corporations.* Paragraph (a) shall not apply with respect to a distribution in liquidation of a foreign corporation to which Part II of subchapter C applies, if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of paragraph (e) of this section, the gross income of the foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation.

(f) *Residence defined.* For purposes of paragraph (b)(1) of this section, the country of an individual's residence is to be determined by applying the rule under § 1.871–2(b).

(g) *Tax rate applicable to gain.* For purposes of paragraph (c) of this section, the tax rate applicable to the gain on the sale or exchange of personal property (as determined under Chapter 1 of the Internal Revenue Code 1954) shall be determined by applying the tax laws of the foreign country or possession (and any applicable reduction under a tax treaty) to such gain and by treating the gain from such transaction as if such gain were the only income derived by the taxpayer during the taxable year (and the only deductions allowed are deductions directly attributable to such gain).

(h) *Country in which gross income derived.* Notwithstanding paragraph (d) of this section, for purposes of this section, dividends received by a shareholder who is not a U.S. person from a foreign corporation shall be deemed to be derived from sources within the foreign country under the laws of which the foreign corporation is created or organized.

§ 1.904(b)–4 Effective date.

Sections 1.904(b)–(1) and 1.904(b)–2 shall apply to taxable years beginning after December 31, 1975 and § 1.904(b)–3 shall apply to sales and exchanges made after November 12, 1975.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 29, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83–25903 Filed 9–28–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Subsequent Proceedings

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is correcting a clerical error in its final rule at 28 CFR 2.14, Subsequent Proceedings.

EFFECTIVE DATE: October 1,1983.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20816, telephone: (301) 492–5959.

SUPPLEMENTARY INFORMATION: On September 11, 1980 at 45 FR 59870–71, the Parole Commission deleted 28 CFR 2.34(g) from its rules. The Commission is now correcting its failure to make a conforming amendment to its rules at 28 CFR 2.14(a)(2)(iii) which references 28 CFR 2.34(g). Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.14(a)(2)(iii) is revised to read as follows:

§ 2.14 Subsequent proceedings.

(a) * * *

(2) * * *

(iii) Retard or rescind a presumptive parole date for reason of disciplinary infractions. In a case in which disciplinary infractions have occurred, the interim hearing shall be conducted in accordance with the procedures of § 2.34(c–f). (Prior to each interim hearing, prisoners shall be notified on the progress report furnished by the Federal Prison System that any finding of misconduct by an Institutional Disciplinary Committee since the previous hearing will be considered for possible action under this paragraph);

* * * * *

Dated: August 26, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83–26159 Filed 9–28–83; 8:45 am]

BILLING CODE 4410–01–M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Relief of Prison Overcrowding

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: As part of an effort to assist in relieving prison overcrowding, and to enhance equity among similarly situated offenders, the Commission is adding a provision to its rules concerning the referral to the Bureau of Prisons, and ultimately to the sentencing court, of certain selected cases where the Commission would recommend reduction of a judicially imposed minimum sentence.

EFFECTIVE DATE: October 1, 1983. (See Implementation Section.)

FOR FURTHER INFORMATION CONTACT: Peter Hoffman, Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, (301) 492–5980.

SUPPLEMENTARY INFORMATION:

The Proposal And Its Purpose

As part of the Parole Commission's response to a request from the Bureau of Prisons and Department of Justice for assistance in addressing the problem of federal prison overcrowding, the Commission published a proposed rule in the **Federal Register** (48 FR 22949, May 23, 1983) designed to relieve prison overcrowding by referring selected cases to the Bureau of Prisons which then may petition the sentencing court for reduction of judicially imposed minimum sentences.

This new rule involves a joint effort by the Bureau of Prisons and the Parole Commission to: (1) Identify certain prisoners who could be safely released from prison under current Parole Commission standards (see 18 U.S.C. 4206 and 28 CFR § 2.20) but whose release is barred by a judicially imposed minimum sentence and (2) seek a reduction of the minimum sentence in such cases under the provisions of 18 U.S.C. 4205(g). Under 18 U.S.C. 4205(g) the Director of the Bureau of Prisons is vested with the authority to petition the sentencing court at any time for a reduction of minimum sentence. Under

the new rule, referrals to the sentencing court would be made when the prisoner has served the time required by the maximum of the applicable guideline range. Prisoners whose offenses have been rated as Category Eight (the most serious offenses) under the guidelines will not be eligible for referrals under the new rule because there is no maximum to the Category Eight guideline range.

The Commission believes that through cooperation between the Commission, the Bureau of Prisons and the sentencing court, this rule could reduce the prison population by up to 500 beds over the course of a year without increasing the risk to public safety. It is to be stressed that this rule is only one part of a larger effort by the Commission in addressing the problem of prison overcrowding. The Commission is emphasizing in staff training the need for parsimony in making decisions within the Commission's guidelines, and has initiated quality control procedures to ensure that decisions are made consistent with this principle.

Public Comment

Forty-six letters were received from the public commenting on the proposal; the large majority of them strongly support the new rule. These comments included: Eight from Federal judges; six from U.S. Probation Officers; three from attorneys; 24 from individuals; one from the Lewisburg Prison Project; one from the Washington Legal Foundation; and three from Federal prisoners.

Seven Federal judges wrote in support of the proposal endorsing the increased utilization of 18 U.S.C. 4205(g) to bring meritorious cases to their attention for possible reduction of minimum sentence. One judge wrote that in his view prison overcrowding was not a good basis for reviewing prisoners' release dates and that, although he believed it was undesirable, if reduction of minimum sentences were made, it would be more appropriate for Congress to consider giving the Parole Commission rather than the judiciary authority to take such action.

The Chief U.S. Probation Officers for the Eastern and Southern Districts of California wrote stating that the judges in their districts supported the proposal. Two other Chief U.S. Probation Officers noted that the judges in their districts are aware of the Commission's guidelines at the time of sentencing and therefore referrals for reduction of minimum sentence are unnecessary. One of these Chiefs stated that in his view unexpected early release would depreciate the seriousness of a prisoner's offense. One U.S. Probation Officer wrote in support of the proposal; another wrote in general support but noted the need for a task force to review prisoners' possible organized crime ties.

A Federal Public Defender and two defense attorneys wrote endorsing the proposal. The Public Defender encouraged the expansion of the proposal to prisoners who otherwise merit release even if they have not served the time required by the maximum of their applicable guidelines range.

All of the letters from individuals were strongly in support of the proposal. Many encouraged the Commission to develop additional policies to assist in reducing prison overcrowding.

The Lewisburg Prison Project enthusiastically endorsed the proposal noting the special need to reduce overcrowding in medium security institutions so that prisoners needing only that level of security are not sent to more secure institutions. The Washington Legal Foundation wrote in opposition to the proposal because in their view it "in effect, takes an important sentencing power away from the judge and vests it into the Parole Commission" and because "further reduction of minimum term will inevitably be perceived by the public as an affront to justice" and a belief that there is "no truth in sentencing." It should be noted that the new rule sets out procedures for referrals for reductions of a minimum sentence to the Bureau of Prisons and then to the sentencing judge. The sentencing judge retains full discretion as to whether or not to act on these referrals.

One Federal prisoner wrote in full support of the proposal and recommended that the Commission give preference to prisoners who have state detainers pending against them because such prisoners would pose no risk to the public as they would not be released to the community. Another prisoner urged that race be indicated on referrals so that research could be conducted as to whether there was racial disparity in making such referrals. One prisoner wrote that although he had reviewed the proposal he felt that distribution of it to the prison population had been insufficient.

Implementation

A. Time of consideration for referrals

(1) *Prisoners who have not yet had initial parole consideration.* (a) Prisoners eligible for prompt initial parole consideration (pursuant to 28 CFR 2.12(a) all prisoners with minimum sentences of less than ten years are given initial parole consideration within 120 days of arrival at a Federal institution) will be considered for referrals for reduction of minimum sentence in conjuction with their initial parole consideration. No applications from prisoners are necessary and none will be accepted.

(b) The limited number of prisoners not eligible for prompt initial parole consideration (i.e., prisoners with minimum sentences of ten years or more) whose offenses are rated under the Commission's guidelines as Category Seven or lower may request that the Bureau of Prisons have a file prepared and submitted to the Commission's regional office for special review. Such requests must go through the Bureau of Prisons. Application directly to the Commission from a prisoner will not be accepted.

(2) *Prisoners who have already had initial parole consideration.* Prisoners who have already received initial parole consideration will be identified by the Commission's computerized data system and will be considered on the record for referrals for reduction of minimum sentence as quickly as time and resources allow. No applications from prisoners are necessary and none will be accepted.

B. Scope of referrals

In accordance with this rule, the Commission may recommend reduction of the minimum sentence to the time required by the upper limit of the applicable guideline range, or to any time exceeding the upper limit of the applicable guideline range but less than the current minimum sentence. The Commission will not refer cases where the requested reduction of minimum term is two months or less.

C. Procedures for referrals

When the Commission does recommend a reduction of minimum sentence, the recommendation will be forwarded to the Bureau of Prisons. The Bureau will normally hold such referrals until approximately eight months prior to the time for release recommended by the Commission. The Bureau will then review the prisoner's institutional record and formally consider the Commission's recommendation. If the Commission's recommendation is accepted, the Bureau will then seek reduction of the minimum sentence under 18 U.S.C. 4205(g).

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), the Commission is adding the following to 28 CFR Part 2:

§ 2.62 Recommendation for reduction of minimum sentence.

Under 18 U.S.C. 4205(g) the sentencing court may reduce a minimum sentence upon the motion of the Director of the Bureau of Prisons. Where it appears that a prisoner with a minimum sentence exceeding the applicable guideline range under § 2.20 of this part would otherwise be suitable for release at or after service of the time required by the maximum of the applicable guideline range, the Commission may recommend to the Director of the Bureau of Prisons a motion under 18 U.S.C. 4205(g) for reduction of the minimum sentence to permit such release by the Commission.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meanings of the Regulatory Flexibility Act.

Dated: September 7, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-26157 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Parole, Release, Supervision and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents; Restitution Orders

AGENCY: U.S. Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: This rule implements the Victim and Witness Protection and Assistance Act of 1982, insofar as that law gives the United States Parole Commission certain responsibilities with respect to the enforcement of orders of restitution imposed by the sentencing judge. The rule provides that the Parole Commission will set a presumptive date for such prisoners, but will not release any prisoner on his or her parole date if there is evidence of willful noncompliance with the order of restitution. Further, the rule requires that each release plan for a prisoner with an unsatisfied order of restitution contain a reasonable program for compliance during parole supervision. Finally, the rule sets forth the criteria for revocation of parole in the case of a parolee found to be willfully refusing to obey an order of restitution, which automatically becomes a condition of the defendant's parole.

EFFECTIVE DATE: September 29, 1983. This rule is made effective September 29, 1983 in order that a standardized procedure may be available under which to process prisoners with restitution orders. The law is presently in effect and such prisoners may be entering the system at any time.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Commission published a notice of proposed rulemaking at 48 FR 22950 (Monday, May 23, 1983), and invited public comment on a proposed rule which in substance was identical to the final rule set forth below. The final rule contains an improved drafting of the proposed rule, and a summarization of the text of the original provisions at 28 CFR 2.7 (which deals with the payment of committed fines). Omitted from the new rule is the detailed restatement, contained in the old § 2.7, of the procedures of the U.S. Bureau of Prisons with respect to committed fines. The single paragraph which remains in the rule set forth below states that a prisoner may not receive a parole until his committed fine is paid, or he has been discharged pursuant to the regulations of the Bureau of Prisons.

None of the comment received opposed the proposed rule. Two U.S. Probation Officers noted, with respect to the requirement for a "reasonable plan for payment" that specificity will not be possible in cases where the prisoner has no employment, no assets, and future expenses are not known. Although one Probation Officer suggested that the submission of such payment plans be delayed until after release, the Commission has decided that the term "reasonable" will permit, when circumstances allow no other choice, acceptance of a release plan which includes only a general statement of intent to pay when feasible. Case Managers will be instructed accordingly. For those prisoners who are not in such extreme circumstances, the Commission intends that a serious plan be offered and approved, before final release will be granted. If the issue of future compliance is not confronted prior to release, the prospects for effective enforcement of a restitution order may be substantially diminished.

The Commission also received a comment from the Executive Office for United States Attorneys, U.S. Department of Justice. That office supported the proposed rule, but cautioned that enforcement of restitution orders on behalf of private victims by United States Attorneys is a discretionary decision, and will not be routine. Thus, the Parole Commission will be dependent upon the investigatory resources of the U.S. Probation Service (and the victims themselves) for information about any situation in which a parolee has the ability but refuses to pay a restitution order. Nonetheless, in cases of flagrant refusal to make restitution, especially when such complications as fraudulent transfers of property and assets are involved, the Parole Commission will request the discretionary assistance of the U.S. Attorney's Office pursuant to 18 U.S.C. 3579(h).

Finally, the Washington Legal Foundation supported the proposed rule as a legally sound measure, noting that it will provide useful leverage, in tandem with civil collection efforts under 18 U.S.C. 3579, to force compliance and uphold victims' rights. The proposal was also favored by Chief Judge Conrad K. Cyr, U.S. District Court, District of Maine.

The principal policy decision in the rule is the requirement that the Commission not release a prisoner on his scheduled parole date should it appear that the prisoner has the ability to pay and has willfully failed to do so. The final rule continues to require a hearing if release is delayed by more than 120 days, through its reference to the provisions of 28 CFR 2.28(e).

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.7 is revised to read as follows:

§ 2.7 Committed fines and restitution orders.

(a) *Committed Fines.* In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine, or until the fine commitment order is discharged according to law under the regulations of the Bureau of Prisons. Discharge from the commitment obligation of any committed fine does not discharge the prisoner's obligation to

pay the fine as a debt due the United States.

(b) *Restitution Orders.* (1) Upon release of a prisoner with an unsatisfied order of restitution, such order automatically becomes a condition of parole. A reasonable plan for payment (or performance of services, if so ordered by the court) must be included in the prisoner's parole release plan to be acceptable to the Commission, and this plan becomes part of the conditions of release. Following release, this plan may be modified under § 2.40 (b) or (e) of this part, as circumstances may warrant.

(2) Where a prisoner applying for parole is under an order of restitution, and it appears that the prisoner has the ability to pay and has willfully failed to do so, the Commission shall require that approval of a parole release plan be contingent upon the prisoner first satisfying such restitution order. The prisoner shall be notified that failure to satisfy this condition shall result in retardation of parole under the provisions of § 2.28(e).

(3) In determining whether to revoke parole for noncompliance with a condition of restitution, the Parole Commission shall consider the parolee's employment status, earning ability, financial resources, the willfulness of the failure to pay and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unless the parolee is found to be deliberately evading or refusing compliance.

Note.—I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: August 24, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-26160 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Early Termination of Parole Supervision

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules at 28 CFR 2.43, Early Termination, to provide that a prisoner serving a Youth Corrections Act sentence of a year or less under the Magistrate Act of 1979 receives the benefits of eligibility for early termination of parole supervision and the concomitant setting aside of his conviction.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, (301/492-5959).

SUPPLEMENTARY INFORMATION: To better inform the public, prisoners and parolees of eligibility for early termination of supervision the Commission is amending its regulations at 28 CFR 2.43, Early Termination, by adding a provision that makes clear that prisoners serving Youth Corrections Act (YCA) sentences of a year or less under the Magistrate Act of 1979 are eligible for early termination of parole supervision and the setting aside of their convictions. Previously, the Commission's Procedures Manual set out a procedure to provide reviews for early termination. This amendment brings the Commission's regulations into conformity with its manual by making it clear that early termination may be granted in these cases.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Part 2 is amended by revising 2.43(a)(2) to read as follows:

§ 2.43 Early termination

(a) * * *

(2) Except in the case of a youth offender sentenced to a term of one year or less under 18 U.S.C. 3401(g), a committed youth offender may not be granted an early termination of jurisdiction earlier than after one year of continuous supervision on parole. When termination of jurisdiction prior to the expiration of sentence is granted in the case of a youth offender, his conviction shall be automatically set aside. A certificate setting aside his conviction shall be issued in lieu of a certificate of termination.

* * * * *

Note.—I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: September 7, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-26158 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Parole, Release, Supervision and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents; Qualifications of Representatives

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is adding an exception to its rule concerning the qualifications of representatives who appear before it. The exception concerns the provision which prohibits former Federal Government criminal justice employees from appearing before the Commission for one year after termination of their employment; it permits Federal Defenders to appear before the Commission as part of their practice of law, without such a restriction. The reason for this action is that Federal Defender Attorneys generally maintain a relationship with the Commission no different from that of other attorneys, and would therefore not pose the same problems inherent in the appearance before the Commission of other former employees of Federal criminal justice agencies.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The rule being amended was first published at 48 **Federal Register** 14376 (April 4, 1983). The exception herewith added results from continuing comments by Federal Defenders to the effect that the one-year prohibition should not be applicable to them, and is a burden not justified by the goal which the rule serves.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.61(c)(1) is revised to read as follows:

§ 2.61 Qualifications of representatives.

* * * * *

(c)(1) In addition to the prohibitions contained in 18 U.S.C. 207, no former employee of any Federal criminal justice agency (in either the Executive or Judicial Branch of the Government) with the exception of the Federal Defender

Service, shall be qualified to act as a representative for hire in any case before the Commission for one year following termination of Federal employment. However, such persons may be employed by, or perform consulting services for, a private firm or other organization providing representation before the agency, to the extent that such employment or service does not include the performance of any representational act before the Commission.

* * * * *

Note.—I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: August 25, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-26161 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Paroling Policy Guidelines

AGENCY: Parole Commission, Justice.

ACTION: Interim rule with request for comment.

SUMMARY: The Commission is making several interpretative clarifications, revisions and additions to its final rule at 28 CFR 2.20, Paroling Policy Guidelines published on December 16, 1982, at 47 FR 56334. These changes and additions are intended to remove ambiguities and make the guidelines more comprehensive.

DATES: Effective October 1, 1983. Public Comment must be received by November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Peter Hoffman, Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, (301) 492-5980.

SUPPLEMENTARY INFORMATION:

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

§ 2.20 [Amended]

1. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Two, Subchapter C, Section 222 is revised to clarify that offenders acting in concert with kidnapper(s) are not included in this section. The revised provision reads as follows:

222 Demand for Ransom

(a) If a kidnapping has, in fact, occurred, but it is established that the offender was not acting in concert with the kidnapper(s), grade as Category Seven;

(b) If no kidnapping has occurred, grade as 'extortion'.

2. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Three, Subchapter A, Section 301(b) is clarified by numbering the instances in which it applies. The revised provision reads as follows:

301 *Property Destruction by Arson or Explosives*

* * * * *

(b) If the conduct (i) involves any place where persons are present or likely to be present; or (ii) involves a residence, building, or other structure; or (iii) results in bodily injury*, grade as Category Six;

* * * * *

3. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Three, Subchapter C, Section 321 is made more comprehensive by adding a provision regarding purse snatching. The new paragraph (c) is added to read as follows:

321 *Robbery*

* * * * *

(c) *Note*: Grade purse snatching (fear or force) as robbery.

4. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Three, Subchapter D Section 331(f)(2) is revised to clarify those factors that indicate lessened seriousness of automobile theft. The revised provision reads as follows:

331 *Theft, Forgery, Fraud, Trafficking in Stolen Property*, Interstate Transportation of Stolen Property, Receiving Stolen Property, Embezzlement, and Related Offenses*

* * * * *

(f) *Exceptions:*

* * * * *

(2) Theft of an automobile shall be graded as no less than Category Three. Note: where the vehicle was recovered within 72 hours with no significant damage and the circumstances indicate that the only purpose of the theft was temporary use (e.g., joyriding), such circumstances may be considered as a mitigating factor.

* * * * *

5. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Three, Subchapter D, a new Section 335 concerning criminal copyright offenses is added to make the Index more comprehensive. The new provision is added to read as follows:

335 *Criminal Copyright Offenses*

(a) If very large scale (e.g., more than 100,000 sound recordings or more than 10,000 audio visual works), grade as Category Five;

(b) If large scale (e.g., 20,000–100,000 sound recordings or 2,000–10,000 audio visual works), grade as Category Four;

(c) If medium scale (e.g., 2,000–19,999 sound recordings or 200–1,999 audio visual works), grade as Category Three;

(d) If small scale (e.g., less than 2,000 sound recordings or less than 200 audio visual works), grade as Category Two.

6. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Six, Subchapter B, Section 612 is revised by reducing the offense category for unlawful false statements not under oath to remove an inconsistency with misprision of a felony. The revised provision reads as follows:

612 Unlawful False Statements Not Under Oath

Category One.

7. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Six, Subchapter B, Section 613 is clarified to explain that tampering with a victim or an informant, as well as tampering with evidence or a witness, is covered by this provision. The revised provision reads as follows:

613 *Tampering With Evidence or Witness, Victim, or Informant*

(a) If the underlying purpose concerns another offense, grade according to the offense involved, but no less than Category Three;

(b) Otherwise, grade as Category Three.

(c) *Exception:* Intimidation by threat of physical harm, grade as not less than Category Five.

8. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Six, Subchapter B, Sections 614 and 615 are revised to cross reference accessory after the fact. No substantive changes result. The revised provisions read as follows:

614 *Misprision of a Felony**

Grade as if "accessory after the fact" but not higher than Category Three.

615 *Harboring a Fugitive*

Grade as "accessory after the fact" but not higher than Category Three. Use the category of the offense for which the fugitive is wanted as the underlying offense.

9. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Six, Subchapter B, Section 617 is added to provide more comprehensive guidance on rating failure to appear in misdemeanor proceedings, The reference to failure to appear in Section 616 is deleted. Provision 616 is revised and new provision 617 is added to read as follows:

616 Escape

If in connection with another federal offense for which a severity rating can be assessed, grade the underlying offense and apply the rescission guidelines to determine

an additional penalty. Otherwise, grade as Category Three.

617 Failure To Appear*

(a) In Felony Proceedings. If in connection with an offense for which a severity rating can be assessed, add to the guidelines otherwise appropriate the following: (i) 6 months if voluntary return within 6 days, or (ii) 6–12 months in any other case. Otherwise, grade as Category Three.

(b) In Misdemeanor Proceedings. Grade as Category One.

(c) *Note*: For purposes of this subsection, a misdemeanor is defined as an offense for which the maximum penalty authorized by law (not necessarily the penalty actually imposed) does not exceed one year.

10. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Six, Subchapter B, Section 618 concerning contempt of court is added to make the Index more comprehensive. The new provision is added to read as follows:

618 *Contempt of Court*

(a) Criminal Contempt. Where imposed in connection with a prisoner serving a sentence for another offense, add 6 months to the guidelines otherwise appropriate. (b) Civil Contempt. See 28 CFR 2.10

11. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Nine, is amended to clarify consideration of an offender's role in illicit drug offenses. While this clarification involves many provisions of this Chapter, no substantive changes are made in the guidelines for illicit drug offenses. Sections 901, 911, 921, and 931 are revised to read as follows:

Chapter Nine—Offenses Involving Illicit Drugs

Subchapter A—Heroin and Opiate Offenses*

901 *Distribution or Possession With Intent To Distribute*

(a) If extremely large scale (e.g., involving 3 kilograms or more of 100% pure heroin, or equivalent amount), grade as Category Eight [except as noted in (c) below]; (b) if very large scale (e.g., involving 1 kilogram but less than 3 kilograms of 100% pure herion, or equivalent amount), grade as Category Seven [except as noted in (c) below];

(c) Where the Commission finds that the offender had only a peripheral role*, grade conduct under (a) or (b) as Category Six;

(d) If large scale (e.g., involving 50–999 grams of 100% pure heroin, or equivalent amount), grade as Category Six [except as noted in (e) below];

(e) Where the Commission finds that the offender had only a peripheral role*, grade conduct under (d) as Category Five.

(f) If medium scale (e.g., involving 5–49 grams of 100% pure heroin, or equivalent amount), grade as Category Five;

(g) If small scale (e.g., involving less than 5 grams of 100% pure heroin, or equivalent amount), grade as Category Four [except as noted in (h) below];

(h) If evidence of opiate dependence and very small scale (e.g., involving less than 1.0 grams of 100% pure heroin, or equivalent amount), grade as Category Three.

* * * * *

Subchapter B—Marihuana and Hashish Offenses

911 *Distribution or Possession With Intent To Distribute*

(a) If extremely large scale (e.g., involving 20,000 pounds or more of marihuana/6,000 pounds or more of hashish/600 pounds or more of hash oil), grade as Category Six [except as noted in (b) below];

(b) Where the Commission finds that the offender had only a peripheral role,* grade conduct under (a) as Category Five;

(c) If very large scale (e.g., involving 2,000–19,999 pounds of marihuana/600–5,999 pounds of hashish/60–599 pounds of hash oil), grade as Category Five;

(d) If large scale (e.g., involving 200–1,999 pounds of marihuana/60–599 pounds of hashish/6–59.9 pounds of hash oil), grade as Category Four;

(e) If medium scale (e.g., involving 50–199 pounds of marihuana/15–59.9 pounds of hashish/1.5–5.9 pounds of hash oil), grade as Category Three;

(f) If small scale (e.g., involving 10–49 pounds of marihuana/3–14.9 pounds of hashish/.3–1.4 pounds of hash oil), grade as Category Two;

(g) If very small scale (e.g., involving less than 10 pounds of marihuana/less than 3 pounds of hashish/less than .3 pounds of hash oil), grade as Category One.

* * * * *

Subchapter C—Cocaine Offenses

921 *Distribution or Possession With Intent To Distribute*

(a) If very large scale (e.g., involving more than 1 kilogram of 100% purity, or equivalent amount), grade as Category Six [except as noted in (b) below];

(b) Where the Commission finds that the offender had only a peripheral role*, grade conduct under (a) as Category Five;

(c) If large scale (e.g., involving 100 grams-1 kilogram of 100% purity, or equivalent amount), grade as Category Five;

(d) If medium scale (e.g., involving 5–99 grams of 100% purity, or equivalent amount), grade as Category Four;

(e) If small scale (e.g., involving 1.0–4.9 grams of 100% purity, or equivalent amount), grade as Category Three;

(f) If very small scale (e.g., involving less than 1 gram of 100% purity, or equivalent amount), grade as Category Two.

* * * * *

*Subchapter D—Other Illicit Drug Offenses**

931 *Distribution or Possession With Intent To Distribute*

(a) If very large scale (e.g., involving more than 200,000 doses), grade as Category Six [except as noted in (b) below];

(b) Where the Commission finds that the offender had only a peripheral role*, grade conduct under (a) as Category Five;

(c) If large scale (e.g., involving 20,000–200,000 doses), grade as Category Five;

(d) If medium scale (e.g., involving 1,000–19,999 doses), grade as Category Four;

(e) If small scale (e.g., involving 200–999 doses), grade as Category Three;

(f) If very small scale (e.g., involving less than 200 doses), grade as Category Two.

* * * * *

12. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Eleven, Subchapter A, Section 1101 is corrected by adding a reference in the heading to 18 U.S.C. 1961 and 1962 that was previously omitted due to a clerical error. The heading of section 1101 is revised to read as follows:

1101 *Racketeer Influence and Corrupt Organizations* (re: 18 U.S.C. 1961–63)

13. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Eleven, Subchapter D, Section 1131(b) concerning sexual exploitation of children is added to make the Index more comprehensive. Section 1131 is revised to read as follows:

1131 *Sexual Exploitation of Children** (re: 18 U.S.C. 2251, 2252)

(a) Category Six;

(b) *Exception:* Where the Commission finds the offender had only a peripheral role (e.g., a retailer receiving such material for resale but with no involvement in the production or wholesale distribution of such material), grade as Category Five.

14. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Eleven, Subchapter G concerning currency offenses is added to make the Index more comprehensive. Subchapter G, Currency Offenses should be added after Subchapter F in Chapter Eleven to table of contents that proceeds the provisions themselves. A new Subchapter G is added to Chapter Eleven to read as follows:

Subchapter G—Currency Offenses

1161 *Currency Offenses (e.g., Laundering Money)*

(a) If very large scale (e.g., the estimated gross amount of currency involved is more than $500,000), grade as Category Six;

(b) If large scale (e.g., the estimated gross amount of currency involved is more than $100,000 but not more than $500,000), grade as Category Five;

(c) If medium scale (e.g., the estimated gross amount of currency involved is at least $20,000 but not more than $100,000), grade as Category Four;

(d) If small scale (e.g., the estimated gross amount of currency involved is less than $20,000), grade as Category Three.

15. 28 CFR 2.20 Offense Behavior Severity Index, Chapter Thirteen, Subchapter B, Definitions is expanded to make the Index more comprehensive. Subchapter B of Chapter Thirteen is revised to read as follows:

Subchapter B—Definitions

1. 'Accessory after the fact' refers to the conduct of one who, knowing an offense has been committed, assists the offender to avoid apprehension, trial, or punishment (e.g., by assisting in disposal of the proceeds of an offense).

Note.—Where the conduct consists of concealing an offense by making false statements not under oath, grade as 'misprision of felony'. Where the conduct consists of haboring a fugitive, grade as 'harboring a fugitive'.

2. 'Assassination kit' refers to a disguised weapon designed to kill without attracting attention. Unlike other weapons such as sawed-off shotguns which can be used to intimidate, assassination kits are intended to be undetectable in order to make the victim and bystanders unaware of the threat. A typical assassination kit is usually, but not always, a firearm with a silencer concealed in a briefcase or similar disguise and fired without showing the weapon.

3. 'Bodily injury' refers to injury of a type normally requiring medical attention [e.g., broken bone(s), laceration(s) requiring stitches, severe bruises].

4. 'Carnal knowledge' refers to sexual intercourse with a female who is less than 16 years of age and is not the wife of the offender.

5. 'Extortionate extension of credit' refers to any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

6. 'Failure to appear' refers to the violation of court imposed conditions of release pending trial, appeal, or imposition or execution of sentence by failure to appear before the court or to surrender for service of sentence.

7. 'Forcible felony' includes, but shall not be limited to, kidnaping, rape or sodomy, aircraft piracy or interference with a flight crew, arson or property destruction offenses, escape, robbery, extortion, or criminal entry offenses, and attempts to commit such offenses.

8. 'Involuntary manslaughter' refers to the unlawful killing of a human being without malice in the commission of an unlawful act not amounting to a felony, or in the commission in a unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

9. 'Misprision of felony' refers to the conduct of one who, having knowledge of the actual commission of a felony, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority. The 'concealment' described above requires an act of commission (e.g., making a false statement to a law enforcement officer).

10. 'Murder' refers to the unlawful killing of a human being with malice aforethought. 'With malice aforethought' generally refers to a finding that the offender formed an intent to kill or do serious bodily harm to the victim without just cause or provocation.

11. 'Opiate' includes heroin, morphine, opiate derivatives, and synthetic opiate substitutes.

12. 'Other illicit drug offenses' include, but are not limited to, offenses involving the following: amphetamines, hallucinogens, barbiturates, methamphetamines, and phencyclidine (PCP).

13. 'Other medium of exchange' includes, but is not limited to, postage stamps, governmental money orders, or governmental coupons redeemable for cash or goods.

14. 'Peripheral role' in drug offenses refers to conduct such as that of a person hired as a deckhand on a marijuana boat, a person hired to help offload marijuana, a person with no special skills hired as a courier of drugs on a commerical airline flight, or a person hired as a chauffeur in a drug transaction. This definition does not include persons with decision-making or supervisory authority, persons with relevant special skills (e.g., a boat captain, chemist, or airplane pilot), or persons who finance such operations.

15. 'Protected person' refers to a person listed in 18 U.S.C. 351 (relating to Members of Congress), 1114 (relating to certain officers and employees of the United States), 1116 (relating to foreign officials, official guests, and internationally protected persons), or 1751 (relating to presidential assassination and officials in line of succession).

16. 'Serious bodily injury' refers to injury creating a substantial risk of death, major disability or loss of a bodily function, or disfigurement.

17. 'Serious bodily injury clearly intended' refers to a limited category of offense behaviors where the circumstances indicate that the bodily injury intended was serious (e.g., throwing acid in a person's face, or firing a weapon at a person) but where it is not established that murder was the intended object. Where the circumstances establish that murder was the intended object, grade as an 'attempt to murder'.

18. 'Sexual exploitation of children' refers to employing, using, inducing, enticing, or coercing a person less than 16 years of age to engage in any sexually explicit conduct for the purpose of producing a visual or print medium depicting such conduct with knowledge or reason to know that such visual or print medium will be distributed for sale, transported in interstate or foreign commerce, or mailed. It also includes knowingly transporting, shipping, or receiving such visual or print medium for the purposes of distribution for sale, or knowingly distributing for sale such visual or print medium.

19. 'Trafficking in stolen property' refers to receiving stolen property with intent to sell.

20. 'Value of the property' refers to the estimated replacement cost to the victim.

21. 'Voluntary manslaughter' refers to the unlawful killing of a human being without malice upon a sudden quarrel or heat of passion."

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

(18 U.S.C. 4203(a)(1); 18 U.S.C. 4204(a)(6))

Dated: September 7, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-26156 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Nicholas* (FFG 47) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS *Nicholas* (FFG 47) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Nicholas* (FFG 47) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The

Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Nicholas* (FFG 47) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navy Department, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
.	.	.
USS *Nicholas*	FFG 47	1.6.

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

USS *Nicholas* (FFG 47)

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
.	.	.
USS *Nicholas*	FFG 47	2.75.

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: September 16, 1983.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 83-26493 Filed 9-28-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 11-96-83]

Establishment of Special Local Regulations for the "Windsurfer Points Regatta"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Windsurfer Points Regatta on the Colorado River. This event will be held on 8 and 9 October 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 8 October 1983 and terminate 9 October 1983.

FOR FURTHER INFORMATION CONTACT: LTJG J. N. Arroyo, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 2 September 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The principal individuals involved in drafting this rule are Cdr T. A. Welch, Chief, Boating Safety Division, Eleventh Coast Guard District, and Lt Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion of Regulations: Lake Havasu Sailing Federation "Windsurfer Points Regatta" will be conducted on Lake Havasu, AZ beginning 8 October 1983, on a bearing of 130°T off Spectator Point. This event will have 50 windsurfers that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be open periodically for the passage of commercial and recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-96 to read as follows:

§ 100.35-11-96 Lake Havasu Sailing Federation/Windsurfer Points Regatta.

(a) *Regulated area.* The following regulated area will be closed intermittently to all vessel traffic from 10:00 AM to 6:00 PM on 8 and 9 October 1983: That portion of Thompson Bay, Lake Havasu, AZ starting approximately 100 yards on a bearing of 130°T off Spectator Point, thence due north approximately 1110 yards, thence 140°T approximately 2200 yards, thence due west approximately 2400 yards, thence back to the starting point.

(b) *Special Local Regulations.* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures For Transiting: The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of non-participant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: September 24, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-26637 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD11 11-94-83]

Establishment of Special Local Regulations for the "London Bridge Days Water Ski Show"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the London Bridge Days Water Ski Show on the Colorado River. This event will be held on 1, 2 and 9 October 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 1 October 1983 and terminate 9 October 1983.

FOR FURTHER INFORMATION CONTACT: Ltjg J. N. Arroyo, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until August 31, 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information:

The principal individuals involved in drafting this rule are Cdr T. A. Welch, Chief, Boating Safety Division, Eleventh Coast Guard District, and Lt Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion of Regulations: Lake Havasu Water Ski Club "London Bridge Days Water Ski Show" will be conducted in Lake Havasu, AZ beginning 1 October 1983, south of the London Bridge. This event will have 30 tournament ski boats that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be open periodically for the passage of commercial and recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-94 to read as follows:

§ 100.35-11-94 Lake Havasu Water Ski Club/London Bridge Days Water Ski Show.

(a) *Regulated area.* The following regulated area will be closed intermittently to all vessel traffic from 2:45 PM to 4:30 PM on 1, 2 and 9 October 1983: That portion of Lake Havasu, London Bridge Channel commencing approximately two hundred (200) yards north of London Bridge, thence southerly along the channel to approximately two hundred (200) yards south of the London Bridge. Event participants will be transiting under the center span of the bridge.

(b) *Special local regulations.* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures For Transiting: The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of non-participant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: September 24, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-26038 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD11 11-92-83]

Establishment of Special Local Regulations for the "Lake Havasu City Triathlon"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Lake Havasu City Triathlon, a triathlon involving a swimming event on the Colorado River, to be held on 30 September thru 2 October 1983. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 30 September 1983 and terminate 2 October 1983.

FOR FURTHER INFORMATION CONTACT: Ltjg J. N. Arroyo, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 10 August 1983, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The principal individuals involved in drafting this rule are Cdr T. A. Welch, Chief, Boating Safety Division, Eleventh Coast Guard District, and Lt Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion of Regulations; Lake Havasu City Triathlon Committee "LAKE HAVASU CITY TRIATHLON" will be conducted in Thompson Bay, AZ beginning 30 September 1983, extending to the London Bridge. This event will have 75 to 300 swimmers that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be open periodically for the passage of commercial and recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-92 to read as follows:

§ 100.35-11-92 Lake Havasu City Triathlon Committee/Lake Havasu City Triathlon.

(a) *Regulated area.* The following regulated area will be closed intermittently to all vessel traffic from 7:30 AM to 8:45 AM on 30 September 1983, 8:30 AM to 10:45 AM on 1 October 1983, and 7:45 AM to 9:00 AM on 2 October 1983. That enclosed portion of the Bridgewater Channel, Lake Havasu, AZ extending from under the London Bridge thence south to Lake Havasu Marina; though not affecting entrance to the marina.

(b) *Special Local Regulations.* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(2) Procedures For Transiting: The regulated area will be opened every hour on the hour of after each heat or race for a minimum of ten (10) minutes for the safe transit of non-participant water craft.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: September 24, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-26636 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 164

[CGD 82-055]

Chart and Publication Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule modifies the requirements for carriage of nautical charts and publications by removing certain ambiguities from the Navigation Safety Regulations. These regulations are applicable to each self-propelled vessel of 1600 gross tons (grt) or more operating on the navigable waters of the United States, except the Saint Lawrence Seaway.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Falvey (202) 426-4958.

SUPPLEMENTARY INFORMATION:

Regulations that would govern the operation of all major vessels in U.S. waters were introduced by an Advanced Notice of Proposed Rulemaking (ANPRM) on June 28, 1974 (39 FR 24157) in response to the Ports and Waterways Safety Act of 1972. Based upon comments received on the ANPRM, a Proposed Rule to establish a new Part to 33 CFR Part 164, entitled "Navigation Safety Regulations" was published on May 6, 1976 (41 FR 18766). These regulations, applicable to all vessels of 1600 grt or more operating on U.S. waters, were published as a Final Rule on January 31, 1977 (42 FR 5956). A proposed rule to modify the chart and publication requirements in § 164.33 was published on July 7, 1983 (48 FR 31259).

Drafting Information

The principal persons involved in drafting this rulemaking are: Mr. Thomas J. Falvey, Project Manager, Office of Marine Environment and Systems, and Mr. Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion

The Navigation Safety Regulations as published in January 1977 (§ 164.33) required vessels of 1600 gross tons (grt) or more to carry the most recently published, available, and currently corrected U.S. charts, that are of sufficient scale, and have enough detail to enable safe navigation. The most recent, available, and currently corrected copies of the U.S. Coast Pilot, Light List, Notice to Mariners, Local Notice to Mariners, Tide Tables and Tidal Current Tables were also required. Foreign charts and publications may be substituted for the U.S. versions if they contain functionally similar information. Vessels bound from a foreign port may have the latest charts and publications that were available at previous ports of call.

The carriage of adequate charts and certain publications is a vital factor in safe navigation. Carriage of adequate charts is required on certain vessels by the Port and Tanker Safety Act (PTSA) of 1978. Further emphasis on the need for charts and publications is found in Chapter V, Regulation 20, of the International Convention on the Safety of Life at Sea (SOLAS '74), which requires carriage by all vessels of "adequate and up-to-date charts, sailing directions, lists of lights, notices to mariners, tide tables and all other nautical publications necessary for the intended voyage."

Experience with the original regulation indicated that the requirement for the most recent chart or publication placed an undue burden on the persons operating the vessel. In most instances a chart or publication that has been corrected to show changes and additions subsequent to publication is just as suitable for safe navigation as the most recent edition.

The most recent charts, Notice to Mariners, and other publications are frequently unobtainable in many ports of the world. In a given U.S. port, obtaining the most recent issue of U.S. charts, publications and local notices to mariners for other U.S. ports is sometimes difficult. The best efforts of the conscientious master may further be thwarted by mid-voyage itinerary changes. The problem of effective chart distribution and correction has been recognized by U.S. charting authorities, the International Maritime Organization (IMO) and the International Hydrographic Organization (IHO). IHO is now studying this issue. Unfortunately, final solution is many years away.

A proposed rule to modify the original chart and publication requirements was published on pages 31259-31260 of the **Federal Register** of July 7, 1983. Comments were invited for a period of 30 days ending August 8, 1983.

A total of four comments, all from or representing the marine industry, were received. All supported the proposal. Three of the commenters stated their support for the proposal, while emphasizing the positive impact the change will have on their operations. The fourth commenter, while supporting the proposal, expressed concern over the implementation and enforcement of the new regulation. The final rule was prepared to allow a reasonable, consistent approach to the enforcement of this requirement. The Coast Guard will continue to monitor its enforcement activities to insure both the letter and spirit of the rule is carried out in a reasonable manner.

The final rule closely parallels that of SOLAS. The final rule requires marine charts to be of large enough scale, with sufficient detail to make safe navigation of the area possible. Charts and publications must be corrected, and updated with corrections contained in all notices to mariners reasonably available to the vessel. The latest edition is no longer required provided the edition on board is so corrected. The required Tide and Tidal Current Tables must be the current edition. Foreign charts and publications must equally provide for the safe navigation of the vessel for the area to be transited.

A master in selecting a chart or publication for use in an area must evaluate it on the basis of its sufficiency for safe navigation. In some instances the largest scale chart available may not be necessary to provide for safe navigation of the vessel. The scale of a foreign chart need not be exactly the same as the corresponding U.S. chart

available for an area, provided the scale and detail makes safe navigation possible. If the Captain of the Port determines that any charts or publications are inadequate for safe navigation, the Captain of the Port may require the master to obtain additional charts and publications before departure or subsequent return to that port.

This final rule eliminates the specific requirement for carriage of Notice to Mariners, published by Defense Mapping Agency Hydrographic/Topographic Center. As a practical matter, retaining the informational source used by the master to correct the required charts and publications is not essential. Provided the charts and publications are currently corrected, requiring further carriage and retention on board of Notices to Mariners is unnecessary.

The requirement for carriage of Coast Guard Local Notice to Mariners is also eliminated. The Coast Guard Local Notice to Mariners is not readily available outside the local port area in advance to transient vessels. Current local information is available from pilots, broadcast notice to mariners, port authorities, agents and the like. Masters should endeavor to obtain this information prior to transit.

Evaluation and Certification

This rule has been evaluated under Executive Order 12291 and DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," and has been determined to be neither major nor significant. This change will have minor costs savings to vessel operators due to reducing the number of charts purchased; however, the savings can not be calculated since vessel operators may continue to purchase current charts in lieu of correcting the charts held. The savings involved in not requiring a master of a vessel to obtain the latest editions of charts and publications are insignificant. This rule will also ease the administrative burden of vessel owners and operators of obtaining charts and publications not always readily available. For these reasons no further economic evaluation is considered necessary. For the same reasons, under Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Marine safety, Navigation (water), Waterways.

PART 164—[AMENDED]

In consideration of the foregoing, 33 CFR 164 is amended by revising §§ 164.30 and 164.33 to read as follows:

§ 164.30 Charts, publications, and equipment: General.

No person may operate or cause the operation of a vessel unless the vessel has the marine charts, publications, and equipment as required by §§ 164.33 through 164.41 of this part.

§ 164.33 Charts and publications.

(a) Each vessel must have the following:

(1) Marine charts of the area to be transited, published by the National Ocean Service, U.S. Army Corps of Engineers, or a river authority that—

(i) Are of a large enough scale and have enough detail to make safe navigation of the area possible; and

(ii) Are currently corrected.

(2) For the area to be transited, a currently corrected copy of, or applicable currently corrected extract from, each of the following publications:

(i) U.S. Coast Pilot.

(ii) Coast Guard Light List.

(3) For the area to be transited, the current edition of, or applicable current extract from:

(i) Tide tables published by the National Ocean Service.

(ii) Tidal current tables published by the National Ocean Service, or river current publication issued by the U.S. Army Corps of Engineers, or a river authority.

(b) As an alternative to the requirements for paragraph (a) of this section, a marine chart or publication, or applicable extract, published by a foreign government may be substituted for a U.S. chart and publication required by this section. The chart must be of large enough scale and have enough detail to make safe navigation of the area possible, and must be currently corrected. The publication, or applicable extract, must singly or in combination contain similar information to the U.S. Government publication to make safe navigation of the area possible. The publication, or applicable extract must be currently corrected, with the exceptions of tide and tidal current tables, which must be the current editions.

(c) As used in this section, "currently corrected" means corrected with changes contained in all Notices to Mariners published by Defense Mapping Agency Hydrographic/Topographic Center, or an equivalent foreign government publication, reasonably available to the vessel, and that is applicable to the vessel's transit.

(33 U.S.C. 1223; 49 CFR 1.46)

Dated: August 30, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-26634 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Miami, FL Reg. 83-09]

Safety Zone Regulations; Government Cut, Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone at Government Cut between south Miami Beach and north Fisher Island. The zone is needed to protect swimmers, pleasure boaters, commercial traffic and construction personnel from safety hazards associated with the excavation of a subaqueous cable trench and placement of a submarine cable. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP). Vessels transiting the area are to proceed with caution to minimize the effects of wake.

EFFECTIVE DATES: This regulation becomes effective on September 19, 1983 at 8:00 a.m. E.D.T. and will remain in effect until December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. C. Paxton, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, 51 SW. First Avenue, Miami, FL 33130 (305) 350-5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication.

Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to the equipment involved and vessels transiting Government Cut, during the excavation of a subaqueous trench and placement of submarine cable.

Drafting Information

The drafters of the regulation are Lt. D. C. Paxton, project officer for the Captain of the Port, and I cdr. K. E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is the excavation of a subaqueous trench across Government Cut, Miami commencing on September 19, 1983 and continuing until approximately December 31, 1983. From October 1, 1983 to October 15, 1983 between the hours of 8:00 a.m. and 5:00 p.m. blasting will be used to create portions of the trench. The barge Powell Brothers 149, will be on site during the operation and may be contacted on VHF-FM channels 13 and 16 for information concerning safe transit.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T0709 to read as follows:

§ 165.T0709 Safety Zone: Government Cut, Miami, FL.

(a) *Location.* The following area is a safety zone: A 50 yard floating safety zone in Government Cut, Miami surrounding the excavation and cable laying equipment. During blasting operations the floating safety zone is expanded to a 100 yard radius. The trench in which the zone is centered, is located between Fisher Island at Lat 25.45'49.6"N, Long 80.08'17.3"W and south Miami Beach at Lat 25.45'55.8"N, Long 80.08'07.3"W.

(b) *Regulations.* (1) In accordance with the general regulation in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. (2) Vessels transiting the area are to proceed with caution to minimize the effects of wake.

(33 U.S.C. 1225 and 1231; 49 CFR 146; 33 CFR 165.3)

Dated: 14 September 1983.

R. N. Roussel,

Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 83-26635 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Emergency Fire Suppression Assistance *

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets forth the circumstances under which the Forest Service may commit resources to help suppress fires on adjacent lands when a reciprocal agreement with other fire organizations does not exist. It specifies when the Forest Service may provide these services free and when reimbursement to the Forest Service is required. This regulation is necessary to implement provisions of the Reciprocal Fire Protection Act, 42 U.S.C. 1856b, governing emergency situations where there are no reciprocal agreements between the Forest Service and other fire organizations.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Francis Russ, Staff Assistant, Cooperative Fire Protection Staff, Forest Service, USDA, Telephone (703) 235-8023.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 1856a authorizes agency heads who are responsible for providing fire protection for property of the United States to enter into reciprocal agreements with other fire organizations to provide mutual fire protection assistance. In the absence of such reciprocal agreements, 42 U.S.C. 1856b authorizes agency heads to render emergency assistance, with or without reimbursement, in fire suppression and in preserving life and property from fire. This emergency assistance may only be extended when it is determined, pursuant to regulations prescribed by the agency head, that such emergency assistance is in the best interest of the United States. On May 9, 1983, the Forest Service published a proposed rule to implement this authority at 48 FR 20765. Only one comment was received. The respondent suggested that the clarity of the proposed regulation could be improved if the terms "prescribed fire" and "escaped prescribed fire" were defined. This suggestion has been adopted.

Under the final rule, where Forest Service prescribed fires escape onto lands not administered by the Forest Service, the Forest Service may, on a non-reimbursable basis, commit resources to suppress these fires. When requested, the Forest Service may commit resources on a reimbursable basis to suppress other fires in the vicinity of Forest Service fire protection facilities and to preserve life and property from fire.

This action has been reviewed pursuant to Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. The rule will have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It also has been determined that this action does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the action will not have a significant economic impact on a substantial number of small entities since it imposes no direct or indirect cost on small entities; it imposes no paperwork or recordkeeping requirements on small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

This rule also imposes no information collection requirements on other segments of the public.

List of Subjects in Part 211

Administrative practices and procedures, Fire prevention, Forest Service, Intergovernmental relations, National Forests, Public lands—permits.

Therefore, for the reasons set forth in the preamble, Part 211 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION [AMENDED]

Subpart A—Cooperation With Private and State Agencies

1. The authority citation for Part 211, Subpart A, reads as follows:

Authority: 69 Stat. 67, as amended, 42 U.S.C. 1856b; 30 Stat. 35, as amended, Sec. 1, 33 Stat. 628; 16 U.S.C. 472, 551.

2. Add a new section § 211.5 to read as follows:

§ 211.5 Emergency Fire Suppression Assistance.

(a) *Definitions.* For the purpose of this subpart these definitions apply:

(1) Prescribed fire means a fire burning under a set of specified conditions which will accomplish certain planned resource management objectives.

(2) Escaped prescribed fire means a prescribed fire which has either exceeded the prescription or has

rekindled after it has been declared to be out.

(b) In the absence of a written reciprocal agreement with any fire organization or in situations outside the scope of an agreement, the Forest Service is authorized to render emergency assistance in suppressing fires and in preserving life and property from the threat of fire within the vicinity of Forest Service fire protection facilities under the following conditions:

(1) If a prescribed fire initiated on lands administered by the Forest Service escapes onto lands not administered by the Forest Service, the Forest Service may commit personnel, materials, and equipment without reimbursement or consideration of the fire's continuing threat to National Forest System lands or resources.

(2) When requested, the Forest Service may commit personnel, materials, and equipment on a reimbursable basis on lands not administered by the Forest Service without regard to the fire's threat to National Forest System lands or resources.

Dated: September 13, 1983.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83-26362 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1794/R612; PH-FRL 2442-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methamidophos

AGENCY: Environmental Protection Agency, EPA.

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide methamidophos in or on the raw agricultural commodity celery. The regulation to establish maximum permissible levels for residues of the herbicide in or on the commodity was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: September 29, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of August 31, 1983 (48 FR 39473) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 6E1794 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide methamidophos (*O,S*-dimethyl phosphoramidothioate) in or on the raw agricultural commodity celery at 2 parts per million (ppm). The petition was later amended to propose a tolerance of 1 ppm in or on celery.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objection with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 66 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 21, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.315 is amended by adding and alphabetically inserting the raw agricultural commodity celery to read as follows:

§ 180.315 Methamidophos; tolerances for residues.

* * * * *

Commodities	Parts per million
Celery	1

[FR Doc. 83-26608 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-4-FRL 2442-2]

Hazardous Waste Management Program; Alabama; Request for Extension of Application Deadline for Interim Authorization

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Extension of Application Submission and Interim Authorization Period.

SUMMARY: On August 15, 1983, the State of Alabama requested a further extension beyond the September 15, 1983 deadline previously granted for submission of their application for Phase II of Interim Authorization of the hazardous waste management program under the Resource Conservation and Recovery Act (RCRA) of 1976 as amended (48 FR 32573, July 18, 1983). Alabama's Legislature has to date, failed to enact legislation to resolve the permit by default issue necessary for approval of Phase II interim and final authorization. Anticipating enactment of the necessary legislation, Alabama would like to proceed directly toward Final Authorization. EPA is granting an extension to April 1, 1984, for submission of a draft application for Final Authorization, and to July 31, 1984, for submission of a complete application for Final Authorization. This extension allows Alabama to retain Phase I interim authorization pending

submission of draft and complete applications for final authorization.

EFFECTIVE DATE: September 21, 1983.

FOR FURTHER INFORMATION CONTACT: James H Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:.

Background

40 CFR 271.12(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator extended the July 26, 1983 deadline for submission of the interim authorization application and the deadline for termination of the approval of the State program because the Alabama Legislature was in session at the time of the July 26, 1983 deadline. The legislation needed to resolve the permit by default issue was necessary for approval of interim and final authorization.

Under the Code of Alabama 22-30-12(c)(1), the Board may be forced to issue a permit by default if the permitting process cannot be completed within ninety (90) days. With this default provision, the Alabama program is not substantially equivalent to 40 CFR 271.1,29 (b), (c), and (d) formerly 40 CFR 123.129), and Section 7004(b) of RCRA.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Anticipating enactment of the necessary legislation, Alabama has committed to the following schedule for applying for final authorization:

April 1, 1984—Submit draft application for Final Authorization.

July 31, 1984—Submit complete application for Final Authorization.

Decision

Considering the above schedule, Alabama's past performance in managing and implementing a hazardous waste management program in a timely fashion, and their diligent efforts to attain interim authorization, loss of Phase I due to failure to meet the previous deadline was not in the best interest of the State, this Agency, the regulated community, or the citizens of Alabama. I found there was good cause to grant the State's request for a further extension beyond the September 15, 1983 deadline previously granted for applying for interim authorization. Therefore, Alabama must officially submit a draft application for Final Authorization on or before April 1, 1984, and a complete application for Final Authorization on or before July 31, 1984. If the State fails to submit draft and complete applications by the above respective dates, approval of the State program will terminate and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalites, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: September 21, 1983.

John A. Little,

Deputy Regional Administrator.

[FR Doc. 83-26449 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 5

[APD 2800.2 CHGE 34]

Procurement Forms

AGENCY: Office of Acquisition Policy and Regulations, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (GSPR), Chapter 5, are amended to cancel GSA Form 2497, Contractural Document Transmittal Receipt, and to delete all reference in the GSPR to the use of this Form. The intended effect is to eliminate any obsolete regulatory material, thus improving the procurement regulatory system.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Richard H. Hopf, Director, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy (202-566-1224). List of Subjects in 41 CFR 5-1:

Administrative practices and procedures, Government procurement, Labor surplus areas, Recovered material, Responsible prospective contractors, and Small businesses.

List of Subjects in 41 CFR Part 5-16

Government procurement, and Procurement forms.

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

PART 5-1—GENERAL

Subpart 5-1.3—General Policies

1. 41 CFR Part 5-1 is amended to revise § 5-1.316-4 to read as follows:

§ 5-1.316-4 Terms.

(a) *Definite quantity contracts.* For definite quantity type contracts, other than small purchases, where the delivery period begins upon receipt of the notice of award by the contractor, one of the following methods, as appropriate, shall be used to provide evidence of the actual date the notice of award was received:

(1) Mail the notice of award using certified mail with return receipt requested (see § 1-1.316-4(e)).

(2) Deliver the notice of award to the contractor, e.g., contracting officer or Quality Control representative, and obtain a receipt for it.

(b) *Requirements contracts for stock replenishment, Federal Supply Schedule and other term contracts.*

(1) *Basic contract.* To provide evidence of the actual date of receipt by the contractor of the notice of award on the contract, one of the methods in § 5-1.31-4(a) shall be used.

(2) Delivery orders placed under the term contract. Usually, separately documented evidence of the date of the receipt by the contractor of delivery orders placed against term contracts is not required. However, if it is believed that circumstances warrant obtaining a receipt, one of the methods in § 5-1.316-4(a), as appropriate, may be utilized to provide the Government with the actual date of receipt of the delivery order.

2. The table of contents for Part 5-16 is amended to remove § 5-16.950-2497 as follows:

PART 5-16 PROCUREMENT FORMS

Sec.

* * * * *

5-16.950-2497 [REMOVED]

* * * * *

Dated: September 16, 1983.

Allan W. Beres,

Assistant Administrator for Acquisition Policy, General Services Administration.

[FR Doc. 83-26590 Filed 9-28-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6468

[A-12998, A-13014, A-13016, A-13017, A-13360, A-13367, A-13442, A-13452 A-17207, A-17412]

Arizona; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes thirteen Departmental orders insofar as they affect 1,675 acres of public and nonpublic lands withdrawn for the Salt River Project near Phoenix, Arizona. Approximately 1,561 acres will remain closed to surface entry and mining pending their transfer out of Federal ownership. The surface estate on an additional 94 acres is patented and will remain closed to surface entry and mining. The surface and mineral estate in the remaining 20 acres is privately owned. All public lands affected by this order have been and will remain open to mineral leasing.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Departmental Orders of July 2, 1902, February 10, 1906, December 4, 1908, August 21, 1909, November 14, 1916, July 3, 1930, October 26, 1920, January 25, 1923, May 23, 1925, February 25, 1930, September 5, 1946, February 10, 1948, and May 22, 1951, which withdrew lands for the Salt River Project, are hereby revoked insofar as they affect the following described lands:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 2 E.,
Sec. 29, NE¼NE¼, N½SE¼NE¼, S½SW¼NE¼, N½SW¼.
T. 1 N., R. 3 E.,
Sec. 13, lot 1.
T. 1 N., R. 4 E.,
Sec. 7, S½SE¼;
Sec. 8, S½SW¼, SW¼SE¼;
Sec. 14, NE¼NW¼, SW¼NW¼;
Sec. 18, lots 2, 5, 6, 7, N½NE¼, E½NW¼.
T. 2 N., R. 6 E.,
Sec. 22, 23, 27, 28, all land lying south of the south right-of-way line of the Southern (South) Canal;
Sec. 33, N½NE¼, all land lying south of the south right-of-way line of the Southern Canal.
T. 1 N., R. 8 E.,
Sec. 1, lots 23, 25, 28;
Sec. 26, W½SW¼NE¼, E½NW¼, NE¼SW¼, E½SE¼SW¼, W½SE¼.

The areas described aggregate approximately 1,675 acres in Maricopa and Pinal Counties.

2. Of the lands described in paragraph 1, the surface estate of lots 2, 6, 7, SE¼NW¼ sec. 18, T. 1 N., R. 4 E., was patented under Section 16 of the Federal Airport Act approved May 13, 1946 (60 Stat. 179; 49 U.S.C. 1115). The mineral estate will remain closed to entry under the United States Mining Laws, but not the mineral leasing laws. The N½SE¼NE¼ sec. 29, T. 1 N., R. 2 E., is privately owned and not subject to disposition under any of the public land and mineral laws.

3. The following described lands have been classified for State Exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, pursuant to an application filed by the State of Arizona. These lands will remain segregated from disposition under all other public land laws including the mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws.

Gila and Salt River Meridian, Arizona

T. 2 N., R. 6 E.,
Sec. 33, NE¼NE¼, E½NW¼NE¼.

The area described contains 60 acres in Maricopa County.

4. The following described lands have been classified for State Selection under the Act of June 20, 1910 (36 Stat. 577), pursuant to an application filed by the State of Arizona. These lands will remain segregated from disposition under other public land laws, including the mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws.

Gila and Salt River Meridian, Arizona

T. 2 N., R. 6 E.,
Sec. 22, that portion of the SE¼SE¼ lying south of the south right-of-way line of the Southern Canal;
Sec. 23, that portion lying south of the south right-of-way line of the Southern Canal;
Sec. 27, that portion lying south of the south right-of-way line of the Southern Canal;
Sec. 28, that portion of the NE¼SE¼ and the S½SE¼ that is lying south of the south right-of-way line of the Southern Canal;
Sec. 33, W½NW¼NE¼, all land lying south of the south right-of-way line of the Southern Canal.
T. 1 N., R. 8 E.,
Sec. 26, E½SE¼SW¼, E½NW¼SE¼, E½NE¼SW¼SE¼, W½SW¼SW¼SE¼.

The areas described aggregate approximately 790 acres in Maricopa and Pinal Counties.

5. The following described lands are classified as suitable for State Selection, Exchange and/or Recreation and Public Purposes and remain segregated from disposition under other public land laws including the United States mining laws, but not the mineral leasing laws:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 2 E.,
Sec. 29, NE¼NE¼, S½SW¼E½, N½SW¼.
T. 1 N., R. 3 E.,
Sec. 13, lot 2.
T. 1 N., R. 4 E.,
Sec. 7, S½SE¼;
Sec. 8, S½SW¼, SW¼SE¼;
Sec. 14, NE¼NW¼, SW¼NW¼;
Sec. 18, lot 5, N½NE¼, NE¼NW¼.
T. 2 N., R. 6 E.,
Sec. 22, all land lying south of the south right-of-way line of the Southern (South) Canal except SE¼SE¼.
Sec. 28, all land lying south of the south right-of-way line of the Southern Canal except NE¼SE¼ and the NE¼SE¼ and the S½SE¼.
T. 1 N., R. 8 E.,
Sec. 1, lots 23, 25, 28;
Sec. 26, W½SW¼NE¼, E½NW¼, NE¼SW¼, W½NW¼SE¼, W½NE¼SW¼SE¼, NW¼SW¼SE¼, E½SW¼SW¼SE¼ SE¼SW¼SE¼.

The areas described aggregate approximately 711 acres in Maricopa and Pinal Counties.

All of the public lands described in paragraph 1 have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 26, 1983.

[FR Doc. 83-26576 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6469

[A-13441]

Arizona; Partial Revocation of Departmental Order of March 17, 1952

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Departmental order insofar as it affects 41.80 acres of public land withdrawn for the Bureau of Reclamation, Central Arizona Project. The 41.80 acres are included in a State Selection application filed by the State of Arizona, and, consequently, will remain closed to surface entry and mining location, but not mineral leasing, pending transfer out of Federal ownership. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602–261–4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Department Order of March 17, 1952, which withdrew public land for the Bureau of Reclamation, Central Arizona Project, is hereby revoked as to the following described land:

Gila and Salt River Meridian, Arizona

T. 3 N., R. 6 E.,
Sec. 1, lots, 9, 10, and 11.

The area described contains 41.80 acres in Maricopa County.

2. The above described land is classified for State Selection under the Act of June 20, 1910 (36 Stat. 577), pursuant to an application filed by the State of Arizona. This land will remain segregated from disposition under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws.

3. The above described land has been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the above land should be addressed to the Arizona State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 26, 1983.

[FR Doc. 83-26578 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6470

[OR-7771]

Oregon; Withdrawal of Lands for Addition to Malheur National Wildlife Refuge

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 199.90 acres of public land for use by the U.S. Fish and Wildlife Service as an addition to the Malheur National Wildlife Refuge. This action will close the land to surface entry and mining, but not to mineral leasing. The withdrawal will remain in effect for 40 years.

EFFECTIVE DATE: September 29, 1983.

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

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use by the U.S. Fish and Wildlife Service as an addition to the Malheur National Wildlife Refuge.

Willamette Meridian

Malheur National Wildlife Refuge, Addition

T. 25 S., R. 33 E.,
Sec. 34, lot 10.
T. 26 S., R. 33 E.,
Sec. 3, lots 2, 4, and 10, and SW¼SE¼;
Sec. 10, W½NE¼.

The areas described contain 199.90 acres in Harney County.

2. The withdrawal shall remain in effect for a period of 40 years from the effective date of this order.

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

September 26, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-26577 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6471

[A-18433]

Arizona; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes nine Secretarial orders insofar as they affect 13,172 acres withdrawn for the Colorado River Storage Project. This action will restore 280 acres to surface entry and mining. Another 41 acres are privately owned and will remain closed to mining. The balance of 12,851 acres have been identified by the State of Arizona under the State Indemnity Lieu Selection Program and will remain closed to surface entry and mining. All of the withdrawn public lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, (602) 261–4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The nine Secretarial Orders dated July 2, 1902, August 26, 1902, January 31, 1903, September 8, 1903, July 20, 1905, February 19, 1929, March 14, 1929, June 4, 1930, and October 16, 1931, which withdrew lands for the Colorado River Survey, Colorado River Storage Project, and Yuma Project, are hereby revoked insofar as they affect the following described lands:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 18 W.,
Sec. 5, lot 4, SW¼NW¼, SW¼;
Sec. 6, lots 1, 5, 6, 7, 8, 9, SE¼NE¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, NE¼, N½SE¼, SW¼ SE¼;
Sec. 18, lot 1, NW¼NE¼.
T. 11 N., R. 18 W.,
Sec. 22, N½NE¼, N½S½NE¼, S½SW¼ NE¼, W½SW¼SE¼NE¼, W½, W½ W½NE¼SE¼, W½SE¼, SE¼SE¼.
T. 10 N., R. 19 W.,
Sec. 13, N½NE¼, N½SW¼NE¼, NW¼SE¼ NE¼, NE¼NW¼, N½S½NW¼, S½ SW¼NW¼, W½SW¼;
Sec. 14, lots 4, 5, 6, NE¼NE¼, SW¼NE¼, lying east of State Highway 95, SE¼ NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 22, lot 5, E½NE¼, NE¼SE¼.
T. 14 N., R. 20 W.,
Sec. 28, NE¼.
T. 3 N., R. 21 W.,
Sec. 4, lots 6, 7, 8, SW¼, W½SE¼;
Sec. 5, lots 5, 6, 7, 8, SW¼NW¼, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 8, N½NE¼, N½S½NE¼, S½S½NE¼ NW¼, N½SE¼NW¼;
Sec. 9, NW¼NE¼, N½NW¼.
T. 21 N., R. 21 W.,
Sec. 28, all;
Sec. 30, lot 4, N½NE¼SE¼SW¼, SW¼ NE¼SE¼SW¼, W½SE¼SW¼, NW¼ SE¼SE¼SW¼, S½SE¼SE¼SW¼, E½ SW¼SE¼, E½NW¼SW¼SE¼, NW¼ NW¼SW¼SE¼, NE¼SW¼SW¼SE¼, S½SW¼SW¼SE¼, SE¼SE¼.
T. 2 N., R. 22 W.,
Sec. 3, lots 3, 5, S½NW¼;

Sec. 4, lots 5, 6, 7, N½SW¼, SW¼SW¼, lying south and east of Colorado River, SE¼SW¼, SE¼;
Sec. 5, SE¼, lying south and east of Colorado River;
Sec. 8, lots 4, 5, NE¼, E½NW¼, NE¼SW¼, lying south and east of Colorado River, SE¼SW¼, E½SE¼, NW¼SE¼, N½SW¼SE¼, N½S½SW¼SE¼, SW¼SW¼SW¼SE¼, SE¼SE¼SW¼SE¼;
Sec. 9, W½;
Sec. 17, lots 4, 5, E½NE¼, NE¼NE¼NW¼NE¼, NW¼NW¼NW¼NE¼, S½N½NW¼NE¼, S½NW¼NE¼, SW¼NE¼, E½SW¼, E½SW¼SW¼;
Sec. 18, SW¼SE¼, W½SE¼SE¼, lying south and east of Colorado River;
Sec. 19, lots 1, 2, 3, 5, 6, NW¼NE¼, lying south and east of Colorado River, lots 7 to 16, inclusive, NE¼NE¼, S½NE¼, SE¼;
Sec. 30, lots 1, 2, 6 to 10, inclusive, 12 to 20, inclusive.

T. 3 N., R. 22 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, N½N½SW¼, N½SE¼, N½SE¼SE¼;
Sec. 10, lot 1;
Sec. 14, S½NW¼, SW¼;
Sec. 15, lots 7, 8, 9, 10, 11, 12, 15, SE¼SW¼NE¼NE¼, S½SE¼NE¼NE¼, S½SE¼;
Sec. 21, lots 2, 5, 6, 9, E½E½;
Sec. 22, lots 5, 6, 7, 10, 11, W½SW¼;
Sec. 27, lots 6, 7, 10, 11, W½;
Sec. 28, lots 6, 9, 10, 13, E½NE¼;
Sec. 33, lot 3;
Sec. 34, lots 9, 11, 12, 14.

T. 19 N., R. 22 W.,
Sec. 2, lots 3, 5, 6, 7, SE¼NW¼, E½SW¼, SW¼SW¼.

T 20 N., R. 22 W.,
Sec. 12, lot 10;
Sec. 20, lots 5, 6, SW¼, W½SE¼.

T 1 N., R. 23 W.,
Sec. 10, lots 3, 4;
Sec. 11, lots 2, 3, E½NW¼, SW¼;
Sec. 15, lots 5, 6, 7, 8, NE¼SE¼, S½SE¼;
Sec. 22, lot 1, NE¼NW¼, SW¼;
Sec. 33, SW¼SW¼.

T 2 N., R. 23 W.,
Sec. 24, SE¼NE¼, SE¼, lying south and east of Colorado River;
Sec. 25, lots 5, 7, N½NE¼, lying south and east of Colorado River, lot 8, E½SW¼NE¼, SE¼NE¼, SE¼;
Sec. 35, lot 10, lying south and east of Colorado River, lots 4, 7, 8, 9, SE¼SE¼;
Sec. 36, lot 1, E½NW¼, SW¼NW¼, SW¼.

T 1 S., R. 23 W.,
Sec. 6, NE¼SE¼, E½W½SE¼SE¼, E½SE¼SE¼;
Sec. 7, E½E½;
Sec. 18, NE¼NE¼.

The areas described aggregate approximatley 13,172 acres in La Paz, Mohave, and Yuma Counties.

2. Of the lands described in paragraph 1, the following lands have been patented and will not be open to the operation of the public land laws, including the mining laws:

T. 3 N., R. 21 W.,
Sec. 4, S½NW¼SW¼SE¼SW¼, SW¼SW¼SE¼SW¼, S½NE¼SE¼SW¼SW¼, SE¼SE¼SW¼SW¼;
Sec. 9, N½NW¼NW¼NE¼NW¼, N½NE¼NE¼NW¼NW¼.

T. 3 N., R. 22 W.,
Sec. 15, lot 10.

The areas described aggregate 41.06 acres in La Paz County.

3. At 10 a.m. on November 1, 1983, the public lands described as the NE¼NE¼, S½NE¼, SE¼ of Section 19, T. 2 N., R. 22 W., shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 1, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on November 1, 1983, the public lands described in paragraph 3, shall be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State laws where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. All of the lands in paragraph 1, except those described in paragraphs 2 and 3 have been classified for State Selection purposes and will not be open to other appropriation under the public land laws, including the mining laws.

6. All of the lands in paragraph 1, except lot 10, sec. 15, T. 3 N., R. 22 W., have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 26, 1983.

[FR Doc. 83-26579 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 1, 2, 5, 6, 7, 9, 12, 57, 59, 60, 61, 62, 64, 66, 67, 70, 75, 76, 205, 300, 301, 304, 311, 312, 351

Technical Changes to Federal Emergency Management Agency Regulations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document makes technical changes in sundry parts of the FEMA regulations to reflect organization changes, address changes, and similar nonsubstantive matters. These changes are needed to make the regulations current.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 287-0377.

SUPPLEMENTARY INFORMATION: This regulation makes corrections needed to update several FEMA regulations. It is nonsubstantive in nature and is basically internal management. Thus, notice and public comment are considered unnecessary and the rule can be made effective immediately.

List of Subjects

44 CFR Part 1

Administrative practice and procedure.

44 CFR Part 2

Authority delegations (government agencies), Organization and functions (government agencies).

44 CFR Part 5

Freedom of information.

44 CFR Part 6

Privacy.

44 CFR Part 7

Civil rights.

44 CFR Part 9

Floodplains, Wetlands, Coastal zones.

44 CFR Part 12

Advisory committees.

44 CFR Part 57

Civil disorders, Insurance.

44 CFR Part 59

Flood insurance, Floodplains.

44 CFR Part 60

Flood insurance, Floodplains.

44 CFR Part 61

Flood insurance.

44 CFR Part 62

Flood insurance, Claims.

44 CFR Part 64

Flood insurance, Floodplains.

44 CFR Part 66

Flood insurance, Floodplains, Intergovernmental relations.

44 CFR Part 67

Flood insurance, Floodplains.

44 CFR Part 70

Flood insurance, Floodplains.

44 CFR Part 75

Flood insurance, Floodplains.

44 CFR Part 76

Flood insurance, Grant programs/ environmental protection.

44 CFR Part 205

Disaster assistance, Grant programs/ housing and community development.

44 CFR Part 300

Disaster assistance, Grant programs/ housing and community development, Technical assistance.

44 CFR Part 301

Civil defense, Grant programs/ national defense.

44 CFR Part 304

Civil defense, Grant programs/ national defense.

44 CFR Part 311

Civil defense, Government employees, Emergency mobilization.

44 CFR Part 312

Civil defense, Grant programs, National defense.

44 CFR Part 351

Hazardous materials transportation, Nuclear power plants and reactors, Radiation protection, Authority delegations, Government agencies.

Accordingly, Chapter 1 of Title 44, Code of Federal Regulations, is amended as follows:

PART 1—RULEMAKING; POLICY AND PROCEDURES

§ 1.5 [Amended]

1. Section 1.5(a) is amended by removing the words "Rules Docket Room" and adding "Office of General Counsel" in place thereof, and by removing the words "at the address shown in the heading" and adding "Office of General Counsel" in place thereof.

2. Section 1.11(f) is amended by revising it to read:

§ 1.11 Advance notice of proposed rulemaking.

* * * * *

(f) The time within which comments may be submitted to the Rules Docket Clerk, Federal Emergency Management Agency, Washington, DC 20472.

PART 2—ORGANIZATION FUNCTIONS AND DELEGATIONS OF AUTHORITY

§ 2.52 [Amended]

3. Section 2.52(a) is amended by removing the word "Part" and adding the word "Title" in its place.

§ 2.54 [Amended]

4. Section 2.54(a) is amended by removing the words "this part" and by adding the words "this chapter" in place thereof.

5. Section 2.69 is amended by adding a new paragraph (i) as follows:

§ 2.69 General Counsel (GC).

* * * * *

(i) The General Counsel is authorized to exercise the authorities of the Director to enter into ratification agreements at the direction of the Department of Justice in order to insure that the Federal Emergency Management Agency's subrogation interest will be represented.

PART 5—PRODUCTION OR DISCLOSURE OF INFORMATION

6. Section 5.26(a) is amended by revising it to read as follows:

§ 5.26 Rules for public inspection and copying.

(a) *Location.* Materials are available for public inspection and copying at the following locations:

(1) Headquarters:

Federal Center Plaza, 500 C Street, SW, Washington, DC 20472

(2) Regional Offices:

(i) Region I, J. W. McCormack Post Office & Courthouse, 442 Post Office Square, Boston, MA 02109.

(ii) Region II, Jacob J. Javits Federal Building, 26 Federal Plaza, Room 1349, New York, NY 10278.

(iii) Region III, Curtis Building, 7th Floor, 625 Walnut Street, Philadelphia, PA 19106.

(iv) Region IV, Pershing Point Plaza, Suite 664, 1375 Peachtree Street, NE., Atlanta, GA 30309.

(v) Region V, 300 S. Wacker Drive, 24th Floor, Chicago, IL 60606.

(vi) Region VI, Federal Regional Center, Room 206, Denton, TX 76201.

(vii) Region VII, Old Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

(viii) Region VIII, Federal Regional Center, Bldg. 710, Denver, CO 80225.

(ix) Region IX, Building 105, Presidio, San Francisco, CA 94129.

(x) Region X, Federal Regional Center, Bothell, WA 98011.

§ 5.41 [Amended

7. Section 5.41 is amended by removing the word "Officer" and adding the word "Offices" in place thereof any by removing the words "The U.S. Army Publication Center, 2800 Eastern Boulevard, Baltimore, MD 21220" and adding the words "FEMA P.O. Box 8181, Washington, DC 20024" in place thereof.

§ 5.46 [Amended]

8. Section 5.45 is amended by removing the words "Treasurer of the United States" and adding the words "Federal Emergency Management Agency" in place thereof.

§ 5.45 [Amended]

9. Section 5.46(a)(1) is amended by revising it to read:

* * * * *

(a) *Reproduction fees.* (1) There will be a minimum fee of $2.00 for each request for reproducing copies of FEMA records up to 6 pages and including material 8½ x 14 inches. The fee for each page is shown below:

Minimum fee first 6 copies $2.00
Forms per copy .10
Reports per page .10

* * * * *

§ 5.54 [Amended]

10. Section 5.54(a) is amended by revising it to read as follows:

(a) Each of the following officials within FEMA, any official designated to act for the official, or any official redelegated authority by such officials shall have the authority to make initial denials of requests for disclosure of records in his or her custody, and shall, in accordance with 5 U.S.C. 552(a)(6)(C) be the responsible official for denial of records under this Part.

(i) Deputy Director
(ii) Executive Deputy Director
(iii) Federal Insurance Administrator
(iv) Associate Directors
(v) Director, Emergency Operations
(vi) Executive Administrator
(vii) Office Directors
(viii) General Counsel
(ix) Inspector General
(x) Comptroller
(xi) Regional Directors

* * * * *

PART 6—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

11. Section 6.20 is amended by adding a new paragraph (l) as follows:

§ 6.20 Conditions of disclosure.

* * * * *

(l) To consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4).

12. Section 6.33(b) is amended by revising it to read:

§ 6.33 Denials of access.

* * * * *

(b) Upon receipt of a request for access to a record which the system manager believes is contained within an exempt system of records he or she shall forward the request to the appropriate official listed below or to his or her delegate through normal supervisory channels.

(i) Deputy Director
(ii) Executive Deputy Director
(iii) Federal Insurance Administrator
(iv) Associate Directors
(v) Director, Emergency Operations
(vi) Executive Administrator
(vii) Office Directors
(viii) General Counsel
(ix) Inspector General
(x) Comptroller
(xi) Regional Directors

The system manager shall append to the request an explanation of the determination that the requested record is contained within an exempt system of records and a recommendation that the request be denied or granted.

* * * * *

§ 6.70 [Amended]

13. Section 6.70(d) is amended by adding the word "of the Office of Management and Budget" after the words "Director."

PART 7—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS (FEMA REG 5)

§ 7.4 [Amended]

14. Section 7.4 is amended by removing the first sentence.

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

§ 9.3 [Amended]

15. Section 9.3 is amended by removing the citation "(Pub. L. 92–234)" and adding the citation "(Pub. L. 93–234)" in its place.

§ 9.11 [Amended]

16. Section 9.11(e)(3)(i) is amended by removing the address "6430 Rockledge Drive, Bethesda, MD 20817, (800) 638–6620" and adding "9901–A George Palmer Highway, Lanham, MD 20706" in place thereof.

PART 12—ADVISORY COMMITTEES

§ 12.1 [Amended]

17. Section 12.1(a) is amended by removing the words "Office of Management and Budget Circular No. A–63" and adding the words "General Services Administration Regulation 41 CFR Part 101–6" in place thereof.

§ 12.5 [Amended]

18. Section 12.5(a) is amended by removing the words "Management Planning Officer" and adding the words "Chief, Staff Planning and Evaluation" in place thereof.

§ 12.16 [Amended]

19. Section 12.16(a) is amended by removing the words "Temporary Regulation B–1."

20. Section 12.16(b) is amended by removing "in accordance with OMB Circular A–63."

§ 12.19 [Amended]

21. Section 12.19(a) is amended by removing the words "Associate Director, Resource Management and Administration" and adding the word "Comptroller" in place thereof.

PART 57—STATE REIMBURSEMENT REQUIREMENT

§ 57.7 [Amended]

22. Section 57.7 is amended by removing the words "1725 I Street, NW."

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

23. Section 59.1 is amended by removing the definitions of "Agreement", "Association", "Accounting period", "Affiliates", and "National Flood Insurers Association"; by removing "(a) from the citation at the end of the definition of mobile home"; by revising the definition of the term "Administrator" to read *"Administrator* means the Federal Insurance Administrator"; by inserting in proper alphabetical sequence a definition of "Associate Director" as follows: *"Associate Director* means the Associate Director, State and Local Programs, and Support"; by removing the words "subcontracts with the National Flood Insurers Association" in the definition of "serving company" and adding "contracts with the Federal Insurance Administration" in place thereof; by removing the words "Federal Insurance Administration" from the definition of "Map" and adding "Agency" in place thereof; by removing the words "only where authorized by the Administrator" from the definition of "second layer coverage"; and by removing the words "National Flood Insurers Association" from the definition of "Standard Flood Insurance Policy" and adding "Federal Insurance Administrator, or an insurer pursuant to an arrangement with the Administrator".

§ 59.3 [Amended]

24. Section 59.3 is amended by removing the words ",which under existing law extends to September 30, 1978".

§ 59.22 [Amended]

25. Section 59.22(a)(ii) is amended by adding the words "and the Associate Director" after the word "Administrator".

26. Section 59.22 is amended by removing the word "and" from paragraph (b)(2), and removing paragraph (b)(3) including the form, and inserting a period after the word "regulation" in paragraph (b)(2).

27. Section 59.22(c) is amended by removing the words "Federal Insurance Administration" and "1725 I Street, NW".

§ 59.24 [Amended]

28. Section 59.24(c) is amended by removing the first sentence and by removing the words "until the Association is subsequently notified by the Administrator of the date of the community's formal reinstatement" and by adding the following, as a first sentence: "The Administrator shall promptly notify the servicing agent and any insurers issuing flood insurance pursuant to an arrangement with the Administrator of those communities whose eligibility has been suspended.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.6 [Amended]

29. Section 60.6(b)(2) is amended by removing the second sentence and adding a new sentence in place thereof as follows: "The decision whether an Environmental Impact Statement or other environmental document will be prepared, will be made in accordance with the procedures set out in 44 CFR Part 10."

§ 60.25 [Amended]

30. Section 60.25(a)(17) is amended by adding the words "and the Associate Director" after the word "Administrator".

PART 61—INSURANCE COVERAGE AND RATES

§ 61.11 [Amended]

31. Section 61.11 (b) and (e) are amended by removing "P.O. Box 34294, Bethesda, Maryland 20034" and adding "P.O. Box 459, Lanham, Maryland 20706" in place thereof.

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

§ 62.3 [Amended]

32. Section 62.3(a) is amended by removing the words "designated by the Administrator" and adding the words "designated by the Associate Director" in place thereof.

33. Section 62.3(b) is amended by revising it to read:

* * * * *

(b) The following company has been contracted to act as a servicing agent for the Federal Insurance Administration: Computer Sciences Corporation, 9901–A George Palmer Highway, Lanham, Maryland 20706.

* * * * *

34. Section 62.3(d) is amended by revising it to read:

* * * * *

(d) Applications and premiums should be mailed to: National Flood Insurance Program, P.O. Box 459, Lanham, Maryland 20706.

§ 62.4 [Amended]

35. Section 62.4(a) is amended by removing the title "Administrator" and adding "Associate Director" in its place and by removing the words ", the Agreement".

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§ 64.1 [Amended]

36. Section 64.1(b) is amended by removing the words "for a period ending September 30, 1978,".

§ 64.3 [Amended]

37. Section 64.3(c)(3) is amended by removing the subparagraph and reserving the number.

38. Section 64.3(c)(4) is amended by removing the acronym "FIA" and adding the acronym "FEMA" in lieu thereof.

PART 66—CONSULTATION WITH LOCAL OFFICIALS

§ 66.3 [Amended]

39. Section 66.3(0) is amended by removing the words "Federal Insurance Administration" and adding the word "Agency" in place thereof.

PART 67—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

§ 67.12 [Amended]

40. Section 67.12(b) is amended by removing the word "Director" and adding the words "Associate Director" in place thereof.

PART 70—PROCEDURE FOR MAP CORRECTION

§ 70.3 [Amended]

41. Section 70.3(b)(2) is amended by removing "Federal Insurance Administration" and adding the words "Federal Emergency Management Agency" in place thereof.

§ 70.6 [Amended]

42. Section 70.6 is amended by removing and reserving paragraph (e).

43. Section 70.6(f) is amended by removing the words "Federal Insurance Administration" and adding the word "Agency" in place thereof.

§ 70.7 [Amended]

44. Section 70.7(b) is removed and reserved.

PART 75—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

§§ 75.1, 75.10, 75.11, 75.13 [Amended]

45. 44 CFR Part 75 is amended by removing the words "areas identified by the Administrator as" and by adding the words "areas identified by the Associate Director as" in place thereof in the following sections: §§ 75.1, 75.10, 75.11(a)(4) (twice) and 75.13(c).

46. Section 75.14 is amended by revising it to read:

§ 75.14 States exempt under this part.

The following States have submitted applications and adequate supporting documentation and have been determined by the Administrator to be exempt from the requirement of flood insurance on State-owned structures and their contents because they have in effect adequate State plans of self-insurance: Florida, Georgia, Iowa, Maine, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, and Vermont.

PART 76—STATE ASSISTANCE PROGRAM FOR THE NATIONAL FLOOD INSURANCE PROGRAM

§ 76.6 [Amended]

47. Section 76.6(c) is amended by removing the words "Federal Insurance Administration" and adding the word "Agency" in its place.

PART 205—FEDERAL DISASTER ASSISTANCE

§ 205.75 [Amended]

48. Section 205.75(a)(11)(ii) is amended by adding the words "Part 205" before the words "Subpart M".

§ 205.76 [Amended]

49. Section 205.76(a)(28) is amended by removing the words "of this" and adding "of his or her" in place thereof.

50. Section 205.76(a)(29) is amended by removing "74–4" and adding "A–87" in place thereof.

PART 300—DISASTER PREPAREDNESS ASSISTANCE

§ 300.5 [Amended]

51. Section 300.5(i) is amended by removing the words "GSA Federal Management Circular No. 74–4, Cost principles applicable to grants and contracts with State and local governments (issued July 18, 1974)" and adding "Office of Management and Budget (OMB) circular A–87, Cost principles applicable to grants and contracts with State and local governments" in place thereof.

52. Section 300.5(i)(4) is amended by removing the words "The addition of new work projects may require further A–95 clearance."

§ 300.6 [Amended]

53. Section 300.6(b) is amended by removing the words "set forth in 41 CFR 49–1.50".

PART 301—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

§ 301.2 [Amended]

54. Section 301.2(a) is amended by removing the citation (50 U.S.C. App. 2281–2297) and adding the citation (50 U.S.C. App. 2251 *et seq.*) in place thereof.

55. Section 301.2(b) is amended by removing the words "FMC 74–4 (41 CFR Subpart 1–15.7)" and adding "OMB Circular A–87" in place thereof.

56. Section 301.2(d) is amended by removing "as provided in 32 CFR 1800.20 (42 FR 34880).".

§ 301.3 [Amended]

57. Section 301.3(a) is amended by removing the words "FMC 74–4 (41 CFR Subpart 1–15.7)" and adding "OMB Circular A–87.".

PART 304—CONSOLIDATED GRANTS TO INSULAR AREAS

§ 304.2 [Amended]

58. Section 304.2(c) is amended by removing the words "Subchapter E".

PART 311—FEDERAL EMPLOYEE EMERGENCY IDENTIFICATION CARD

§ 311.4 [Amended]

59. The list of agencies in § 311.4 is amended by removing "Community Services Administration"; by removing "International Communication Agency" and adding "United States Information Agency" in proper alphabetical sequence; by removing "Council on Wage and Price Stability"; by removing "Domestic Affairs and Policy Staff" and adding "Office of Policy Development" in proper alphabetical sequence and by removing "Special Representation for Trade Negotiations" and adding "Office of the United States Trade Representative" in proper alphabetical sequence.

§ 311.6 [Amended]

60. Section 311.6(c) is amended by removing the words "Office of Plans and Preparedness" and adding the words "National Preparedness Programs Directorate and to Emergency Operations."

61. Section 311.6(d) is amended by removing the words "National Preparedness Programs Directorate" and adding "Emergency Operations" in place thereof.

PART 312—USE OF CIVIL DEFENSE PERSONNEL, MATERIALS AND FACILITIES FOR NATIONAL DISASTER PURPOSES

§ 312.2 [Amended]

62. Section 312.2(h) is amended by removing the words "as provided in 44 CFR 310.20".

PART 351—RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

§ 351.3 [Amended]

63. Section 351.3(a) is amended by removing the word "proposed" and by removing the parenthetic phase "(45 FR 42341)".

(Reorganization Plan No. 3 of 1978, Executive Order 12127 and Executive Order 12148).

Dated: September 22, 1983.

Jeffrey S. Bragg,

Executive Deputy Director.

[FR Doc. 83-26374 Filed 9-29-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 2

Organization, Functions, and Delegations of Authority; Federal Insurance Administrator

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document delegates to the Federal Insurance Administrator the function of being sued under the National Flood Insurance Act, and the function of sue and be sued under the Urban Property Protection and Reinsurance Act of 1968. The function has heretofore been reserved to the Director, FEMA.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street, SW, Washington, DC 20472, (202) 287-0370.

SUPPLEMENTARY INFORMATION: Under present delegations of authority, the functions of being sued under the National Flood Insurance Program, the Federal Crime Insurance Program, and the Riot Reinsurance Program have been retained by the Director, FEMA. It is now desired to delegate the functions to the Federal Insurance Administrator so that he/she can become the named defendant and signed interrogatories in law suits brought under the programs.

This rule relates to internal management and is not a substantive rule. Hence, notice and public comment are unnecessary and the rule can be made effective immediately.

This is not a major rule nor does it affect a substantial number of small entities. Hence, no regulatory flexibility analysis has been prepared.

List of Subjects in 44 CFR Part 2

Authority delegations (Government Agencies), Organization and functions (Government Agencies).

PART 2—[AMENDED]

Accordingly, Part 2 of Title 44, Code of Federal Regulations, is amended as follows:

§ 2.52 [Amended]

1. Section 2.52 is amended by removing paragraphs (b)(5) and (b)(7) and reserving the paragraph numbers.

2. Section 2.64 is amended by adding the following paragraphs (f) and (g).

§ 2.64 Federal Insurance Administration (FIA).

* * * * *

(f) Authority to sue and be sued under section 402(c)(3) of the Housing Act of 1950 (12 U.S.C. 1749a(c)(3)) applicable under section 1247 of the National Housing Act (12 U.S.C. 1749bbb-17).

(g) Authority to be sued under section 1341 of the National Flood Insurance Act (42 U.S.C. 4072).

(Reorganization Plan No. 3; E.O. 12127)

Dated: September 22, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-26371 Filed 9-28-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 11

Collection of Claims by the Government Under the Debt Collection Acts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule sets forth procedures for collection of debts due the United States under programs administered by FEMA and also establishes standards for compromise and waiver of such debts. The regulation is needed to implement the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) and previously existing Federal claims collection statutes (31 U.S.C. 3711 *et seq.*)

DATE: Effective October 28, 1983.

FOR FURTHER INFORMATION CONTACT: George W. Watson, Associate General Counsel, Telephone (202) 287-0376.

SUPPLEMENTARY INFORMATION: Proposed rule was published on June 17, 1983 at 48 FR 27791. No comments concerning the proposed rule were received from the general public. However, as the result of FEMA comments certain minor changes are made, as described below:

Section 11.33 is amended to require each FEMA regional office to appoint a claims collection officer.

Section 11.34(a)(1) and 11.50(a)(6) are amended to permit the Agency Claims Officer to make decisions on claims collection after consultation with the General Counsel.

Section 11.41(a) is amended to allow the FEMA Director to waive suspension or revocation of eligibility for grants to delinquent debtors in disaster programs administered by FEMA. The waiver may be either whole or partial.

Section 11.43(c) is amended to eliminate the requirement that the officer making the review within the Agency must secure the concurrence of the Agency Claims Officer before rendering his/her decision. This elimination ensures independence of the reviewing official.

An environmental assessment is not necessary as this rule is procedural and has no effect on the quality of the human environment. The rule is not a major rule as defined in Section 1(b) of Executive Order 12291, nor will it have a significant, economic impact on a

substantial number of small entities. Hence, regulatory impact analyses are not necessary. Sections 11.36 and 11.52–11.54 contain collection of information requirements which have been submitted, to the Office of Management and Budget under Section 3504(h) of the Paper Work Reduction Act.

List of Subjects in 44 CFR Part 11

Administrative practice and procedure, Claims.

Accordingly, Title 44 CFR Chapter 1, Subpart C is amended by revising the Table of Contents for Subpart C and by revising Subpart C to read as follows:

PART 11—CLAIMS

* * * * *

Subpart C—Collection of Claims by the Government Under the Debt Collection Act of 1982

Sec.

11.30 Scope of regulations.
11.31 Adoption of joint standards.
11.32 Subdivision and joining of claims.
11.33 Authority of offices to attempt collection of claims.
11.34 Referral of claims to the Comptroller, Federal Emergency Management Agency.
11.35 Authority of offices to compromise claims or suspend or terminate collection action.
11.36 Claims files.
11.37 Quarterly report of collection action.
11.38 Annual reports to the Director, Office of Management and Budget and the Secretary of the Treasury.
11.39 Accounting control.
11.40 Record Retention.
11.41 Suspension or revocation of eligibility.
11.42 Demand for payment of claims.
11.43 Collection from non-Government entities by administrative offset.
11.44 Collection of claims against Federal agencies or State or local government by administrative offset.
11.45 Collection by salary offset.
11.46 Liquidation of collateral.
11.47 Collection in installments.
11.48 Interest and penalties.
11.49 Omission not a defense.
11.50 Standards for compromise of claims.
11.51 Standards for suspension or termination of collection action.
11.52 Referral of delinquent debtors to consumer reporting agencies.
11.53 Securing debtor addresses from the Department of Treasury.
11.54 Contracts with debt collection agencies.
11.55 Referral to GAO or Justice Department.
11.56 Analysis of costs.
11.57 Automation.
11.58 Prevention of overpayments, delinquencies and defaults.
11.59 Office of General Counsel.
11.60 Sale of debts due in the United States arising under programs administered by the Agency.

Authority: 31 U.S.C. 3711 *et seq.*

§ 11.30 Scope of regulations.

(a) *Scope.* This regulation implements policies and procedures used by the Director of the Federal Emergency Management Agency (the Agency or FEMA) to effectuate collections under the Debt Collection Act of 1982 (31 U.S.C. 3711 *et seq.*) (the Act). The Act requires the Director or his designee to: (1) attempt collection of all claims of the United States for money or property arising out of activities of the Agency and (2) authorizes the Director or his designee, for claims not exceeding $20,000 exclusive of interest, to compromise such claims or to suspend or terminate collection action where it appears that no person is liable on such claim or has the present or prospective financial ability to pay a significant sum thereon or that the cost of collecting such claim is likely to exceed the amount of recovery.

(b) *Definitions.* For purposes of this subpart, "office" means one of the following: (1) Training & Fire Programs Directorate, (2) Emergency Operations (3) Federal Insurance Administration, (4) National Preparedness Programs Directorate, (5) State & Local Programs & Support Directorate, (6) Resource Management & Administration Directorate, (7) Office of Regional Operations, and (8) Office of Comptroller

§ 11.31 Adoption of joint standards.

All administrative actions to collect claims arising out of activities of the Agency shall be performed in accordance with the applicable standards prescribed either in 4 CFR Parts 101 through 105 or any standards promulgated jointly by the Attorney General and the Comptroller General. Such standards are adopted as a part of this subpart and are supplemented in this subpart. Additional guidance will be found in the GAO Policy & Procedures Manual for Guidance of Federal Agencies and in the Treasury Fiscal Requirements Manual.

§ 11.32 Subdivision and joining of claims.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one not exceeding $20,000 exclusive of interest for the purpose of compromise or termination of collection action. Such a claim may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single claims in a demand upon a particular debtor for payment totaling more than $20,000 does not preclude compromise or termination of collection action with respect to any one of such claims that does not exceed $20,000 exclusive of interest.

§ 11.33 Authority of offices to attempt collection of claims.

The head of each office and each regional director shall designate a claims collection officer who shall attempt to collect in full all claims of the Agency for money or property arising out of the activities of such office. Each claims collection officer shall establish and currently maintain a file with regard to each claim for which collection activities are undertaken. Insofar as it is feasible, claims collection personnel shall have personal interviews or telephone contact with the debtor.

§ 11.34 Referral of claims to the Comptroller, Federal Emergency Management Agency.

(a) *Authority of the Comptroller. Federal Emergency Management Agency.* (1) The Comptroller, Federal Emergency Management Agency, is designated the Agency Claims Officer and shall exercise the powers and perform the duties of the Director to compromise, or to suspend or terminate collection action, after consultation with the Office of General Counsel, on all Agency claims not exceeding $20,000 exclusive of interest, except as provided in § 11.35 and paragraph (b) of this section. In addition, the Comptroller is delegated all authority which may be exercised by the Director, Federal Emergency Management Agency, in related to:

(i) Disclosure to a consumer reporting agency in accordance with 31 U.S.C. 3711(f),

(ii) Instituting salary offset procedures in accordance with 5 U.S.C. 5514(a),

(iii) Instituting administrative offset procedures in accordance with 31 U.S.C. 3716,

(iv) Charging of interest and penalties in accordance with 31 U.S.C. 3717,

(v) Entering into contracts for collection of claims in accordance with 31 U.S.C. 3718, except that the execution and administration of such contracts is delegated to Federal Emergency Management Agency contracting officers appointed under provisions of 41 CFR subpart 1–1.4,

(vi) Prescribe claims collection procedures and manage claims collection activities within the Agency.

(2) When initial attempts at collection by the office originating such claim have not been fully successful, the claim file shall be forwarded to the Agency Claims Officer for further administrative collection procedures. Claims shall be

referred to the Agency Claims Officer well within the applicable statute of limitations (28 U.S.C. 2415 and 2416).

(b) *Exclusions.* There shall be no compromised or terminated collection action with respect to any claim: (1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim; (2) based in whole or in part on conduct in violation of the anti-trust laws; (3) based on tax statutes; or (4) arising from an exception made by the General Accounting Office in the account of an accountable officer. Such claim shall be promptly referred to the Justice Department, or GAO, as appropriate, after the Agency Claims Officer has consulted with the Inspector General and the Office of General Counsel.

§ 11.35 Authority of offices to compromise claims or suspend or terminate collection action.

Where it appears that the cost of collecting a claim of less than $600 will exceed the amount of recovery, the claims collection officer is authorized to compromise the claim or to terminate collection action.

§ 11.36 Claims files.

Each claims collection officer is responsible for obtaining current credit data about each person against whom a claim is pending in his office. The files shall be kept up-to-date by the Agency Claims Officer for claims referred to the Agency Claims Officer for collection. Such credit data may take the form of: (a) A commercial credit report, showing the debtor's assets and liabilities and his income and expenses, (b) the individual debtor's own financial statement, executed under penalty of perjury, reflecting his assets and liabilities and his income and expenses, or (c) an audited balance sheet of a corporate debtor. The file should also contain a checklist or brief summary of action taken to collect or compromise a claim. All claims files relating to claims against individuals are to be safeguarded in accordance with 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974;" 31 U.S.C. 3711 *et seq.*, popularly known as the "Debt Collection Act of 1982;" 44 CFR Part 6 and this subpart.

(Approved by the Office of Management and Budget under Control No. 3067-0122)

§ 11.37 Quarterly report of collection action.

The Agency Claims Officer shall make a quarterly report to the Director and to all offices that have referred claims for collection. The report should contain the following information as a minimum:

(a) All outstanding claims referred to the Agency Claims Officer for administrative collection, including the name and address of the debtor, the amount of the claim, the date the claim accrued, the basis of the claim, the office referring the claim, and the current program of collection activities.

(b) All claims referred to the Office of General Counsel for legal guidance.

(c) All claims compromised or on which collection has been suspended or terminated or referred to the General Accounting Office of the Department of Justice for further collection action during the quarter. The collection action taken and the basis for the action should be indicated.

(d) All claims referred to the Department of Justice under § 11.55 of this Part.

(e) Claims returned to this Agency by the Justice Department for further collection action because handling by the Department of Justice was not warranted.

§ 11.38 Annual reports to the Director, Office of Management and Budget, and the Secretary of the Treasury.

(a) The Agency Claims Officer shall gather data on loans, accounts receivable, and claims which are required by 31 U.S.C. 3719 and shall transmit them to the Director, Federal Emergency Management Agency. Such data shall include:

(1) The total amount of loans and accounts receivable owed to the Agency and when the funds owed to the Agency are due to be repaid;

(2) The total amount of receivables and number of claims that are at least thirty days past due;

(3) Total amount written off as uncollectable, actual, and allowed for;

(4) The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) The total number of claims and total amount collected;

(6) The number of claims and the total amount of claims referred to the Department of Justice for settlement or collection and the total number of claims and the total amount of claims settled or collected by that Department;

(7) For each program or activity administered by the Agency, the data described in paragraphs (a)(1) through (6) of this subsection; and

(8) Such other data as the Director, Office of Management and Budget, shall prescribe by regulations issued under authority of 31 U.S.C. 3719.

(b) Data described in paragraph (a) of this section shall be collected on a calendar year basis and transmitted to the Director, Federal Emergency Management Agency not later than the end of January of the year following the year for which the data described in subsection (a) above, were collected. The Director, Federal Emergency Management Agency, shall report these data to the Secretary of the Treasury and the Director, Office of Management and Budget in accordance with 31 U.S.C. 3719. If the Secretary of the Treasury and the Director, Office of Management and Budget prescribe, by regulation, a different annual reporting cycle, the Agency's reporting cycle, described in the first sentence of this subsection shall be changed to conform with the cycle prescribed by the Department of the Treasury and Office of Management and Budget regulation.

§ 11.39 Accounting control.

Each office shall process all claims collections through the Agency Claims Officer and report the collection, compromise, suspension, and termination of all claims to that Officer for recording.

§ 11.40 Record retention.

The file of each claim on which administrative collection action has been completed shall be retained by the appropriate officer not less than 1 year after the applicable statute of limitations has run.

§ 11.41 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Agency fails to pay his debts to the Agency within a reasonable time after demand, the fact shall be reported by the Agency Claims Officer to the Inspector General and to the Acquisition Management Division, which shall place such defaulting participant's name on the Agency's list of debarred, suspended and ineligible contractors and grantees. The participant will be so advised. Suspension or revocation of eligibility may be waived in whole or in part in the case of grants for disaster programs administered by FEMA, if the Director so directs.

(b) The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 is to be reported at once to the Agency Claims Officer, who shall so advise the Treasury Department. That Department will notify this Agency when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 11.42 Demand for payment of claims.

(a) *Initial demand.* An initial demand shall be made in writing and sent by certified mail, return receipt requested, to the debtor identifying the claim, and advising that the full amount due should be paid by a specified due date, not less than 30 days from mailing of the demand. If the debtor is other than a State or local government or an agency of the United States, the initial demand notice shall also advise the debtor that interest, calculated at rates provided by 31 U.S.C. 3717(a), shall be assessed if the claim is not paid in full by the due date. Interest shall be charged on the outstanding balance due at the rate prescribed by the Secretary of the Treasury in accordance with 31 U.S.C. 3717(a), beginning on the date that the notice was mailed to the debtor. The debtor shall also be advised that if any portion of the debt remains unpaid 90 days after the due date, then additional penalties prescribed in 31 U.S.C. 3717(e)(2) of 6 per centum per annum shall be charged on the unpaid balance.

(b) *Subsequent demands.* If the debt is not paid by the due date or if a repayment program, acceptable to the Agency Claims Officer, has not been arranged with the debtor, then an initial demand shall be made followed by two progressively stronger written demands at not more than 30 days intervals, will be made unless a response to the initial or subsequent demands indicates that further demands would be futile and that the debtor's response does not require rebuttal.

(c) *Claims arising from contracts executed on or before October 25, 1982.* If the claim arises from a contract executed before October 25, 1982, then the initial and subsequent demands shall mention nothing about the imposition of penalties or interest, prior to rendering of judgment by a court of competent jurisdiction.

(d) *Waiver of Subsequent Written Demands.* If there is valid reason, the sending of second and third demand letters may be waived. Such reasons may include, but are not to be limited to, statute of limitations being about to run.

§ 11.43 Collection from non-Government entities by administrative offset.

(a) *General.* The Agency Collection Officer may effectuate collection of debts owed by persons or entities, other than Federal agencies or State or local governments, by means of offsets against monies due from the United States under provisions of 31 U.S.C. 3716 and the procedures set forth below. The procedures, prescribed by this subsection, shall not be used if the debtor has executed a written agreement, satisfactory to the Agency Claims Officer, for the payment of the debt so long as the debtor adheres to the provisions of the agreement. Before utilizing the procedures of this section, the Agency Claims Officer, or his designee, shall examine the debt to see whether the likelihood of collecting such a debt and the best interests of the United States justify the use of administrative offset. If the debt is over 6 years old but is not 10 years old, the Agency Claims Officer shall examine the debt and decide whether utilizing these procedures is cost effective. Further, administrative offset procedures shall not be used on debts over six years after they arise unless the facts material to the debt were not previously known to the Government and could not have been reasonably discovered by the officials responsible for collecting the debt.

(b) *Written notice.* After the Agency Claims Officer or his designee has examined the debt under procedures set forth in paragraph (a) above, a notice shall be sent by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of the debt determined by the Agency to be due, and of intention to collect by administrative offset,

(2) Rights available under this section,

(3) Opportunity to inspect and copy the records relating to the debt,

(4) Opportunity for review within the Agency with respect to the debt, and

(5) Opportunity to enter into an agreement with the Agency Claims Officer with respect to the debt. Such agreement may include voluntary but nonrevocable withholding of monies due from the United States to the debtor.

(c) *Review within the Agency.* The debtor may request, within fifteen calendar days after receipt of the written notice specified in paragraph (b) above, review within the Agency as to the existence or amount of the debt or terms of repayment. The review shall be conducted by a member of the staff of the Office of General Counsel not involved in collection of debts under the Agency program which gave rise to the debt. The staff member, with the concurrence of the Agency Claims Officer, may determine that no debt is due, the amount of the debts should be reduced, that terms of repayment should be set, or that the demanded amount should be paid in full. The staff member may negotiate with the debtor concerning a written agreement for the repayment of the debt. However, such agreement shall be subject to approval by the Agency Claims Officer.

(d) If no written agreement is executed, if the debtor does not request review within the Agency, or if the review within the Agency determines that a debt is due, then administrative offset against monies payable by the United States shall be effectuated in accordance with appropriate regulations. Efforts shall be made to coordinate offset collections with other agencies, including use of the Army Holdup List. However, if a statute either prohibts or explicitly provides for collection through administrative offset of the debt or that type of debt involved then the provisions of that statute rather than the provisions of this section shall be used for such offset.

(e) If the debtor has a judgment against the United States, then notice shall be provided to the General Accounting Office for offset in accordance with 31 U.S.C. 3728.

§ 11.44 Collection of claims against Federal agencies or State or local government by administrative offset.

Claims against Federal agencies and against State or local goverments may be collected from monies due from the United States to the agency or government utilizing offset principles of common law. See *U.S. v. Munsey Trust Co.*, 332 U.S. 234 (1947). Prior to utilizing this procedure for collection, the Agency Claims Officer shall notify the debtor agency or State or local government of the nature of the claim, the amount due and of the Agency's intent to collect interest on unpaid balances due. Interest shall accumulate at rates prescribed by the Department of the Treasury pursuant to 31 U.S.C. 3717(a). The notice shall also advise the debtor Federal agency or State or local government of the right to inspect and copy records relating to the claim and shall give the name, business address and telephone number of the official having cognizance over the claim. A bill for collection shall be sent to the Federal agency or to the State or local government.

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or retainer pay for service as a Federal employee and where the individual is indebted to the United States under programs administered by the Agency and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance with § 11.42 above, the Agency Claims Officer may institute

collection action by salary or pay offset procedures.

(b) *Notice of debtor.* At least 30 days prior to initiating salary offset, the Agency claims collection officer or his designee shall send notice by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of indebtedness determined by the Agency to be due, the date that the debt was due, and a statement that FEMA has complied with applicable statutes, regulations and procedures,

(2) Agency intention to initiate proceedings to collect the debt by deductions from pay,

(3) Rights available under 5 U.S.C. 5514(a),

(4) Debtor's opportunity to inspect and copy Government records relating to the debt,

(5) Opportunity to enter into a written agreement under terms satisfactory to the Agency Claims Officer, to establish terms for the repayment of the debt, and

(6) Opportunity for a hearing, described in paragraph (c) below, concerning the existence or the amount of the debt or, if no repayment schedule has been established (in accordance with paragraph (b)(1) above) concerning the terms of the repayment schedule.

(c) *Hearing.* The debtor shall file a petition for hearing on or before the fifteenth day after receipt of notice, referred to in paragraph (b) above, addressed to the Agency Claims Officer, Federal Emergency Managment Agency, Washington, D.C. 20472. The postmark or receipt date, if the mail is not used, shall establish the date of petition.

(1) The hearing official shall be a person of grade GM-14 or higher, not under the supervision or control of the Director, Federal Emergency Management Agency. The Director may enter into interagency support agreements with other Federal agencies or departments for providing hearing officials.

(2) The hearing shall be informal but the debtor shall be given the basic safeguards of due process. The debtor shall have the right to be represented by an attorney. A summary record shall be made of the proceedings at the hearing. The hearing shall, insofar as possible, be conducted at a location and time convenient to the debtor.

(3) As soon as practicable, but in no event later than 60 days after the filing of the petition for hearing, the hearing official shall render a final decision. If a hearing is requested, no further action shall be taken to collect the debt until the final decision is rendered.

(d) *Amount deducted.* The amount deducted from pay for any period shall not exceed 15 percent of disposal pay. However, the debtor may voluntarily agree to the deduction of a greater amount of pay. Disposable pay means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

§ 11.46 Liquidation of collateral.

Where the Agency holds security or collateral thay may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, such procedures should be followed if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure.

§ 11.47 Collection in installments.

Claims with accrued interest and penalties should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment with applicable interest may be accepted in regular installments in accordance with a written agreement approved by the Agency Claims Officer or his designee. If possible, installment payments shall be sufficiently large to complete collection in the three years. Installment payments should not be less than $25.00 per month. The Agency may require the debtor to execute a confess-judgment, negotiable note for the amount of the indebtedness.

§ 11.48 Interest and penalties.

(a) *Interest.* Interest shall be charged on the outstanding balance due on claims at the rate published by the Secretary of the Treasury under provisions of 31 U.S.C. 3717(a). The interest rate in effect at the time that the claim becomes due shall be the rate charged throughout the duration of the claim until the claim is paid in full. The interest shall run from following dates:

(1) If the initial demand for the claim was mailed on or after October 25, 1982, then the date of mailing to the debtor (using the most current address available to the Agency Claims Officer) or

(2) If the initial demand for the claim was mailed before October 25, 1982, then from the date that a demand letter was mailed after October 25, 1982.

(b) *Exceptions to interest charges.* However, no interest, described in subsection (a) above, shall be charged if:

(1) the amount due is paid within 30 days of the mailing of the demand. However, the Agency Claims Officer for good cause, as documented by a memorandum, in the claims file, may extend this 30 day period, or

(2) the applicable statute, regulation required by statute, loan agreement or contract either prohibit the charging of interest of explicitly fix interest or charges which apply to the claim involved.

(c) *Penalty charges.* Except in the situations described in paragraph (b) of this section, a penalty charge of 6 per centum per annum shall be charged on the unpaid portion of a claim which remains unpaid 90 days after the date described in subsection (a) above, if no repayment schedule has been agreed upon by FEMA and the debtor.

(d) *Processing and handling costs for delinquent claims.* The debtor shall also pay the extraordinary costs of processing delinquent claims. Extraordinary costs are deemed to include, but not be limited to, costs of employing commercial firms to locate the debtor; costs, not to exceed one-third of the debt due, of employing contractors for collection services; costs of selling collateral or property to satisfy the debt, etc.

(e) *Standards for waiver of interest, penalties and charges.* Interest, penalties and delinquent claims charges may be waived, either in whole or in part, if the Agency Claims Officer or his designee finds that: (1) The debtor is financially unable to pay, (2) the Agency's enforcement policy will be adequately served if there is a waiver in whole or in part or (3) the debtor has shown good cause, satisfactory to the Agency Claims Officer, that the claim was not timely paid. If waiver is granted, the administrative claims file shall be adequately documented.

(1) The Agency Claims Officer, with the concurrence of the General Counsel, may waive interest, penalties and administrative costs based on criteria set forth in paragraphs (e)(2) through (4) of this section. When such charges are waived, the Agency Claims Officer shall prepare a memorandum for the file stating the reasons for not collecting such charges.

(2) If the costs of collection exceed the projected recovery then interest, penalties and administrative costs may be waived.

(3) If the debtor has a *bona fide* dispute as to facts or has raised valid legal issues, then charges may be waived.

(4) If the debtor is unable to pay, as shown by complete and sworn

statements as to his assets and projected income, then charges may be waived.

(f) *Nonapplicability.* The provisions of this section do not apply to debts and claims owed by Federal agencies and State and local governments. Interest on such debts and claims owed by such entities shall be charged in accordance with applicable statute or, if nonexistent, then in accordance with principles of common law.

(g) When a debt is paid in installments, the payments shall first be applied to collection charges and penalty charges, second to accrued interest and third to outstanding principal.

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR Chapter II, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of claims.

(a) *Compromise.* A claim may be compromised: (1) If the debtor is not able to pay the full amount within a reasonable period of time; (2) if the debtor refuses to pay the claim in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding; (3) if there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed; (4) if the cost of collecting the claim does not justify the enforced collection of the full amount; (5) if, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or (6) for other reasons deemed valid by the Agency Claims Officer after consultation with the General Counsel.

(1) Inability to pay. If a debtor is unable to pay the full amount of the claim within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforced proceedings then the Agency may compromise the claim either in whole or in part. The Agency Claims Officer may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data.

(2) Compromises payable in installements will not normally be permitted by the Agency.

(3) Litigative probabilities. If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Claims Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.

(b) *Documentary evidence of compromise.* No compromise of a claim shall be final or binding on the Agency unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

§ 11.51 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* Collection action shall be suspended temporarily on a claim when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, making consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a claim when the debtor owns no substantial equity in realty and is presently unable to make payment on the Agency's claim or effect a compromise, but his future prospect justify retention of the claim for periodic review and action, and, (1) the applicable statute of limitations has been tolled or started anew, or (2) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Standards prescribed in 4 CFR Part 104 shall be used in making determinations as to suspension as termination of collection efforts.

(1) No substantial recovery possible. If, at the time that collection is attempted, debtor is without assets or actual or potential income or if the debtor may have exemptions under the bankruptcy laws which make enforced collection of the debt not cost-effective, then collection action may be suspend. However, interest and other charges will accumulate unless waived.

(2) Debtor cannot be located. If the debtor cannot be located or is outside the United States, then collection action may be suspended until the debtor is located. The statute of limitations will be tolled during those periods that the debtor is outside the United States.

(b) *Termination of collection action.* Collection action may be terminated and the Agency file closed for the following reasons: (1) No substatial amount can be collected; (2) the debtor cannot be located; (3) the cost will exceed recovery; (4) the claim is legally without merit; or (5) the claim cannot be substantiated by evidence.

(1) No substantial recovery possible. If there is little likelihood that collection efforts will result in any substantial recovery, then collection efforts may be terminated. Costs of recovery may be a factor in determining whether any recovery would be substantial. Normally, costs of recovery would be more important in cases of small debts than in cases of large ones.

(2) Debtor cannot be located. Every effort, including, but not limited to, use of governmental records, Internal Revenue Service taxpayer information, private contractor skip tracer and credit agencies, shall be made to locate debtors in advance of the running of the statute of limitations. If the debtor cannot be located, then the Agency Claims Officer may determine, with the concurrence of the General Counsel, that collection efforts may be terminated.

(3) Litigative possibilities. The criteria and procedures of section 11.50(a)(3) of this subpart may be used to terminate collection efforts if it appears unlikely that the Government would prevail if it were to litigate collection of the debt.

(c) *Enforcement Policy.* Statutory penalties and forfeitures are used as an aid to secure compliance with FEMA requirements and to compel payment. These may be waived if the Agency's enforcement policy in terms of securing payment and securing compliance with FEMA regulations would be served by accepting a sum agreed upon. Mere accidental or technical violations will be dealt with less severely than willful or substantial violations.

§ 11.52 Referral of delinquent debtors to consumer reporting agencies.

(a) *General.* This section implements 31 U.S.C. 3711(f) concerning reporting of debtors having overdue debts to consumer reporting agencies.

(b) *Procedures.* When a Claim is unpaid for 120 days after the initial demand letter has been sent and where the debtor has not repaid the claim nor has the debtor entered into an agreement for repayment satisfactory to the Agency Claims Officer or his designee, or the claim is not subject to administrative offset (as described in § 11.43, above), the Agency Claims Officer may report the claim to consumer reporting agencies if:

(1) The Agency Claims Officer or his designee has determined that the debtor's claim is overdue,

(2) Notice has been sent certified mail, return receipt requested, to the debtor informing him that:

(i) Payment of the claim is overdue,

(ii) The Agency intends to disclose the debtor's debt records to a consumer reporting agency within a stated period, not less than 60 days after the mailing of such claim,

(iii) Specified items of information being released shall be listed in the notice. Such items will normally include the debtor's name, taxpayer account number, last known address, other information necessary to establish the identity of the individual nature, amount and status of the outstanding claim, and programs under which the claim arose, and

(iv) The debtor has a right to a full explanation of the claim, to dispute any information in the records concerning the claim, and to have an administrative review.

If the debtor petitions for administrative review, then no further action on referring claims information to consumer reporting agencies shall be undertaken until the administrative review is completed.

(c) *Administrative review.* The debtor shall send with his petition arguments in writing and documentary evidence to the Agency Claims Officer, Office of the Comptroller, Federal Emergency Management Agency, Washington, D.C. 20472. These shall be reviewed by the Agency Claims Officer or an official designated by him. The reviewing official shall prepare a reply, within 60 days after receipt of the petition, either accepting the debtor's assertions in whole or in part or rejecting them. If the debtor's assertions are rejected in whole or part, then the debt data, described in paragraph (b)(2)(iii) above (with correction made as indicated by the reviewing official) shall be sent to consumer reporting agencies.

(d) *Information released.* Information released to consumer reporting agencies shall be limited to the following items:

(i) Name of debtor, address, taxpayer identification number, and other information necessary to establish the identity of the debtor,

(ii) Amount, status and history of the debt and,

(iii) Program under which the claim arose.

§ 11.53 Securing debtor addresses from the Department of Treasury.

(a) If the Agency Claims Officer is unable to obtain a current address for a debtor, then a written request shall be sent to the Secretary of the Treasury asking for the debtor's most current mailing address from the Department of the Treasury taxpayer identity information files for Agency use in collecting claims. Any information so received from the Secretary of the Treasury shall be safeguarded in accordance with provisions of 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies only for the purpose of preparation of commercial credit reports for use by Federal agencies in accordance with section 3 of the Debt Collection Act (31 U.S.C. 3711(f). A notice to this effect shall be placed on each page containing taxpayer identity information which is sent to consumer reporting agencies.

§ 11.54 Contracts with debt collection agencies.

(a) *General.* The Agency Claims Officer may request the Agency's Acquisition Management Division to enter into contracts for the recovery of indebtedness owed to the United States arising under programs administered by the Agency. Such contracts may be entered into with persons or organizations and shall be handled in accordance with the Federal Procurement Regulations (41 CFR Part 1) and the Agency's procurement regulation (41 CFR Part 44).

(b) *Debt Collection Contract Provisions.* Contracts entered into under authority of this section shall have provisions relating to:

(1) Protection of data relating to individuals which shall not be less than that provided under the terms of the Privacy Act (5 U.S.C. 552a)

(2) Protection of data derived from Department of the Treasury taxpayer identity information files shall in accordance with 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(3) Authority to terminate collection action, settle or compromise claims shall remain with the Director of the Agency or the Agency Claims Officer rather than with the Contracting Officer.

(4) Resolution of disputes relating to the claim shall remain with the Agency Claims Officer or the Agency Director. Resolution of disputes arising under the contract or with the contractor shall remain with the Agency Contracting Officer who shall handle such disputes in accordance with the Contract Disputes Act (Pub. L. 95-563).

(5) Judicial enforcement of the claim shall be handled by the U.S. Department of Justice.

(6) The contractor shall adhere to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection. Practices Act (15 U.S.C. 1692 *et seq.*)

(7) Contracts, entered into under provisions of this section, shall be subject to competition to the maximum practicable extent.

(8) The contractor shall be required to strictly account for all amounts collected.

(c) *Collection Fees.* Contracts entered into under this section may provide that fees payable to the contractor may be payable from the amounts collected from the debtor as determined by the Contracting Office.

[Approved by the Office of Management and Budget under Control No. 3067-0122]

§ 11.55 Referral to GAO or Justice Department.

(a) *Referral to the Department of Justice.* With the exception of debts described in paragraph (b) of this section, those debts which cannot be collected or compromised or terminated in accordance with 4 CFR Parts 103 and 104 and §§ 11.50 and 11.51 above, shall be referred to the Department of Justice for collection action. All such referrals shall be done by the Agency Claims Officer, who shall consult with the FEMA Office of General Counsel. The referral shall be accompanied by a copy of the complete claims file. In addition, the following information shall be provided:

(1) Current address of debtor. Effort shall be made to locate the debtor if he is missing. If the debtor is a corporation, then the name and address of the agent upon whom service of process may be made, shall be provided.

(2) Credit data which may be in the form of a credit report or a statement, under oath, of the debtors assets and liabilities.

(3) History of prior collection actions.

(4) Data required by the GAO Claims Collection Litigation Report form.

If the debt is less than $600, exclusive of interest, then referral shall not be made to the Department of Justice, except in unusual cases.

(b) *Referral to the General Accounting Office.* Claims arising from audits exceptions taken by the General Accounting Office (GAO) shall be referred to GAO before referring such claims to the Department of Justice. If the merits of the claim or the propriety of a proposed compromise, suspension or termination are in doubt, then the matter should be referred to GAO prior to referral to the Department of Justice.

(c) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and, in any event, well within the statute of limitation for bringing suit against the debtor. Ordinarily, claims referrals will be made to the Department of Justice within six months after FEMA

has determined that a debt is owing in an amount certain.

§ 11.56 Analysis of costs.

The Agency Claims Officer shall provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection program.

§ 11.57 Automation.

The Agency Claims Officer shall work to automate the Agency's debt collection operations to the extent that it is cost effective and feasible.

§ 11.58 Prevention of overpayments, delinquencies, and defaults.

The Agency Claims Collection Officer shall establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

§ 11.59 Office of General Counsel.

The Office of General Counsel shall provide legal advice on claims collection matters to all claims collection officers and the Agency Collection Officer, as needed.

§ 11.60 Sale of debts due the United States Arising under programs administered by the Agency.

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 above and where the stated value of the debt is less than $20,000, excluding penalties and interest then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at $600, or less, excluding penalties and interest, after decision by the Agency Claims Officer. Where the debt exceeds $600 but is less than $20,000, exclusive of interest and penalties, the Agency may sell or assign such debts only after the Agency Claims Officer has coordinated such action with the Department of Justice and the General Accounting Office.

Dated: September 22, 1983.

Louis O. Giuferida,

Director.

[FR Doc. 83-26373 Filed 9-27-83; 8:45 am]

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44 CFR Parts 59, 60, 61, 64, 65, 66, 67, 70, 76, and 77

Changes in Assignments of Official in FEMA Regulations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document changes numerous references in FEMA regulations to the Federal Insurance Administrator to references to the Associate Director, State and Local Programs and Support, FEMA (called the Associate Director). The change is needed because the activities described in the regulations are now being performed by the Associate Director.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, FEMA, 500 C Street SW., Washington, D.C. 20472, (202) 287-0377.

SUPPLEMENTARY INFORMATION: This regulation makes changes needed to reflect new organizational assignments within FEMA. It relates to internal management and it is not a substantive rule. Thus, notice and public comment are unnecessary and the rule can be made effective immediately.

List of Subjects

44 CFR Part 59

Flood insurance, Flood plains.

44 CFR Part 60

Flood insurance, Flood plains.

44 CFR Part 61

Flood insurance.

44 CFR Part 64

Flood insurance.

44 CFR Part 65

Flood insurance.

44 CFR Part 66

Flood insurance, Flood plains, Intergovernmental relations.

44 CFR Part 67

Flood insurance, Flood plains.

44 CFR Part 70

Flood insurance, Flood plains.

44 CFR Part 76

Flood insurance, Grant programs/Environmental protection.

44 CFR Part 77

Flood insurance, Flood plains, Grant programs/Environmental protection.

Accordingly, "Subchapter B, Chapter 1 of Title 44, Code of Federal Regulations is amended as follows:

PART 59—GENERAL PROVISIONS

§§ 59.2, 59.22, 59.24 [Amended]

1. 44 CFR Part 59 is amended by removing the title "Administrator" and adding the title "Associate Director" in the following sections:

§§ 59.1 (In definition of "Eligible Community", "Flood Elevation determination", "Flood Hazard Boundary Map", "Flood Insurance Rate Map", "Participating Community", "Project Cost", "Regular Program", and "State Coordinating Agency"), 59.2(a), 59.2(b), 59.22(a)(9) (i) and (v), 59.22(b)(2), 59.24(a) (9 times), 59.24(b) (6 times).

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§§ 60.1-60.6, 60.11, 60.16, 60.25 [Amended]

2. 44 CFR Part 60 is amended by removing the title "Administrator" and adding the title "Associate Director" in place thereof in the following sections: §§ 60.1(a), 60.1(b), 60.2(a) (2 times), 60.2(f), 60.2(h) (2 times), 60.3 introductory text (5 times), 60.3(a), 60.3(b), 60.3(b)(4), 60.3(b)(6), 60.3(c), 60.3(c)(2), 60.3(c)(4), 60.3(d), 60.3(e), 60.4 introductory text (5 times), 60.4(a), 60.4(b), 60.4(b)(2), 60.5 introductory text (5 times), 60.5(a), 60.5(b), 60.5(b)(2), 60.6(a) (3 times), 60.6(a)(6), 60.6(b)(1) (2 times), 60.6(b)(2), 60.6(b)(3), 60.6(b)(4), 60.11(a), 60.11(b) (first time only), 60.13, 60.25(a)(4), 60.25(b).

PART 61—INSURANCE COVERAGE AND RATES

§ 61.12 [Amended]

3. 44 CFR Part 61 is amended by removing the title "Administrator" and adding the title "Associate Director" in the following sections: §§ 61.12(a), 61.12(b), 61.12(c) 61.12(d), 61.12(e), and 61.12(f).

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§§ 64.3, 64.4, 64.5 [Amended]

4. 44 CFR Part 64 is amended by removing the title "Administrator" and adding the title "Associate Director" in its place in the following sections:

§§ 64.3(a), 64.3(a)(2), 64.3(c)(1), 64.4(b), 64.4(c), 64.4(d), 64.5(a) (2 times).

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

§ 65.3 [Amended]

5. 44 CFR Part 65 is amended by removing the title "Administrator" and adding the title 'Associate Director" in its place in the following sections: §§ 65.3, 65.3(a), 65.3(a)(2), 65.3(c).

PART 66—CONSULTATION WITH LOCAL OFFICIALS

§§ 66.1 and 66.3 [Amended]

6. 44 CFR Part 66 is amended by removing the title "Administrator" and adding the title "Associate Director" in its place in the following sections: §§ 66.1(c), 66.1(c)(3), 66.3(a), 66.3(b).

7. 44 CFR Part 66 is amended by removing the title "Administrator's" and adding the title "Associate Director's" in its place in § 66.3(b).

PART 67—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

§§ 67.3, 67.4, 67.6–67.9, 67.12 [Amended]

8. 44 CFR Part 67 is amended by removing the title "Administrator" and adding the title "Associate Director" in its place in the following sections: §§ 67.3 introductory text, 67.3(e), 67.3(f), 67.4 introductory text, 67.6, 67.7(b), 67.7(d), 67.8(a), 67.8(b), 67.8(c), 67.8(e), 67.9(a), 67.12(a).

§§ 67.5, 67.7, 67.11 [Amended]

9. 44 CFR Part 67 is amended by removing the possessive form of the title "Administrator's" and adding the possessive form of the title "Associate Director's" in place thereof in the following sections: §§ 67.5 (2 times), 67.7(a) (2 times), 67.7(d), 67.11.

PART 70—PROCEDURE FOR MAP CORRECTION

§§ 70.1 and 70.3–70.6 [Amended]

10. 44 CFR Part 70 is amended by removing the title "Administrator" and adding in its place the title "Associate Director" in the following sections: §§ 70.1, 70.3(a), 70.4, 70.5, 70.6(a).

PART 76—STATE ASSISTANCE PROGRAM FOR THE NATIONAL FLOOD INSURANCE PROGRAM

§ 76.2 [Amended]

11. 44 CFR Part 76 is amended by removing the title "Federal Insurance Administrator" and adding in its place the title "Associate Director" in the following section: § 76.2(d)(2).

PART 77—ACQUISITION OF FLOOD DAMAGED STRUCTURES

§§ 77.1 and 77.2 [Amended]

12. 44 CFR Part 77 is amended by removing the title "Administrator" and adding in its place "Associate Director" in the following sections: §§ 77.1(b), 77.2(b), 77.2(b)(1), 77.2(b)(4), 77.2(b)(5), 77.2(d)(1) (2 times), 77.2(d)(3) (2 times).

13. Section 77.2(d)(3) is amended by removing the title "Federal Insurance Administrator" and inserting "Director" in its place.

(Reorganization Plan No. 3 of 1978, Executive Order 12127)

Dated: September 22, 1983.

Jeffrey S. Bragg,

Executive Deputy Director.

[FR Doc. 83-26372 Filed 9-28-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 61

[Docket No. FEMA-FIA]

National Flood Insurance Program; Insurance Coverage and Rates; Emergency Phase

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is increasing the chargeable rates for all structures located in communities participating in the emergency phase of the National Flood Insurance Program.

The Federal Emergency Administration (FIA) has examined the current chargeable rates and the amount of subsidy required to supplement the inadequate premium income derived from insurance policies to which these rates apply. Based on this examination, FIA has determined that the general public continues to bear too great a share of the burden for subsidized insurance rates. In addition, FIA has determined that the rate increase is necessary to bring the National Flood Insurance Program closer to a self-supporting basis and create a sounder financial basis for the program.

DATE: This rule will be effiective October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, SW., Washington, D.C. 20472; Telephone Number (202) 287-9740.

SUPPLEMENTARY INFORMATION: On July 15, 1983, FEMA published for comment in the **Federal Register** (Vol. 48, Page 32368) a proposed rule to increase the chargeable or subsidized rates for all structures located in communities participating in the emergency phase of the National Flood Insurance Program (NFIP). Two comments were received, both opposing the proposed increases. Concern was expressed that some regions of the country experience a greater incidence of flooding than do many other regions, especially those within the coastal high hazard areas and many of the large riverine areas, such as the Lower Mississippi River, Ohio River, etc. Thus, the belief was expressed that FIA should consider a more equitable method of having owners of structures in those high hazard areas pay an increased rate to reflect program losses. However, the Congressional intent in establishing the Emergency Program was to provide a limited amount of coverage at reasonable premium rates during the time that data is being developed to determine the extent of the flood hazard so that true actuarial rates can then be implemented.

The belief was also expressed that policyholders outside of the recognized high hazard areas pay too great a share of the subsidized emergency insurance and that it would be more equitable if rates were commensurate with the actual flood loss experience (perhaps by adding a percentage or surcharge increase in the emergency rates when two or more flood claims are paid in a 3- to 10-year period, thus resulting in subsidized rates being moved closer to actuarial rates as additional claims are paid). FEMA recently considered the implemention of a surcharge system for risks subject to repetitive damage and received a great deal of comments, both positive and negative, on this subject. Because of the substantive issues that were raised concerning such a system, it was determined that consideration for such a system should be deferred until it can be studied longer and more input can be obtained from the public through a subsequent proposed rule.

Concern was expressed that the proposed increase in the emergency program rates will result in a reduction in the number of policies purchased and renewed by the segment of the population most in need of flood insurance, will be a disincentive for communities to join and/or remain in the NFIP, and therefore will not enhance floodplain management efforts. While these are valid concerns, FEMA believes that the proposed increases in the subsidized rates will still result in reasonably priced coverage to the policyholder who will benefit from the

insurance at the time of a loss. At the same time, the increased rates will result in a benefit to the general public because such an increase will reduce the amount of subsidy provided by the American taxpayer through the U.S. Treasury.

It should be remembered that the emergency program of the NFIP is an interim phase that the community is enrolled in only until such time as FEMA can provide the detailed information on the extent of its flood hazard and convert that community into the regular phase of the NFIP. Proper floodplain management is an essential requirement for the community's enrollment in both phases of the NFIP.

FEMA has determined that this final rule does not contain a collection of information required as described in Section 3504(h) of the Paperwork Reduction Act.

FEMA has determined, based upon an Environmental Assessment, that this final rule does not have a significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 "C" Street, SW., Washington, D.C. 20472.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, Part 61 of Subchapter B of Chapter 1 of Title 44 is amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

Section 61.9 is revised to read as follows:

§ 61.9 Establishment of chargeable rates.

(a) Pursuant to Section 1308 of the Act, chargeable rates per year per $100 of flood insurance are established as follows for all areas designated by the Administrator under Part 64 of this subchapter for the offering of flood insurance.

RATES FOR NEW AND RENEWAL POLICIES

Type of structure	Rates per year per $100 coverage on	
	Structure	Contents
(1) Residential	$0.45	$0.55
(2) All other (including hotels and motels) with normal occupancy of less than 6 months in duration	.55	1.10

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

(42 U.S.C. 4001 et. seq., Reorg. Plan No. 3 of 1978 (3 CFR 1978 Comp. 329) and E.O. 12127 (44 FR 19367))

(Catalog of Federal Domestic Assistance No. 83.100 National Flood Insurance Program)

Issued at: Washington, D.C., September 27, 1983.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 83-26741 Filed 9-28-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket No. 79-263; FCC 83-426]

Amendment of the Freedom of Information Rules To Modify Fees for Record Searches

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's Freedom of Information Rules to reflect the identity and fees charged by the commercial duplicating firm authorized to make copies of Commission records and offer them for sale to the public. This action is being taken as a result of the recent award of a new copy contract.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Randy W. Thomas, Office of General Counsel, Federal Communications Commission, Washington, D.C. 20554, Tel. (202) 632-6990.

List of Subjects in 47 CFR Part 0

Freedom of Information.

Third Order

In the Matter of Amendment of Freedom of Information Rules To Modify Fees for Record Searches; Gen. Docket No. 79-263.

Adopted: September 21, 1983.

Released: September 22, 1983.

By the Commission.

1. In November 1980, the Commission adopted a *First Order* in this docket that implemented a schedule of fees for staff document searches conducted to fulfill Freedom of Information Act ("FOIA") requests. 84 FCC 2d 14 (1980). The Order also included rules that clarified the procedure for obtaining copies of agency documents. The *Second Order* in this proceeding revised the schedule of hourly fees for staff document searches conducted to fulfill FOIA requests. 48 FR 31039 (July 6, 1983).

2. A note to § 0.465(a) of the Commission's Rules identifies the commercial duplication firm authorized to make copies of Commission records and offer them for sale to the public. In view of the recent award of the copy contract to a new vendor, it is necessary to amend the identifying note. Further amendments will be made periodically to identify the current copy contractor.

3. We find that prior notice and comment procedures are unnecessary to implement the rule amendments in the attached Appendix due to the ministerial nature of the rule change involved. *See* 5 U.S.C. 553(b)(3)(B). The rule change merely reflects the identity and standard fees of the new copy contractor. Therefore, we believe that this action is noncontroversial and unlikely to generate any public comment.

4. In view of the foregoing and pursuant to Section 4(i) of the Communications Act of 1934, as amended, it is hereby ordered that Part O of the Commission's Rules is amended as set forth in the attached Appendix effective October 24, 1983.

5. It is further ordered that the Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—[AMENDED]

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below:

1. Section 0.465(a) is amended by revising the note to read as follows:

§ 0.465 Request for copies of materials which are available, or made available for public inspection.

(a) * * *

Note.—Currently, the contractor is International Transcription Services, Inc., 4006 University Drive, Fairfax, Virginia 22030; telephone (202) 296-7322 or in Gettysburg, PA (717) 337-1433. The current duplicating contract (August 1983) specifies a search charge of $12.00 per hour. There is a minimum order fee of $1.50. The copying charges under the contract vary in accordance with the speed of service. The duplication fee is 5 cents per page for both coin-operated and metered copying. Copies of the FCC telephone directory are also available from the contractor.

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[FR Doc. 83-26497 Filed 9-28-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-253; FCC 83-423]

Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System

AGENCY: Federal Communications Commission.

ACTION: Order regarding Interim Processing Procedures.

SUMMARY: This action halts immediately the acceptance for filing of new low power television and television translator applications, and applications seeking major amendments to licenses, construction permits or applications, except such applications filed in response to Commission cut-off lists.

This action is taken by the Commission in order to focus all resources on elimination of its backlog of approximately 12,000 applications. In addition, a Notice of Proposed Rulemaking will be released within the next few months that will propose the adoption of procedures that will lessen the processing burdens for both the Commission and future Low Power Television and Television Translator applicants.

EFFECTIVE DATE: September 15, 1983.

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

FOR FURTHER INFORMATION CONTACT: Barbara A. Kreisman, Low Power Television Branch, Mass Media Bureau (202) 632-3894.

Order

In the matter of an inquiry into the future role of low power television broadcasting and television translators in the National Telecommunications System (BC Docket No. 78-253, FCC 83-423).

Adopted: September 15, 1983.
Released: September 19, 1983.

By the Commission.

1. On March 4, 1982, the Commission adopted a *Report and Order* implementing the final rules for the Low Power Television Broadcasting Service.[1] Pursuant to these rules technical standards were established to permit the efficient processing of low power television applications. A prohibited contour overlap mode of processing, adaptable to computerization, was specified. Further, the new rules set forth a tiered processing procedure under which application for the most rural and under served markets would be processed first. A "freeze" was placed on Tier II and III applicants—those proposing to locate stations within 55.5 miles of the coordinates of the top 212 ranked television markets. These rules became effective on June 17, 1982.[2]

2. During the year since implementation of the new rules, processing procedures applicable to these rules have been established. A mini-computer was purchased; the related hardware was installed; and the necessary software was prepared. A significant amount of staff time was devoted to compiling Commission data bases pertaining to existing translators and pending applications so that required technical information could be loaded into the computer's memory. Further, the then pending 7,000 applicants were given an opportunity during a 90-day amendment period from June 24, 1982 to September 21, 1982, to bring their applications into conformance with the low power rules.[3] As a result, in late September 1982 the Commission was flooded with thousands of amendments that had to be processed. During this time, attempts were made to process applications manually. These efforts translated into as many as 20 construction permit grants a month. However, the manual processing method was extremely tedious and slow, involving the plotting of signal contours to insure no interference to full service facilities or existing translators. In some cases the number of mutually exclusive applications appeared to be so extensive (as many as 400–500) that manual processing was impossible. During this year period another 5,000 applications—all Tier I—were received, bringing the total backlog to approximately 12,000.

3. Finally, in June 1983 the new mini-computer became operational. Applications that were cut off under the old rules, regardless of tier, are being processed for grant or inclusion in a lottery group.[4] Unfortunately, many of these applications, while technically acceptable under the old "judgmental" standards, must be dismissed under the new technically precise rule provisions.[5] Although the computer has been "on line" for only two months, the first low power television/television translator lotteries involving approximately 100 applicants are now scheduled for September 29, 1983.

4. Additional computer programs are now being written, designed to more effectively and efficiently purge the data base of technically defective applications, i.e., those for which prohibitive overlap would occur. The "purge" program should be operational later this month, with the purge process completed sometime in December. At that time staff efforts will be focused exclusively on those applications that present technically feasible operations. Additionally, before applications are placed on cut-off lists, they are now studied to insure technical compliance with the new rules. Commencing in August, 1983, cut-off lists have been released at approximately two week intervals.[6]

5. Further, the staff continues to make computer programming and data base modifications as necessitated by the problems resulting from processing applications filed under two sets of rules. For example, applications appearing on separate "cut-off" lists under the old judgmental rules may be mutually exclusive under the new rules. Thus, appropriate data base entries must be made to insure inclusion of all mutually exclusive applicants in the same lottery group.[7]

6. In addition to the activities enumerated above, we are now engaged in a reevaluation of the procedures set forth in our rules applicable to low power television and television translators. Our intent in this process is to modify procedures to permit expeditious processing and to avoid the current backlog situation when the freeze on the filing of Tier II and III applications is lifted. In order to preserve the effectiveness of any such new procedures, we believe it is necessary in the public interest to freeze the present universe of applications and

[1] 48 FR 21478, May 18, 1982. Reference to low power television also includes television translators, for they are technically equivalent and compete for the same frequencies.

[2] A limited reconsideration of the rules was adopted on March 31, 1983. *The Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System* (Reconsideration Order), 48 FR 21478, May 12, 1983. In addition, by a separate order a lottery was designated as the procedure for selecting from among mutually exclusive low power applications. *Selection From Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings* (Lottery Order), 48 FR 27182, June 13, 1983.

[3] FCC 82-297, released June 23, 1982.

[4] See Reconsideration Order, 48 FR at 21483, n. 13.

[5] Until promulgation of the new rules, each low power television/television translator application was examined on a case by case basis with separate analysis performed regarding other authorized spectrum users to which the proposed facility could cause interference. As against other translators, fixed coordination distances or separate calculations were not relied on, but only "engineering discretion."

[6] See § 73.3572(c) of the Commission's rules, which sets forth cut-off procedures.

[7] See Lottery Order, 48 FR at 27185, n. 7A.

to halt immediately the tendering of all low power television and television translator new and major change applications for an interim period until further notice. Any such applications tendered after the adoption of this *Order* will be returned to the applicant without prejudice. Applications will continue to be accepted only when mutually exclusive with those on cut-off lists.[8] Within the next few months we contemplate issuing a Notice of Proposed Rulemaking which will address procedures that will significantly lessen the processing burdens for the Commission and our future applicants. We have already made substantial progress within the past two months since initiating computerized processing. The progress within the next six months will similarly be significant. A temporary freeze on the acceptance of all applications, except those filed against cut-off lists, will best serve the public interest because it will allow us to devote full staff resources toward the processing of those 12,000 applications already on file; and to make appropriate adjustments in our software that will set the stage for significant reduction of the backlog and full implementation of the low power television service.

7. Accordingly, it is ordered, that effective immediately as of the close of Commission business on the day of adoption of this Order and until further notice, the Commission will not accept for filing either new low power television or television translator applications, or applications seeking major amendments to licenses, construction permits or applications except such applications filed in response to Commission cut-off lists.[9]

8. This action is taken pursuant to authority contained in Sections 1, 4(i), 5(d)(1), 303 (c) and (v) and 309(b) of the Communications Act of 1934, as amended.

9. For further information concerning this proceeding, contact Barbara Kreisman, Chief, Low Power Television Branch, at (202) 632-3894.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-26499 Filed 9-28-83; 8:45 am]

BILLING CODE 6712-01-M

[8] In addition, existing television translators or low power television stations may continue to file applications for major amendments to change frequency from Channels 70 through 83 or to change frequency to resolve interference to or from full service stations.

[9] Immediate implementation of this Order is required for a 30 day delay would thwart the purpose of the freeze.

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of undertanding.

DATE: Effective September 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632-5414, Mass Media Bureau.

List of Subjects

47 CFR Part 73

Radio broadcast.

47 CFR Part 74

Television.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: September 23, 1983.

Released: September 27, 1983.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) As part of the past reformatting of Part 73 of the rule book, regulations applicable to all services, AM, FM and TV, were relocated into Subpart H, Rules Applicable to All Broadcast Stations. Throughout this reformatting project, a cross reference of relocated rules was entered under the section title in the separate subparts. These served as sign posts for rule seekers. As the Commission stated in its Order adopted September 22, 1978, "much case law, many documents and policy statements refer to these old section numbers and, for the present, we will retain them with the direction to see 'See § 73. [new Subpart H, section number]'," 69 FCC 2d 979. The Commission decided the final fate of the cross references in this same Order by further stating that later "a complete listing of the transfers will be made a part of the rules for such number of years as this type of record is needed." This cross reference listing was adopted by the Commission via Order on January 13, 1982, and inserted into Part 73 between the Table of Contents and the Alphabetical Index. 47 FR 8583, February 19, 1982.

As long as these listings of cross references are maintained, the section numbers pertaining thereto are frozen, *i.e.*, unavailable for use for new rules. We are exhausting section number availabilities in all our rules' subparts. In Subpart E, TV Broadcast Stations, the lack of availability is critical and we must use three currently cross-referenced rule sections to accommodate the Notice of Proposed Rule Making in Docket 21323, Use of Subcarrier Frequencies in the Aural Baseband of TV Transmitters. 48 FR 37475, August 18, 1983. (§§ 73.665, 73.667 and 73.669)

In view of this need, we have newly assessed the necessity of continuing such listings of cross references and have decided that they have satisfied the need for "sign posts" for rule designations from the past to the present. Cross references have been made in some form in Part 73 since 1978 and have, as the Commission stated at that time, been adequately maintained for "such number of years as this record is needed." Also, our regular and complete updating of the alphabetical index further dilutes any obligation to maintain cross reference listings on Part 73. Acknowledged by our staff, by licensees and by legal and engineering practitioners as providing quick and accurate access to FCC Rules and Policies, its updating and detailed maintenance virtually eliminates the need to cross reference these rule section switches. Therefore, considering our current rule section needs and since further retention of cross references in the rule book is neither pressing nor pertinent, and in view of the quick access to rules provided by the alphabetical index, we will delete such listings herein. (See appendix item 1.)

(b) Undesignated headnotes (*e.g.*, Definitions, Administrative Procedure, etc.) were formerly used in the rules' volumes to indicate that rule sections which followed them pertained to the same subject. Without an alphabetical index (adopted in 1978), such a device aided the rules' user in finding the location of a regulation. Since the advent of the alphabetical index, the rule seeker finds the section sought quickly and easily. Over the years, as more and more rules were adopted, it became a space availability problem to fit them into the appropriate location in

the rule Parts. For need of a section number, new rules were lodged in areas with undesignated headnotes and its following rules which were completely foreign to the subject matter of the newly created regulation. The validity of the undesignated headnotes virtually ceased, but some of the headnotes remain in the various rule Parts. These are found in certain Subparts of Parts 73 and 74. When the rules for Parts 76, 78 and 100 were written they did not use this device. Undesignated headnotes will be retained and used *within* a rule section where it designates unique elements within that rule (e.g., a rule with different provisions for commercial and noncommercial educational stations). Undesignated headnotes outside of individual rules will be removed from Parts 73 and 74 via this Order. (See appendix item 2.)

(c) Section 73.1225, Station inspections by the FCC, requires that certain records be made available to FCC representatives during station inspections or investigations. The rule details specific records that may be requested, and cross-references the applicable rule section which specifies requirements, such as tests and measurements, the results of which become the "record," (e.g., "Equipment performance measurements required by § 73.—."

The cross references in (c)(1)(i), (c)(2)(i) and (c)(3)(i) are incorrect in that they refer to rule sections in Subparts A, B, C and E of Part 73. These rule sections were previously combined into one rule and entered into Subpart H and the Sections in Subparts A, B, C and E were deleted. Corrections to the cross-references reflecting the change to the new rule section are effected in this Order. (See appendix item 3.)

(d) Effective August 9, 1973, the FCC changed copy contractors. The name and address of the former contractor is stated in § 73.1650. It is deleted herein and the rule will be further modified to state that the contractor's name and address may be obtained from the FCC's Consumer Assistance Office, thereby obviating a possible recurrence in the event of a future change in copyists. (See appendix item 4.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, 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).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to Sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of Volume III of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective September 27, 1983.

6. For further information on this *Order*, contact Steve Crane, (202) 632-5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

1. 47 CFR Part 73 is revised by removing "Cross References—Part 73" which follows the Table of Contents and precedes the Alphabetical Index of that Part.

2. In 47 CFR Parts 73 and 74, the following undesignated headnotes, preceding the Sections indicated in parentheses, are removed: Classification of FM Broadcast Stations and Allocation of Frequencies (§ 73.201); Licensing Policies (§ 73.232); Equipment (§ 73.258); Technical Operation and Operators (§ 73.265); Other Operating Requirements (§ 73.293); FM Technical Standards (§ 73.310); Classification of Stations and Allocation of Frequencies (§ 73.501); Equipment (§ 73.540); Technical Operation and Operators (§ 73.561); Other Operating Requirements (§ 73.593); General (§ 73.601); Applications and Authorizations (§ 73.621); Over-the-Air Subscription Television Operations (§ 73.641); General Operating Requirements (§ 73653); TV Technical Standards (§ 73.681); Monitoring Equipment (§ 73.691); Definitions and Allocation of Frequencies (§ 73.701); Administrative Procedure (§ 73.710); Licensing Policies (§ 73.731); Equipment (§ 73.751); Technical Operation and Operators (§ 73.761); Scope (§ 73.1001); Operating Hours (§ 73.1700); Filing of Applications (§ 73.3511); Application Processing (§ 73.3561); Action on Applications (§ 73.3591); Filing of Reports and Contracts (§ 73.3612); FCC Policies (§ 73.4000); Definitions and Allocation of Frequencies (§ 74.101); Administrative Procedure (§ 74.112); Licensing Policies (§ 74.131); Equipment (§ 74.151); Other Operating Requirements (§ 74.181); Definitions and Allocation of Frequencies (§ 74.201); Licensing Policies (§ 74.231); Equipment (§ 74.251); Technical Operation and Operators (§ 74.261); Other Operating Requirements (§ 74.281); Definitions and Allocation of Frequencies (§ 74.301); Administrative Procedure (§ 74.312); Licensing Policies (§ 74.331); Equipment (§ 74.351); Technical Operation and Operators (§ 74.361); Other Operating Requirements (§ 74.381); Definitions and Allocation of Frequencies (§ 74.401); Licensing Policies and General Operating Requirements (§ 74.431); Equipment (§ 74.451); Technical Operation and Operators (§ 74.461); Other Operating Requirements (§ 74.482); Definitions and Allocation of Frequencies (§ 74.501); Licensing Policies and General Operating Requirements (§ 74.531); Equipment (§ 74.551); Technical Operation and Operators (§ 74.561); Other Operating Requirements (§ 74.582); Definitions and Allocation of Frequencies (§ 74.601); Licensing Policies and General Operating Requirements (§ 74.631); Equipment (§ 74.651); Technical Operation and Operators (§ 74.661); Other Operating Requirements (§ 74.682); Definitions and Allocation of Frequencies (§ 74.701); Licensing Policies and General Operating Requirements (§ 74.731); Equipment (§ 74.750); Technical Operation and Operators (§ 74.761); Other Operating Requirements (§ 74.780); Definitions and Allocation of Frequencies (§ 74.801); Licensing Policies and General Operating Requirements (§ 74.831); Equipment (§ 74.851); Technical Operation and Operators (§ 74.861); Other Operating Requirements (§ 74.882); Definitions and Allocation of Frequencies (§ 74.901); Licensing Policies and General Operating Requirements (§ 74.931); Equipment (§ 74.950); Technical Operation and Operators (§ 74.961); Other Operating Requirements (§ 74.982); Definitions and Allocation of Frequencies (§ 74.1201); Licensing Policies and General Operating Requirements (§ 74.1231); Equipment (§ 74.1250); Technical Operation and Operators (§ 74.1261); Other Operating Requirements (§ 74.1281).

3. 47 CFR 73.1225 is amended by revising paragraphs (c)(1)(i), (c)(2)(i) and (c)(3)(i) to read as follows:

§ 73.1225 Station inspections by FCC.

* * * * *

(c) * * *

(1) * * *

(i) Equipment performance measurements required by § 73.1590.

* * * * *

(2) * * *

(i) Equipment performance measurements required by § 73.1590.

* * * * *

(3) * * *

(i) Equipment performance measurements required by § 73.1590.

* * * * *

4. 47 CFR 73.1650 is amended to revise paragraph (d) to read as follows:

§ 73.1650 International broadcasting agreements.

* * * * *

(d) All AM, FM and TV broadcast station agreements to which the U.S.A. is a signatory are available for inspection in the Office of the Chief, Mass Media Bureau, FCC, Washington, D.C. Copies may be purchased from the FCC copy contractor whose name may be obtained from the FCC Consumer Assistance Office in Washington, D.C.

[FR Doc. 83-26495 Filed 9-28-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 81-787; FCC 83-395]

Amendment of the Commission's Rules To Substitute 20 Miles in Place of 40 dBu as the Measure of Service Area Specified in Certain Rule Sections

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules by changing the way market service area is defined for 800 MHz systems. Market service area is now defined as the locations within 20 miles of the base station transmitter. It was felt that defining market service area in terms of mileage would make the rules more understandable and workable for both the Commission and the private land mobile user.

EFFECTIVE DATE: November 1, 1983.

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

FOR FURTHER INFORMATION CONTACT: Herb Zeiler or Mike Kennedy, Private Radio Bureau, (202) 634-2443.

List of Subjects in 47 CFR Part 90

Radio.

Report and Order

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to Substitute 20 miles in place of 40 dBu as the measure of Service area specified in §§ 90.367(c) and 90.371(b); PR Docket No. 81-787.

Adopted: September 9, 1983.

Released: September 23, 1983.

By the Commission.

1. On November 12, 1981, the Commission adopted a *Notice of Proposed Rule Making* in the above entitled matter.[1] The *Notice* proposed to use a 20 mile radius rather than a 40 dBu field intensity contour as the criterion for determining a station's theoretical "market" service area.[2] Comments were filed by the National Association of Business and Educational Radio, Inc. (NABER), Motorola, Inc., and Communications Engineering, Inc. Reply comments were filed by E. F. Johnson Company and the National Mobile Radio Association (NMRA).

Background

2. Section 90.623(c) of the Commission's rules states that: No licensee will be authorized transmitting facilities on conventional frequency pairs which have a 40 dBu contour overlap except where the licensee shows: (1) that the additional frequency pair will be used to provide radio facilities to a single entity and the additional frequency pair is justified on the basis of the requirements of the proposed single user or, (2) the licensee's existing frequency pair(s) is loaded to at least 90%.

Sections 90.364(b) and 90.627(b) contain similar provisions with respect to trunked systems.[3] These rules limit a licensee to a single system within a given geographic area or market until the licensee has loaded the channels currently authorized to it, in order to minimize the likelihood of a single licensee dominating a particular market and to reduce the probabilities that frequencies would be assigned but not used.

3. At the time these rules were adopted, it was felt that defining market service area in terms of a station's 40 dBu contour would provide the licensee with the greatest flexibility in siting the station within the area it wished to serve. However, applicants for 800 MHz facilities are not required to include in their applications information regarding 40 dBu contours of their existing licensed systems. Instead, they are required only to list the radio systems licensed to them within 40 miles of the proposed station.[4] The 40 mile figure results from theoretical 40 dBu contours for stations with maximum facilities. The staff has always applied the 40 mile figure rather than theoretical 40 dBu contours for a proposed station in its licensing processes.[5]

4. The comments, in general, supported our proposal to substitute a mileage radius for a field strength contour as the method for defining market service area, stating that it would be administratively simpler for the Commission. In supporting the proposal, however, NABER and Motorola noted that a 20 mile radius and a station's 40 dBu contour may differ in certain circumstances. There was also some concern expressed by NMRA that defining market service area by the fixed mileage method might preclude operations which would otherwise be allowed under a field strength contour criterion. For instance, the intervening terrain may degrade a signal to such an extent that the 40 dBu contours would not overlap even though the stations are located less than 40 miles (i.e. two 20 mile radii) apart. To resolve this problem NMRA recommended the Commission allow applicants to define a station's market service area by either method.

Decision

5. We have reviewed the comments and reply comments carefully and have

[1] PR Docket 81-787, *Notice of Proposed Rule Making*, adopted November 12, 1981, FCC 81-528 (released November 27, 1981) (46 FR 60031 (1981)).

[2] At present, a market service area is defined as the area around the transmitter site within which the received signal would be 40 dBu or higher. For a discussion of market service area, see Docket 18262, *Memorandum Opinion and Order*, 51 FCC 2d 945, 985 (1975).

[3] At the time the *Notice* in this proceeding was adopted, this prohibition was applicable only to conventional and trunked Specialized Mobile Radio Systems (SMRS's). Since releasing the Notice, we have extended it to all systems operating at 800 MHz. We have also deleted §§ 90.367 and 90.371. The new rules are now contained in §§ 90.364, 90.623, and 90.627. See *Second Report and Order*, PR Docket 79-191, FCC 82-338 (released August 16, 1982) 90 FCC 2d 1281 (1982). The rule changes adopted herein conform with the rules adopted in that proceeding.

[4] Form 400-S (items 5 (a) and (b)) required applicants to indicate whether they had any other systems within 40 miles of the proposed station. This form, however, has been replaced by form 574-A and the Commission's rules now require applicants to provide a list of radio systems licensed to them within 40 miles of the proposed station (PR Docket 79-191). See §§ 90.356 and 90.607.

[5] The 800 MHz power vs. antenna height table (90.635(c), TABLE 2) was designed so that stations operating at maximum power for a given antenna height above average terrain (AAT) would place a 40 dBu contour out approximately 20 miles. The values in the table were based on the Commission's R-6602 F(50,50) curves corrected by 9 dB for the antenna height of mobiles and 12 dB to compensate for the signal attenuation attributable to large urban buildings. See *Second Report and Order*, Docket 18262, 46 FCC 2d 752, 774 n. 26 (1974).

decided, for the reasons discussed below, to adopt the rules as proposed.

6. Defining market service area in terms of a mileage radius around the station instead of a field strength contour makes the rule easier for applicants to understand and easier for the Commission to administer. In the vast majority of cases, a station's 40 dBu contour can be approximate by a 20 mile radius. However, as with most rules involving general predictions based on radio propagation models, there are exceptions. For instance, the surrounding terrain (e.g. rugged mountains) can cause a station's 40 dBu contour to be substantially less than 20 miles. In such cases, defining the market area in terms of a 20 mile radius would preclude operations which otherwise would be allowed under a field strength contour criterion. However, these situations are relatively rare and can be handled through our rule waiver process. [6] It is also possible that in certain circumstances a station's 40 dBu contour may extend substantially more than 20 miles. Defining market area in terms of a 20 mile radius in these cases could in effect allow licensees to obtain additional spectrum in the same market without first loading their assigned channels. However, these situations also will be rare and the 800 MHz band now has developed to a point where there is little likelihood of a single license dominating a given market. Furthermore, the Commission has reduced the number of channels it will assign to an applicant at any one time and has changed the loading requirements and minimized the possibility of channel hoarding on these frequencies. Accordingly, we are convinced that it is in the public interest to simplify our rules and to substitute a 20 mile radius for the 40 dBu field strength contour in all cases as the method of defining a station's market service area.

7. Accordingly, it is ordered, that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended effective November 1, 1983 as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

8. Further information on this matter may be obtained by contacting Herb Zeiler or Mike Kennedy, (202) 634–2443, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE SERVICES

1. Section 90.364 is amended by removing the explanatory "NOTE" and revising paragraph (b) to read as follows:

§ 90.364 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

* * * * *

(b) No licensee will be authorized an additional trunked system within 40 miles of an existing trunked system, except where:

(1) The additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) The licensee's existing trunked system(s) is loaded to at least 90 mobiles per channel.

(2. Section 90.623 is amended by removing the explanatory "NOTE" and revising paragraph (c) to read as follows:

§ 90.623 Limitation in the number of frequencies assignable for conventional systems.

* * * * *

(c) No licensee will be authorized an additional frequency pair for a conventional system within 40 miles of an existing conventional system, except where:

(1) The additional frequency pair will be used to provide radio facilities to a single entity and the additional frequency pair is justified on the basis of the requirements of the proposed single user; or,

(2) The licensee's existing frequency pair(s) is loaded to prescribed levels.

3. Section 90.627 is amended by removing the explanatory "NOTE" and by revising paragraph (b) to read as follows:

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked system and on the number of trunked systems.

(b) No licensee will be authorized an additional trunked system within 40 miles of an existing trunked system, except where:

(1) The additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) The licensee's existing trunked system(s) is loaded to at least 90 mobiles per channel.

[FR Doc. 83-26496 Filed 9-28-83; 8:45 am]

BILLING CODE 6712-01-M

[6] The intent of this proceeding was not to make the rule more restrictive but to bring the rules into accord with administrative practices and procedures and at the same time reduce licensee difficulty in determing "market" area. Consequently, we will consider a waiver of the 40 mile separation requirement where it can be shown that there is no overlap in 40 dBu contours. See § 90.151 of the Rules.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 to Thirteenth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., September 30, 1983, and continuing in effect until 11:59 p.m., December 15, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clements, Jr., (202) 275–7840 or 275–1559.

PART 1033—CAR SERVICE

[Decision; Amendment No. 3 to Thirteenth Revised Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

Decided: September 23, 1983.

Upon further consideration of Thirteenth Revised Service Order No. 1474 (48 FR 6989, 13047 and 28992), and good cause appearing therefor:

It is ordered,

§ 1033.1474 Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee).

Thirteenth Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order are extended for an additional seventy-five (75) days, and shall expire at 11:59 p.m., December 15, 1983, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1983.

This action is taken under authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–26574 Filed 9–28–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Loxahatchee National Wildlife Refuge; Big Game Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes the regulatory framework for hunting whitetailed deer on Loxahatchee National Wildlife Refuge. The special regulations contained in this rule authorize this hunt in a manner that insures the compatibility of the deer hunt with refuge purposes. These regulations supplement State hunting regulations and general rules governing hunting on National Wildlife Refuges in Title 50.

EFFECTIVE DATE: October 29, 1983.

FOR FURTHER INFORMATION CONTACT: James W. Pulliam, Jr., Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, SW, Atlanta, GA 30303 (Telephone 404–221–3588); or James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (Telephone 202–343–4311).

SUPPLEMENTARY INFORMATION: The name, address and telephone number of the Refugee Manager are Burkett S. Neely, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, FL 33437 (Telephone 305–732–3684). John Oberheu, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303 (Telephone 404–221–3538) and Richard Frietsche, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240 (Telephone 202–343–3719), are the primary authors of this document.

General

Loxahatchee NWR was added to the list of areas open to big game hunting in a final rule issued Monday, May 16, 1983 (48 FR 21957). On Tuesday August 2, 1983, the Service published (48 FR 34987) two alternative sets of proposed regulations for a deer hunt on Loxahatchee NWR and requested public comment. After the review of all the available information and public comment, the Service has determined that Alternative II of the proposed rule (those regulations that do not allow airboat use) is the more appropriate set of regulations for this year's hunt.

The substantive issues raised concerning this rule and those issues deferred from the May 16 rule are addressed in the following section.

Responses to Comments Received

A total of 37 written comments were received in response to this proposed rulemaking. Comments were received from nine organizations and 28 individuals. Three organizations endorsed the use of airboats during the third hunt and the remainder of the commentors disapproved of the use of airboats. Thirty-four of the commentors expressed disapproval of the hunt in general.

A careful review of all the public comments identified a number of substantive issues concerning the proposed rulemaking. The Service's decision not to allow airboat access for this year's hunt is in response to concerns raised by the public and was derived from the best information available at this time. Also this first deer hunt on the refuge will provide additional information for the consideration of airboat use in future hunts. The following is a listing of each substantive issue raised during this rulemaking and those that were deferred in the May 16, 1983, rulemaking.

1. Several organizations and individuals objected to the use of airboats during the third hunt as presented in Alternative I of the proposed rule because of the potential impacts that might occur.

Service Response: The concerns associated with the use of airboats were the potential impacts upon endangered or threatened species and species that may be proposed for listing, the potential impact upon critical habitat, the possible intrusion of exotic plant species into the interior of the refuge, potential problems with enforcing regulations, and the need for an off-road recreational vehicle/demand study. The Service's decision not to allow airboat use during the year's hunt satisfies these concerns. This decision was made because of the Service's determination that additional study and evaluation of the impacts of airboat use in the northern portion of the refuge are needed.

2. Several organizations raised the issue that the hunt as proposed will adversely affect two endangered species, the Florida panther and the Everglade kite (snail kite).

Service Response: There is no current evidence of resident panthers on the refuge, although there have been occasional panther sightings in the vicinity. The northern portion of the

refuge (the hunt area) is not desirable panther habitat because of surrounding human activities and the limited size of the area. Even if panther were in the vicinity of the hunt area, the hunt would not adversely affect or impede their conservation. The limited number of hunters, the type of terrain involved, the secretive nature of the panther and the restricted hunting hours would prevent any direct impact. Also, the small number of deer that will be allowed to be taken during the hunt should not affect the panther's food supply.

There have been only a few recent recordings of Everglade kite use in the northern half of the refuge. In recent years the kite has concentrated use in other areas in South Florida. Some of these areas have been subject to big game hunting, airboat use and other intensive human activities with no significant adverse effect on kite use. It is, therefore, very unlikely that the deer hunt as proposed in this rule will adversely affect the kite or limit its conservation.

3. Several organizations made the point that the curly-leaf fern is a very rare plant presently known to exist in no other place than on Loxahatchee Refuge, that it is a Category 1 candidate for the Federal endangered species list, and that hunter use of the refuge will endanger the continued existence of this plant.

Service Response: Access to the refuge hunt area will be limited by not permitting airboat use. It is unlikely that the hunters using conventional boats will enter areas where curly-leaf fern exists. Thus, it is very unlikely that there would be an effect upon the plant by the hunt as it is now proposed.

4. Several organizations stated that funds are not available for holding the hunt as required by the Refuge Recreation Act.

Service Response: Funds have been made available for the development, operation, and maintenance of the deer hunt on Loxahatchee Refuge. In fiscal year 1983, $115,000 was allocated to the Interpretation and Recreation Program for the refuge, and a similar amount is anticipated in fiscal year 1984. A portion of this funding is being used to administer the deer hunt program.

5. Several groups made the point that the cost of developing and holding a deer hunt at Loxahatchee Refuge is so great in comparison to the small number of hunters that would be benefited, that the cost-benefit ratio is extremely unfavorable.

Service Response: Fish and Wildlife Service policy given in 8 RM 5.4C of the *Refuge Manual* states that "Economic feasibility will not be the sole determination in qualifying or disqualifying a particular hunt." It is also Service policy that as long as the costs are reasonable, the Service will provide the opportunity for access and use to the public.

6. Several organizations indicated that there is only a small deer herd and no "harvestable surplus." Section (2a)(5) of the cooperative agreement between the Service and the Central and Southern Florida Flood Control District does not permit harvesting of wildlife unless there are "surplus stocks as game."

Service Response: The term "surplus stock" does not imply that an excess beyond what a refuge can biologically support is required before harvest can be considered. It does, however, imply that resident populations of game, fish and furbearers are not to be depleted below levels required for a balanced conservation program. Although the Loxahatchee deer herd is not large, the proposed harvest, limited to no more than the annual recruitment, does not threaten the continued existence or health of the herd and clearly constitutes harvesting "surplus stock." The Central and Southern Florida Flood Control District has not objected to the hunt as now proposed.

7. Numerous commentors expressed the opinion that hunting on a "refuge" is a violation of the complete protection for animals that such designation intended.

Service Response: National Wildlife Refuges are established primarily to conserve species, populations and their habitats, not individual animals. As recognized in the National Wildlife Refuge System Administration Act of 1966 (as amended) and other applicable laws, hunting is generally consistent with the management concept of providing for healthy populations of wildlife and is compatible with sound wildlife management principles and practices. The Service further believes that public hunting is a legitimate recreational activity and need not be restricted to situations where wildlife populations exist in "excessive" numbers (i.e., used as a corrective management tool).

8. Numerous groups and individuals expressed their opinion that the proposed action is a major Federal action significantly affecting the quality of the human environment and thus requiring the preparation of an Environmental Impact Statement.

Service Response: As required by the Council on Environmental Quality's Regulations to implement NEPA, an environmental assessment is prepared to determine the necessity for an Environmental Impact Statement (EIS). An environmental assessment (EA) of the impacts of hunting on Loxahatchee Refuge was done and resulted in a Finding of No Significant Impact (FONSI) on February 11, 1983. Since then, the EA has been reevaluated and the public comment has been analyzed. The Service reaffirms the original FONSI and finds the preparation of an EIS unnecessary. If airboat use is proposed for future hunts on Loxahatchee Refuge, the EA and FONSI will be re-evaluated and the need for a EIS will be reconsidered at that time.

9. Several individuals suggested that the northern portion of the refuge should be preserved, since it is the last remaining tract of undisturbed habitat in the northern Everglades.

Service Response: These special regulations restrict the number of hunters, dates for hunting, methods of access and area to be hunted. Alteration of habitat is not expected. If it should occur, however, all necessary steps would be taken to prevent damage, including cancellation of the hunt. The Service agrees that this remnant Everglades habitat should be preserved, and will not permit any action that would result in its substantial alteration or destruction.

10. Several organizations suggested that the Loxahatchee deer herd has been in balance with available habitat ever since the refuge was established. A hunt could, by removing certain segments of the deep population, adversely affect the naturally-evolved population structure.

Service Response: Analysis of deer population surveys indicates that the population in the interior of the refuge is relatively stable. Greater fluctuations in the refuge population occur at the periphery of the refuge as deer move off and on refuge lands according to seasons and food availability. The hunt would most likely take deer from this peripheral population. Also, the regulations permit the taking of any age or sex deer, and it is anticipated the harvest will take equally from all population segments.

11. One commentor suggested that non-toxic shot should be required.

Service Response: The regulations in this rulemaking essentially limit ammunition to rifle projectiles and shotgun slugs, which are relatively large objects and not likely to be ingested by waterfowl.

12. Several commentors raised the issue that the hunt would adversely affect sandhill crane nesting.

Service Response: Sandhill crane courting and nesting activity normally begins in December. Since the hunt is scheduled for six days in October and

early November, little if any disturbance to sandhill cranes would result.

13. Several commentors indicated that the hunt would disturb roosts of wading birds and other wildlife.

Service Response: The Service believes that the majority of hunters will hunt on the periphery of the refuge and only a very few hunters will venture into the interior of the northern portion of the refuge hunt area. Therefore, disturbance of wading birds and other wildlife is not likely. In addition, limitation of the hunt to six days during specified hours should further ensure that there will be no adverse impact upon wildlife or wading birds in the refuge.

14. Several commentors suggested that the environmental assessment does not lead to the selected alternative.

Service Response: The Service, by not permitting airboat use, has now essentially chosen Alternative 2 of the environmental assessment as the preferred alternative. The alternative was chosen for this year's hunt because this will be the first hunt on this portion of the refuge; administrative burdens (such as enforcement) will be minimized; and information on hunting methods, effects and success will be obtained for use in structuring future hunts. The environmental assessment provides sufficient evidence and analysis to determine that the proposed action is environmentally sound. The Service is not required to choose the preferred alternative and in this case, the considerations discussed above, together with the EA, led to the alternative chosen.

15. One commentor indicated that the requirements of 50 CFR 31.1 and 31.2 had not been met.

Service Response: 50 CFR Part 31 is limited to recognizing general authority to dispose of surplus wildlife and lists hunting as one method of control and disposition. The Service's procedure for permitting public hunting on refuges is set forth in 50 CFR Part 32. Part 32 essentially requires that hunting be compatible with the principles of sound wildlife management and otherwise be in the public interest. For reasons set forth below, the Service judges that the proposed hunt meets the requirements of Part 32.

Conformance With Statutory Authorities

The National Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of National Wildlife Refuges. Specifically, section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act, authorizes the Secretary to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established.

The Refuge Recreation Act authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Act requires that the Secretary shall determine that funds be made available for the development, operation, and maintenance of these permitted forms of recreation prior to initiating such uses of refuge areas.

Loxahatchee NWR was established on June 8, 1951, through a Cooperative and License Agreement with the Central and Southern Florida Flood Control District for use "* * * as a Wildlife Management Area, to promote the conservation of wildlife, fish, and game and for other purposes embodying the principle and objectives of planned multiple land use." Since the refuge's establishment, portions of the refuge have been open to the public for migratory bird hunting during State season, for sport fishing, birdwatching, airboating, and other recreational uses on a year round basis.

The Service has determined that deer hunting, as proposed in this rulemaking, would be consistent with the major purposes and objectives for which the refuge was established, and is therefore permissible under the agreement establishing the refuge and Section 4(d) of the National Refuge System Administration Act of 1966. Finally, it would be practicable, consistent with other authorized programs and be adequately provided for with available funding. It is therefore also an authorized recreational use under Section 1 of the Refuge Recreation Act of 1962.

The factors leading to these conclusions are discussed extensively above. Among the most important considerations in reaching these conclusions are: (1) Harvest levels will be set no higher than recruitment levels so that the hunt will harvest no more than the surplus which the herd would produce annually; (2) the hunt will give the Service important biological information on the herd; (3) this year's hunt, in particular, will be useful to determine whether and with what provisions, regarding access and harvest levels, future hunts may be allowed; (4) the hunt will not jeopardize endangered or threatened species nor adversely modify their habitat, or interfere with their conservation; and (5) limited to six days a year, during certain hours, and subject to regulation, the hunt will not be a physical interference with or distraction from the conservation of fish, and wildlife, and their habitats.

In accordance with the Refuge Recreation Act, funds have been made available for the development, operation, and maintenance of the deer hunt on Loxahatchee NWR. In fiscal year 1983, $115,000 was allocated to the Interpretation and Recreation Program for the refuge, and a similar amount is anticipated in fiscal year 1984. A portion of this funding is being used to administer the deer hunting program.

Economic Effect

Executive Order 12291, "Federal Regulations," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects with foreign-based enterprises. The Regulatory Flexibility Act of 1980, (5 U.S.C. 601 *et seq*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small business, organizations or governmental jurisdictions.

It is estimated that the hunting of big game on Loxahatchee NWR will result in a maximum total of 600 hunter visits (3 two-day hunts with a maximum total of 100 hunters each day). Based on data contained in the 1980 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, it is estimated that the average big game hunter spends approximately $25 per day on purchases of food, hunting equipment, fees, licenses, etc. Assuming maximum total participation of 600 hunters in the Loxahatchee deer hunt program, it can be estimated that these individuals will generate approximately $15,000 in total expenditures through participation in a big game hunting program on the refuge. With respect to small entities, this rule will have a positive aggregate economic effect on small business, organizations and governmental jurisdictions. Hunting on refuges provides recreational opportunities and generates economic benefits that would not otherwise exist, and will impose no new costs on small

entities. While the actual number of small entities affected is not known, the effects will not be significant because this rule involves hunting on a single refuge.

Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Information Collection Requirements

The Paperwork Reduction Act (Pub. L. 96–511) requires each information collection requirement to display an Office of Management and Budget (OMB) clearance number and contain a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, mandatory or required to obtain a benefit. The Service has received approval from the OMB for the information collection requirements of these regulations. These requirements are presently approved under the OMB approval numbers cited below and codified in 50 CFR 32.41.

Type of information collection	OMB Approval No.
Hunter survey	1018–0044
Special use permit	1018–0046

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget. The information is being collected to enable the Service to fairly and scientifically administer the hunt. The information will be used to allocate hunting opportunities and collect information useful in managing the deer herd. Response is mandatory to obtain a permit and participate in the hunt.

Environmental considerations

The publication of the proposed rule required a determination as to whether it constituted a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)). The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976, and a notice of availability was published in the **Federal Register** on November 12, 1976 (41 FR 51131). An environmental assessment was prepared for this action and is available for public inspection and copying in room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240 or by mail, addressing the Associate Director at the address above. Based upon a review of that assessment and the public comment received on the proposed rulemaking, a finding has been made that this action will not have a significant effect on the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. This determination is based on the following considerations: (1) The action is pursuant to a longstanding congressional authorization to open refuges to hunting, and makes no significant charge of existing policies nor does it set a precedent for future ones; (2) hunting is an accepted tool of scientifically-based wildlife management and, properly administered will cause no long term adverse effects to wildlife populations; no permanent changes to the features of the land itself are envisioned; no relocation of persons, homes or commercial property is involved; (3) the deer hunt is governed by regulations which mitigate or minimize any possible adverse effects on the environment.

The deer hunt as permitted under the regulatory framework established by this rule should have no adverse impact upon the fish and wildlife habitat of the refuge or upon species listed or being considered for listing as endangered species. Pursuant to the Endangered Species Act of 1973, as amended, Section 7 evaluations were made for the Florida panther, American alligator, bald eagle, peregrine falcon, indigo snake, wood stork, and curly-leaf fern. The evaluations resulted in a conclusion that the hunt will not affect these listed species or their critical habitat. A biological opinion was prepared concerning impacts of the hunt upon the Everglade kite (snail kite). This opinion concluded that the hunt is not likely to jeopardize the continued existence of the Everglade kite, nor result in the destruction or adverse modification of its critical habitat.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife refuges.

PART 32—HUNTING

Accordingly, 50 CFR Part 32 is amended by the addition of special hunting regulations for Loxahatchee National Wildlife Refuge, as follows:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Florida—Loxahatchee National Wildlife Refuge

(a) General
(b) Species permitted to be taken and bag limit
(c) Harvest restrictions
(d) Season
(e) Permit requirements
(f) Location of hunt area
(g) Point of entry
(h) Check stations and tagging
(i) Data collection
(j) Dogs
(k) Stands
(l) Other general rules
(m) Specific hunts
(n) Safety regulations
(o) Information collection

(a) *General.* Deer hunting is permitted on the northern 50,500-acre section of Loxahatchee National Wildlife Refuge. Hunting is confined to three week-ends for a total of six days. Access to the hunting is by non-motorized or motorized boats other than airboats. Air-thrust boats are prohibited. The first weekend is limited to primitive weapons (bow and arrow and muzzle-loader) and the following two weekends hunters must use rifles and shot guns. A maximum of six hundred hunters, one hundred per day, will be issued permits. If the number of applicants exceeds the number of available permits, random drawings will be used to distribute the permits in an equitable manner. Interested public should contact the refuge manager for more details on how hunting opportunities will be allocated. The portion of the refuge open to hunting will be closed to other public use activities during the hunt. In addition to the special regulations set out here, hunters must comply with all State hunting laws and regulations that are not inconsistent with the special regulations.

(b) *Species permitted to be taken and bag limit.* One white tailed-deer, either sex.

(c) *Harvest restrictions.* Total harvest will not be permitted to exceed the annual recruitment estimate (based on annual population surveys). Total number of deer to be harvested will be divided equally among the three hunts. If the quota for a specific weekend hunt is reached, the remainder of that weekend hunt will be cancelled. If the quota is not achieved, the balance will be passed on to succeeding weekend hunts. If any portion of hunt is cancelled, its quota may be passed on to, or advanced to, other days of the hunt.

(d) *Season.* Hunting will be permitted on the last weekend of October and the first two weekends of November, for a total of six hunting days.

(e) *Permit requirements.* All hunters, regardless of age, must possess a valid refuge permit. Permits must be carried while hunting and are not transferrable. Individuals without permits will not be allowed in the hunt area.

(f) *Location of hunt area.* The hunt area includes approximately 50,500 acres bounded on the south by a line from mile marker 27 on Levee 7, to mile marker 55 on Levee 40, on the east by Canal 40, and on the west by Canal 7, excluding all canals, levees, and Loxahatchee Slough Research Natural Area.

(g) *Point of entry.* Hunters must enter at either Headquarters Landing or Twenty-Mile Bend.

(h) *Check stations and tagging.* (1) All hunters must check-in before commencing the hunt and check out promptly upon finishing their hunts at check stations located at entry points.

(2) Tags will be issued at check-in. Bagged deer must be tagged immediately. Possession of untagged deer is prohibited. Unused tags must be returned upon check-out.

(i) *Data collection.* All deer must be transported ungutted, or entire contents (intestinal and reproductive tracts) must be retained by hunter and transported to the check stations (containers will be provided).

(j) *Dogs.* Dogs are not permitted.

(k) *Stands.* Only portable stands which do not require nails or otherwise damage a tree may be used. Stands must be removed upon leaving the hunt area.

(l) *Other general rules.* (1) All firearms must be unloaded and either fully cased (scabbards are not considered a case) or dismantled (i.e. bolt or barrel removed), and bows cased or unstrung during non-shooting hours and while in any boat, under power or not, that is in the hunt area (i.e., canals).

(2) Possession of firearms and weapons other than those permitted for the hunt is prohibited.

(3) Boats are to be used only as a means of transportation to and from a hunting stand or site, or as a stationary hunting platform; shooting, pursuing game or hunting from a moving boat is prohibited.

(4) All boats are prohibited on tree islands and tree strands.

(5) Plants and all animals other than deer are protected. Unnecessarily destroying vegetation, and disturbing or killing wildlife other than deer is prohibited. The Loxahatchee NWR includes areas designated as critical habitat for plant and wildlife species listed under the Endangered Species Act. Taking listed wildlife species is a serious Federal offense in violation of that Act and 50 CFR 17. Additionally, if the hunt develops the potential for adversely modifying the critical habitats of these species, it will be terminated at once.

(6) Pre-hunt scouting. Hunters with permits may scout the area during a four-day period prior to the first hunt (dates to be established). Harassing, driving or intentionally disturbing wildlife while scouting are prohibited. Airboats are not allowed for pre-hunt scouting.

(7) Camping, open fires, possession or consumption of alcoholic beverages, and littering are prohibited.

(m) *Specific hunts. General.* For all hunts, access will be by nonmotorized or motorized boats other than airboats. Air-thrust boats are prohibited. Shooting hours are from one-half hour before sunrise to 2:00 p.m. No shooting is permitted outside this time period.

(1) *First hunt.* Weapons permitted: Muzzleloading guns (as defined in State regulations); bow and arrow as permitted by State regulations (no crossbows); loading of a firearm with buckshot or multiple pellet loads is prohibited.

(2) *Second and third hunt.* Weapons permitted: Rifles and guns, as permitted by State regulations, except that possession of shells loaded with buckshot, as well as other multiple pellet loads, is prohibited.

(n) *Safety regulations.* (all hunts) (1) Hunters are required to wear an outer garment above the waist that displays a minimum of 500 square inches of daylight fluorescent orange material.

(2) Each hunter under age 16 must be under the supervision of an adult.

(3) The hunt area and adjacent canals will be closed to other public use during the hunt.

(4) Boats must carry required Coast Guard equipment and use lights when traveling in darkness.

(o) *Information collection.* The Service has received approval from the Office of Management and Budget for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96-511). These requirements have been approved by the Office of Management and Budget under OMB Approval Numbers 1018-0044 and 1018-0046. Information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information will be used to determine hunter participation. Response is mandatory to obtain a benefit.

Dated: September 13, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-26823 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 190
Thursday, September 29, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1033

[Docket No. AO-166-A52]

Milk in the Ohio Valley Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider several proposals to amend the Ohio Valley milk marketing order. The principal proposals would change the application of location adjustments at certain plants located outside the marketing area, establish a charge on overdue accounts, and require a pool plant operator who receives bulk milk from a cooperative's pool plant to pay for such milk in the same manner as for milk received from producers. Other proposals would eliminate the take out-pay back seasonal producer payment plan, incorporate an advertising and promotion plan and relax certain requirements to qualify milk for pooling under the order. Proponents contend that the changes are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:00 a.m., on October 12, 1983.

ADDRESS: The hearing will be held at the Columbus Marriott Inn North, 6500 Doubletree Avenue, Columbus, Ohio 43229.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Columbus Marriott Inn North, 6500 Doubletree Avenue, Columbus, Ohio 43229 beginning at 9:00 a.m., on October 12, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Ohio Valley marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in the Ohio Valley marketing area which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered to be small businesses. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing, Inc.

Proposal No. 1

Revise § 1033.53 *Location differentials* by changing "60 miles" to "130 miles" in paragraph (a)(3) and by changing "60 miles" to "130 miles", "11 cents" to "21 cents" and "70 miles" to "140 miles" in paragraph (a)(4) of that section.

Proposal No. 2

Require a pool plant operator to pay for bulk milk received from a pool plant operated by a cooperative association in the same manner as now applies for milk received from producers by amending the order as follows:

A. In § 1033.45, add a new paragraph (d) to read as follows:

§ 1033.45 Computation of skim milk and butterfat in each class.

* * * * *

(d) Bulk fluid milk products delivered by a cooperative association as the operator of a pool plant to another handler's pool plant shall be classified pursuant to § 1033.43(a).

B. In § 1033.60, revise paragraph (a) of to read as follows:

§ 1033.60 Computation of the net pool obligation of each handler.

* * * * *

(a) Multiply the pounds of producer milk and milk received form a cooperative association pursuant to § 1033.45(d) in each class as determined pursuant to §§ 1033.43(a) and 1033.46(c) by the applicable class price and add the resulting amounts;

* * * * *

C. In § 1033.71, add three new paragraphs (a-1), (b-1) and (c) to read as follows:

§ 1033.71 Payments to the producer-settlement fund.

* * * * *

(a-1) On or before the 25th day of the month, each handler who received milk from a cooperative association pursuant to § 1033.45(d) shall pay to the market administrator an amount determined by multiplying the hundredweight of milk so received during the first 15 days of

the month by the basic formula price for the preceding month.

* * * * *

(b–1) On or before the 14th day after the end of the month, each handler who received milk from a cooperative association pursuant to § 1033.45(d) shall pay to the market administrator the classified use value of such milk pursuant to § 1033.60(a) as adjusted by the butterfat differential specified in § 1033.73 less any payment made by such handler pursuant to paragraph (a–1) of this section for such month. For the purpose of this computation, the applicable class prices for such milk shall be those which are applicable at the location of the transferee plant.

(c) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1033.72.

D. In § 1033.72, revise paragraphs (a), (b), (c) and the introductory text of (c–1) and add two new paragraphs (a–1) and (b–1) to read as follows:

§ 1033.72 Payments from the producer-settlement fund.

(a) On or before the 28th day of the month, the market administrator shall make payment, subject to paragraphs (c) and (c–1) of this section, to each producer for the pounds of milk received from such producer during the first 15 days of the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71(a) at a rate per hundredweight equal to the basic formula price for the preceding month less the written deductions authorized by such producer;

(a–1) On or before the 27th day of the month, the market administrator shall make payment to each cooperative association for the pounds of milk delivered to another handler from its pool plant(s) pursuant to § 1033.45(d) during the first 15 days of the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71(a–1) at a rate per hundredweight equal to the basic formula price for the preceding month;

(b) On or before the 17th day after the end of the month, the market administrator shall make payment, subject to paragraphs (c) and (c–1) of this section, to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71(b) at the uniform price per hundredweight as adjusted pursuant to §§ 1033.73, 1033.74, and 1033.75, less:

(1) Payments made pursuant to paragraph (a) of this section for such month; and

(2) Authorized deductions and charges made by handlers with respect to such milk;

(b–1) On or before the 16th day after the end of the month, the market administrator shall make payment to a cooperative association for the pounds of milk delivered pursuant to § 1033.45(d) during the month by handlers from whom the appropriate payments have been received pursuant to § 1033.71(b–1) at the applicable uniform price per hundredweight as adjusted pursuant to §§ 1033.73 and 1003.74, less payments made pursuant to paragraph (a–1) of this section for such month.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the day prior to the dates specified in such paragraphs, to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(c–1) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the day prior to the date specified in such paragraphs, to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due them by the respective dates specified in paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

* * * * *

Proposal No. 3

Add a new section to read as follows:

§ 1033.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1033.57, 1033.71, 1033.72, 1033.76 and 1033.77 shall be increased one (1) percent beginning on the first day after the date of such obligation and on the same day of each succeeding month until such obligation is paid.

Proposal No. 4

In § 1033.15, revise paragraphs (a)(3), (b), and the introductory text of (d) to read as follows:

§ 1033.15 Producer milk.

* * * * *

(a) * * *

(3) Diverted for such handler's account from a pool plant to another pool plant or to a nonpool plant that is not a producer-handler plant subject to the conditions set forth in pargaraph (d) of this section;

(b) With respect to a handler described in § 1033.16(b), diverted for such handler's account from the pool plant of another handler to a nonpool plant that is not a producer-handler plant subject to the conditions set forth in paragraph (d) of this section;

* * * * *

(d) The following conditions shall apply to milk of a producer diverted from a pool plant to another pool plant or to a nonpool plant that is not a producer-handler plant:

* * * * *

Proposal No. 5

In § 1033.12, revise the introductory text of paragraph (b) to read as follows:

§ 1033.12 Pool Plant.

* * * * *

(b) A supply plant that receives milk approved for fluid consumption by a duly constituted health authority and from which during the month 50 percent or more of the receipts at such plant from producers (including producer milk diverted from the plant to a nonpool plant but excluding milk received as diverted milk) and from handlers described in § 1033.16(c) is transferred or diverted as fluid milk products, except filled milk, to a pool distributing plant meeting the percentage disposition requirements specified in paragraph (a)(2) of this section with respect to such distributing plant's total receipts of fluid milk products that are approved by a duly constituted health authority for fluid consumption (including milk diverted from such distributing plant by the plant operator or a cooperative

association but excluding bulk fluid milk products received by transfer or diversion from a pool plant or a nonpool plant as Class II or Class III milk) or is disposed of from the supply plant as route disposition in the marketing area subject to the following conditions:

* * * * *

Proposal No. 6

Amend the order to eliminate the "Take out-pay back" producer payment plan as follows:

In § 1033.61, remove paragraphs (h) through (l) and revise paragraph (g) to read as follows:

§ 1033.61 Computation of the uniform price.

* * * * *

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price".

Proposal No. 7

Amend the order to incorporate an advertising and promotion program as follows:

A. In § 1033.61, add a new paragarph (h) to read as follows:

§ 1033.61 Computation of the uniform price.

* * * * *

(h) Subtract the withholding rate for the advertising and promotion program as computed in § 1033.121(e), the result shall be the "uniform price" for milk received from producers at plants located in the Central Zone.

B. Add a new centerheading and 13 new sections (§§ 1033.110 through 1033.122) to read as follows:

Advertising and Promotion Program

§ 1033.110 Agency.

"Agency" means the body made up of the persons selected pursuant to § 1033.113, which is authorized to expend funds made available pursuant to § 1033.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1033.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1033.113(b) with 2 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency member plus one additional Agency member for each additional full 8 percent of the participating producers it represents. Cooperative associations with less than 2 percent of the total participating producers that have elected not to combine pursuant to § 1033.133(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency member for the first full 2 percent plus one additional Agency member for each additional full 8 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all producers shall be considered participating producers.

§ 1033.112 Term of office.

The term of office of each member of the Agency shall be 1 year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1033.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association, which is authorized one or more Agency members, shall notify the market administrator of the name and address of each such member who shall serve at the pleasure of the cooperative.

(b) For the purpose of this section, cooperative associations may combine their participating producer members and, if such combined total is 2 percent or more of all participating producers, such cooperatives may select an Agency member(s) under the rules of § 1033.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than 2 percent of the total participating producers that have not elected to combine pursuant to paragraph (b) of this section shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this section, and annually thereafter, the market administrator shall notify such participating producers of their opportunity to nominate one or more producers as Agency members and shall specify the number of members to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an Agency member thus elected subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1033.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1033.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the advertising and promotion program within the scope of Agency authority pursuant to § 1033.110;

(b) Make rules and regulations to effectuate the terms and provisions of the advertising and promotion program;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1033.110 and 1033.117.

§ 1033.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1033.110 and 1033.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) Employ and fix the compensation of any person deemed necessary of its exercise of powers and performance of duties;

(f) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(g) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1033.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit all producers under this part;

(c) The establishment, support and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1033.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1033.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1033.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1033.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of June, September, December, March for milk to be marketed from the first of the immediately following month through the following June 30th.

(c) A dairy farmer who first acquires producer status under this part may, upon application filed with the market administrator pursuant to paragraph (a) of this section by the end of the month immediately following the month in which producer status is acquired, be eligible for refund on all marketings against which an assessment is withheld for the period through the following June 30th and if producer status is first acquired in June such producer shall be eligible for a refund on all marketings during June and the following 12-month period. Eligibility for refund under this paragraph shall not apply to a person who was a producer under a Federal order under which the same refund notification period applied and such person did not appropriately submit a refund application during such period.

(d) A producer who has appropriately filed a request for refund of advertising and promotion program assessments on his marketings of milk under another Federal order shall be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk under this order against which an assessment is withheld until the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this section.

§ 1033.121 Duties of the market administrator.

Except as specified in § 1033.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this section, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1033.113(c);

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (2) and (3) of this section and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who made application for such refund pursuant to § 1033.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this section, and thereafter with respect to a new producer, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1033.110 through 1033.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

(e) As soon as possible after April of each year, compute the rate of withholding by multiplying the simple average of the uniform prices for the 12-month period ending April 30 by 0.0075 and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with July of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

§ 1033.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund.

Proposed by the National Farmers Organization

Proposal No. 8

In § 1033.12, add a new paragraph (d) to read as follows:

§ 1033.12 Pool plant.

* * * * *

(d) A plant operated by or under contract to a cooperative association at which fluid milk products approved by a duly constituted health authority for fluid consumption are received, subject to the following conditions:

(1) The cooperative requests pool status for such plant; and

(2) 50 percent or more of the total producer milk of members of the cooperative has been shipped to and physically received at pool distributing plants during the current month or in the preceding 12-month period ending with the current month either directly from the farms of member producers or by transfer from such association plant.

Proposal No. 9

In § 1033.15, revise paragraphs (d)(1), (d)(2)(i), and (d)(2)(ii) to read as follows:

§ 1033.15 Producer milk.

* * * * *

(d) * * *

(1) During each month of September through November at least one day's production of the producer must be physically received at such pool plant;

(2) * * *

(i) The operator of a pool plant may divert the milk of any producer for not more days of production than it was physically received at the diverting pool plant or the handler may divert an aggregate quantity of milk not exceeding 40 percent of the milk of all producers that was physically received at the diverting pool plant during the month; and

(ii) A cooperative association may divert the milk of any producer for not more days of production than it was physically received at pool plants or it may divert an aggregate quantity not exceeding 50 percent of the milk of producers that it caused to be delivered to or diverted from pool plants during the month;

* * * * *

Proposal No. 10

In § 1033.31, revise paragraph (c) and add a new paragraph (c–1) to read as follows:

§ 1033.31 Other reports.

* * * * *

(c) On or before the 25th day of the month, each handler who receives milk from a producer and does not make payment to such producer shall report the following information to the market administrator with respect to its receipts of milk during the first 15 days of the month:

(1) The identity of each such producer from whom milk was received;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized by the producer, to be made from the partial payments for such milk;

(4) The total pounds of milk received from a handler described in § 1033.16(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c–1) On or before the 25th day of the month, each handler who receives milk from a producer and who makes payment to such producer, shall report the following information to the market administrator with respect to its receipts of milk during the first 15 days of the month:

(1) The total pounds of producer milk;

(2) The total deductions as authorized by such producers to be made from the partial payments for such milk;

(3) The total pounds of milk received from a handler described in § 1033.16(c); and

(4) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

Proposed by Defiance Milk Products Company

Proposal No. 11

In paragraph (b) of § 1033.12, change "50 percent" to "35 percent"

Proposal No. 12

Add a new § 1033.78 to read as follows:

§ 1033.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1033.57, 1033.71, 1033.72, 1033.76 and 1033.77 shall be increased one (1) percent beginning on the first day after the due date of such obligation and on the same day of each succeeding month until such obligation is paid. In the event that any handler is entitled to a refund on his pool obligation for any reason, such handler shall receive interest on such refund calculated on the same basis as interest is charged on overdue handler obligations.

Proposed by Beatrice Foods Company and Defiance Milk Products Company

Proposal No. 13

In paragraph (a)(2) of § 1033.12, change "50 percent" to "40 percent" and "45 percent" to "35 percent".

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 14

Make such changes as may be necessary to make the entire marketing agreement and the other conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, C. Mack Endsley, P.O. 29226, Columbus, Ohio 43229 or from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Ohio Valley Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on September 26, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-26846 Filed 9-28-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1093

[Docket No. AO-386-A1]

Milk in the Alabama-West Florida Marketing Area; Partial Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This partial decision provides on an emergency basis for the indefinite continuation of the Class I pricing provisions of the Alabama-West Florida Federal milk order. The order became fully effective on May 1, 1982, and the Class I price provisions were established on a temporary basis through October 31, 1983, so that the appropriateness of the price level could be reviewed in light of market experience. Continuation of the pricing provisions was requested by a cooperative association that represents a substantial number of dairy farmers who supply milk to the market. Because of the limited time to complete the rulemaking procedures, a recommended decision and the opportunity to file exceptions thereto have been ommitted. A separate recommended decision will deal with the remaining issue in this proceeding. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that the amendment adopted herein would not have a significant economic impact on a substantial number of small entities. The amendment will promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued July 15, 1983; published July 22, 1983 (48 FR 33492).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Alabama-West Florida marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Montgomery, Alabama on August 9, 1983. Notice of such hearing was issued on July 15, 1983, and published on July 22, 1983 (48 FR 33492).

Interested parties were given until September 2, 1983, to file post-hearing breifs on proposal No. 1 as pubilshed in the hearing notice and on whether the proposal should be considered on an expedited basis.

The material isseus on the record relate to:

1. Class I price after October 31, 1983.
2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions.
3. Advance Class II price announement.

This decision deals only with issues 1 and 2. The remaining issue of the hearing will be considered in a later decision on this record.

Finding and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class I price after October 31, 1983.* The Class I price provisions now provided by the order should be extended indefinitely beyond the current expiration date of October 31, 1983.

When the order was initially issued, the Class I price provisions were made effective for 18 months following the date on which the order became fully effective (May 1, 1982). This was done to insure a review of the Class I price level after a year of order operation to determine whether such price level properly reflects prevailing marketing conditions. This is a customary practice when new orders are established.

Presently, the Alabama-West Florida Class I price is determine each month by adding a Class I differential of $2.30 to a basic formula price, which is the average of prices paid during the second preceding month for manufacturing grade milk in Minnesota and Wisconsin.

Diarymen, Inc., a cooperative association that supplies a substantial part of the market's fluid milk needs, proposed that the present Class I price provisions be extended indefinitely. The association's witness testified that the Class I price provisions of the order were adopted because such price differentials are necessary to attract an adequately supply of milk to meet the fluid needs of handlers regulated under the order and to provide appropriate Class I price alignment with nearby or adjacent markets. Further, the witness said that these provisions have provided an adequate supply of milk to meet the fluid needs of the fully regulated handlers.

Another reason cited by proponent for the continuation of the Class I price provisions at the present time is that the pricing structure of the order is reasonably aligned with Class I prices in surrounding orders and the overall Federal order pricing structure. The witness said that because the Class I price provisions of the various order are reasonably aligned the Alabama-West Florida handlers do not have any competitive advantage or disadvantage with handlers regulated by other nearby orders.

A witness for a proprietary handler also supported the continuation of the Class I provisions although his testimony primarily dealt with the issue of the advance Class II price announcement. There was no opposition to the proposal.

The hearing record established that while producer receipts declined somewhat since the inception of the order, the utilization of producer milk in Class I has remained at a relatively high level since that time. For June 1983, producers delivered 75.9 million pounds of milk to the market. During that month, 62.1 million pounds were used in Class I. Such utilization has remained at about 83 percent for almost the entire period since May 1982.

There was no testimony by any regulated handler or by any other witness that milk for fluid use had been difficult to obtain from market sources since the inception of the order. Neither was there any testimony presented of any disorderly marketing conditions concerning intermarket competition for Class I sales.

It is concluded that the present Class I price level has maintained an adequate supply of producer milk for fluid use in the market. Also, it is concluded that the current Class I price level is providing orderly marketing conditions for the Alabama-West Florida marketing area. Accordingly, the present Class I differential of $2.30 should be incorporated in the order on a permanent basis.

2. *Omission of a recommended decision and the opportunity to file exceptions thereto.* The omission of a recommended decision was proposed at the hearing by the proponent of proposal No. 1. No testimony was received in opposition to emergency action. Emergency action is necessary if the order is to remain in operation after October 31, 1983, since a Class I price cannot be applied after that date without amending the order. The normal procedure of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendment in time for it to be effective on November 1, 1983.

It is therefore found that due and timely execution of the Secretary's function in this proceeding imperatively and unavoidably requires the omission of the recommended decisioin and the opportunity for filing exceptions thereto.

Rulings on Proposed Finding and Conclusions

A brief and proposed findings and conclusions were filed on behalf of the proponent cooperative association. This brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

General Findings

The following findings and determinations suplement those that were made when the Alabama-West Florida order was first issued. The previous findings and determinations are hereby ratified and affirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Alabama-West Florida marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

July 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as hereby proposed to be amended, regulating the handling of milk in the Alabama-West Florida marketing area is approved or favored by producers, as defined under the terms of the order (as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1093

Milk marketing orders, Milk, Dairy Products.

Signed at Washington, D.C., on September 22, 1983.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order [1] Amending the Order, Regulating the Handling of Milk in the Alabama-West Florida Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Alabama-West Florida marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Alabama-West Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the order as hereby amended, as follows:

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. Section 1093.50(a) is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(a) The Class I price shall be the basic formula price for the second preceding month plus $2.30.

* * * * *

[FR Doc. 83-26511 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-02-M

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-83-8]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before, November 28, 1983.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on September 22, 1983.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23733	ATA	*Description of Petition.*—To allow granting category and class (multiengine rating) to pilots employed by a Part 121 certificate holder when those pilots meet applicable training requirements of Subpart O of Part 121 and proficiency check requirement of Part 121.441. *Regulations Affected.*—14 CFR Parts 121.437 and 121.441. *Petitioner's Reason for Rule.*—Petitioner seeks to replace the temporary regulatory relief presently provided under Exemption 2965B, which expires 4/30/84, and which provides relief from the compliance date of 7/1/80 in § 121.437(c). Also, petitioner seeks regulatory relief through acceptance of the principal that FAR Part 121 carrier training programs should suffice (permanently) for issuance of category and class ratings to airline pilots, in lieu of issuance of such ratings under specific FAR Part 61 requirements.
23729	Japan Airlines Co., Ltd. (JAL).	To amend limitations for airmen who possess Special Airmen's Certificates to the extent necessary to enable airmen to operate U.S.-registered aircraft to/from or within the United States in nonrevenue operation (i.e., ferry flights and training flights) in addition to revenue operations. *Description of Petition.*—4 CFR 61.77(d)(1)(i) and 63.23(d)(1)(i). *Petitioner's Reason for Rule.*—JAL submits that this amendment is justified since (a) ferry flights and training flights are connected with and in furtherance of flights in foreign commerce; (b) requiring airmen who hold special purpose airmen's certificates to obtain additional authority from the FAA to operate such flights would place an undue burden on the airmen, foreign air carriers, and the FAA and would impede the international leasing of U.S. registered aircraft; and (c) saftety will not be adversely affected in any manner, and indeed safety will be enhanced and the public interest promoted by reason of the flightcrew training activities.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
22824	Piper Aircraft Corp.	*Description of Petition.*—To allow the operation of small aircraft with a second attitude indicator installed in lieu of a gyroscopic rate-of-turn indicator. *Denied 8/17/83.*

[FR Doc. 83-26547 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-ASW-33]

Airworthiness Directives; Societe National Industrielle Aerospatiale (SNIAS) Models SA315, SA316, and SA 319 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to issue a new airworthiness directive (AD) which would establish a finite service life for certain original and repaired main gearbox support "A" frame assemblies installed on Aerospatiale Models SA315, SA316, and SA319 series helicopters. It is necessary to establish a finite service life after analyzing results of additional fatigue tests of the "A" frames. Failure of an "A" frame due to possible fatigue cracks in the lower end-fitting may result in loss of the main gearbox and rotor head.

DATES: Comments must be received on or before October 31, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 83-ASW-33, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division,

Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2549.

SUPPLEMENTARY INFORMATION:

Aerospatiale Service Bulletins were issued to inform operators of new limitations on the service life of the main gearbox support "A" frame assemblies installed on Aerospatiale Models SA315, SA316, and SA319 series helicopters. The results of fatigue tests of new "A" frames dictate new service life limits for certain original and repaired "A" frames. Four different part number "A" frames are affected and the service life varies from 1600 to 11,000 hours' time in service according to the eye end-fitting used and to the model helicopter on which it is installed. Two "A" frame supports attach the main gearbox to the fuselage of each of these helicopters. Failure of an "A" frame leg eye end-fitting due to possible fatigue cracks may result in loss of the main gearbox and main rotor head.

The proposed directive would require, within 50 hours' time in service after the effective date of the AD, replacement of the affected "A" frames as stated in the service bulletins. The agency proposes to incorporate by reference the two service bulletins rather than duplicate or repeat the content of these bulletins in the AD. These bulletins will not be subject to frequent change.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and emergency aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted must include a self-addressed stamped postcard with the following statement on it: "Comments to Docket No. 83-ASW-33." The postcard will be date/time stamped and returned to the commenter.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

The Proposed Amendment

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

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Models SA315, SA316, and SA319 series helicopters, certificated in all categories, that are equipped with main gearbox "A" frame support assemblies, P/N 315A21.04.000, 315A21.05.000, 3160S22.04.000, and 000.1, or 3160S22.05.000, 000.1

Compliance required as indicated, unless already accomplished.

To prevent possible in-flight failure of an "A" frame due to fatigue cracks in either lower eye end-fitting, accomplish the following:

(a) For Model SA315 series helicopters, comply with Lama SA315 Service Bulletin No. 01.18, Revision A, within 50 hours' time in service after the effective date of this AD. This bulletin establishes a finite service life for certain identified original and repaired "A" frame assemblies and permits only one time replacement/repair of an eye end-fitting on each "A" frame assembly. Replacing a repair eye end-fitting with another repair eye end-fitting is prohibited.

Note.— The service bulletin establishes a 3200 hour service life limit for certain original and repaired "A" frames and a 1600 hour service life limit for certain other original and repaired "A" frames.

(b) For Models SA316 and SA319 series helicopters, comply with Alouette Service Bulletin No. 01.49 Revision A, within 50 hours' time in service after the effective date of the AD. This bulletin establishes a finite-service life for certain identified original and repaired "A" frame assemblies for these helicopters and permits only one time replacement/repair of an eye end-fitting on each "A" frame assembly. Replacing a repair eye end-fitting with another repair eye end-fitting is prohibited.

Note.—The service bulletin establishes for the Model SA3160 an 11,000 hour service life limit for certain original and repaired "A" frames and 5500 hour service life limit for certain other original and repaired "A" frames. For the Models SA316 B and C and SA319B helicopters, the service bulletin retains the present 3200 hour service life limit for certain original and repaired "A" frames and establishes a 1600 hour service life for certain other original and repaired "A" frames.

(c) Aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where compliance may be accomplished.

(d) The FAA plans to request the Director of the Federal Register to approve the incorporation by reference of the manufacturer's specifications and procedures identified and described in this directive pursuant to 5 U.S.C. 552(a)(1). Persons may obtain copies of the service bulletins upon request to Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. The documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A file on this AD includes the planned incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the regional office in Fort Worth, Texas. These materials will be incorporated as they exist on the date of the approval and a notice of a change to the service life limits stated in these documents will be published in the **Federal Register.**

(e) Equivalent means of complying with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revises, Pub. L. 97-449, January 12, 1983]; 14 CFR 11.85)

Note.—One hundred thirty-eight helicopters will be affected by the proposal for an anticipated and estimated expense of $150,000. Therefore, the FAA has determined that this proposed regulation is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is certified that this proposed regulation at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A draft regulatory evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Fort Worth, Texas, on September 6, 1983.

C. R. Melugin, Jr.

Director, Southwest Region.

[FR Doc. 83-26548 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 782 3056]

Macy's New York, Inc.; Proposed Consent Agreement With Analysis, To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a major New York City department store, among other things, to comply with the billing error resolution procedures of the Fair Credit Billing Act (FCBA) and its implementing Regulation Z. This would require the company to acknowledge a customer's *written* billing error notice within 30 days; resolve the dispute or mail an explanation as to why a statement is believed correct within 2 billing cycles; and maintain for at least 2 years, records evidencing compliance with the Act's billing error resolution procedures. The order would prohibit the company from attempting to collect any amount of a bill in dispute, including any finance charge computed on such amount; failing to include on its periodic statements a notice advising customers that disputed amounts need not be paid pending resolution of the dispute; failing to forfeit the right to collect the amount in dispute up to $50 should it fail to comply with the FCBA's billing error resolution procedures; and failing to timely credit payments to customers' accounts. Additionally, the company would be required to institute a comprehensive educational program for officers and employees who either establish the company's credit billing procedures or who respond to and resolve notifications of billing errors; conduct refresher courses annually for five years; and secure from such personnel, a signed statement acknowledging that he/she has read the order, the FCBA and its implementing Regulation Z and the educational materials explaining the FCBA and its requirements. Further, the order would require the company to timely establish a $225,000 redress fund to be apportioned equally among those customers who (1) held an open-end credit account with the store during the period Jan. 1, 1977 through Dec. 31, 1978; and (2) who sent the store a written inquiry concerning a billing error at the address designated by it for receipt of billing error notifications.

DATE: Comments must be received on or before November 28, 1983.

ADDRESS: Comment should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Shirley F. Sarna, 8R, New York Regional Office, Federal Trade Commission, 2243–EB Federal Bldg., 26 Federal Plaza, New York, NY 10278, (212) 264–1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(4)).

List of Subjects in 16 CFR Part 13

Consumer credit, Department stores, Trade practices.

UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of Macy's New York, Inc., a corporation. File No. 782–3056.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Macy's New York, Inc., a corporation (hereinafter "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Macy's New York, Inc., by its duly authorized officers and its counsel, and counsel for the Federal Trade Commission that:

1. Proposed respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 151 West 34th Street, New York, New York 10001.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist ("order") in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement

may be used to vary or contradict the terms of the order.

7. By its issuance of the order, the Commission waives its right to commence a proceeding against the proposed respondent seeking restitution or other consumer redress under Sections 5 or 19(a)(2) of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the draft of complaint arising at any time prior to the date of the Commission's issuance of the order.

8. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file two (2) or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions: For purposes of this order [1] the following definitions shall apply:

a. "Billing error" shall be defined as provided by § 226.13(a) of Regulation Z, 12 CFR 226.13(a).

b. "Billing error notice" shall be defined as provided by § 226.13(b) of Regulation Z, 12 CFR 226.13(b).

c. "Commerce" shall be defined as provided by section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

d. "Consumer credit" shall be defined as provided by § 226.2(a)(12) of Regulation Z, 12 CFR 226.2(a)(12).

e. "Credit card" shall be defined as provided by § 226.2(a)(15) of Regulation Z, 12 CFR 226.2(a)(15).

f. "Customer" shall mean "cardholder" which shall be defined as provided by § 226.2(a)(8) of Regulation Z, 12 CFR 226.2(a)(8).

g. "Fair Credit Billing Act" (hereinafter "FCBA") shall refer to sections 127(a)(7), 127(b)(10), 161, 162 and 164 of the Truth in Lending Act, 15 U.S.C. § 1637(a)(8), 1637(b)(11), 1666, 1666(a) and 1666(c), now in effect or as they may be amended.

h. "Open end credit" shall be defined as provided by § 226.2(a)(20) of Regulation Z, 12 CFR 226.2(a)(20).

i. "Other charges" shall refer to late payment charges or other charges (excluding finance charges) imposed as the result of an erroneous billing.

j. "Reasonable investigation" shall refer to that investigation required by § 226.13(f) of Regulation Z, 12 CFR 226.13(f).

k. "Regulation Z" shall refer to that version of Regulation Z, 12 CFR 226, effective October 1, 1982, the implementing regulation of the Truth in Lending Act, 15 U.S.C. 1601 et seq., now in effect or as it may be amended.

l. "Truth in Lending Act" shall refer to that version of the Act, 15 U.S.C. 1601 et seq., now in effect or as it may be amended.

I

It is ordered that respondent Macy's New York, Inc., a corporation, its successors and assigns or any other entity continuing its business, and respondent's officers, agents, representatives and employees acting as such, directly or through any corporation, subsidiary, division or other device, in connection with any extension of open end credit, including but not limited to consumer credit extended on an account by use of a credit card, shall forthwith cease and desist from:

A. Failing, within thirty (30) days after receipt of a billing error notice, to mail or deliver a written acknowledgement thereof to the customer, as required by § 226.13(c)(1) of Regulation Z, unless:

1. The customer has agreed, within such thirty (30) day period, that the periodic statement is correct; or

2. Respondent has taken the applicable action specified in Paragraph I.B.1–3 of this order within such thirty (30) day period.

B. Failing, not later than two (2) complete billing cycles and in no event more than ninety (90) days from the date of receipt of a billing error notice as required by § 226.13(c) of Regulation Z to resolve the dispute by:

1. Correcting the customer's account in the full amount indicated by the customer to have been erroneously billed and mailing or delivering to the customer a notification of correction(s), in the manner required by § 226.13(e) of Regulation Z; or

2. Correcting the customer's account, after having conducted a reasonable investigation, by a differing amount from that indicated by the customer as being erroneously billed, and mailing or delivering to the customer an explanation of the change(s), accompanied by copies of documentary evidence of the customer's indebtedness if such evidence is requested by the customer, in the manner required by § 226.13(f) of Regulation Z; or

3. Mailing or delivering, after having conducted a reasonable investigation, a written explanation or clarification to the customer setting forth, to the extent applicable, the reason(s) why respondent believes the amount(s) was correctly shown on the periodic statement, and, if the customer so requests, furnishing copies of documentary evidence of the customer's indebtedness, in the manner required by § 226.13(f)(1&2) of Regulation Z.

Provided, however, that respondent need not perform the actions specified in Paragraph I.B. if the customer has agreed, not later than two (2) billing cycles (and in no event more than ninety (90) days) from the date of receipt of the billing error notice, that the periodic statement is correct.

C. Failing to retain for at least two (2) years evidence of compliance with the provisions of the FCBA, as implemented by the applicable provisions of Regulation Z, as required by § 226.25(a) of Regulation Z. Evidence of compliance shall include but not be limited to: a) customer billing error notices and attachments thereto; and b) copies of all respondent's correspondence in response. Provided, however, that respondent need not retain copies of standard form responses so long as respondent adequately identifies the forms used and the dates of mailing with respect to each customer's billing error notice.

D. Taking or causing any action, after receipt of a billing error notice, but prior to the time the dispute has been resolved as provided in Paragraph I.B. of this order, to collect:

1. Any portion of an amount indicated in the customer's notification as being a billing error; or

2. Any finance or other charge computed on such disputed amount,

in violation of Section 226.13(d)(1) of Regulation Z. Provided, however, that after receipt of a billing error notice respondent may include disputed amounts on subsequent periodic statements if respondent has provided the statement specified in Paragraph I.E. of this order.

E. Failing, after receipt of a billing error notice, and prior to resolution of the dispute, to indicate on or with the periodic statement that payment of the amount(s) in dispute pursuant to the provisions of Regulation Z is not required pending respondent's compliance with the provisions of § 226.13 of Regulation Z, when mailing or delivering subsequent periodic statements which include disputed amount(s), as required by § 226.13(d)(1) of Regulation Z.

F. Failing, after resolution of a billing error in favor of the customer pursuant to the provisions of Regulation Z, to credit any finance or other charges imposed as a result of the erroneous

[1] All reference to the Truth in Lending Act and Regulation Z contained in this order shall refer to the Truth in Lending Act as amended to March 31, 1980 and Regulation Z as amended to April 1, 1981.

billing, as required by § 226.13(e)(1) & (f)(3) of Regulation Z.

G. Failing to credit payments to customers' accounts as required by § 226.10 of Regulation Z.

H. Failing to forfeit the right to collect the amount indicated by the customer to be a billing error and corresponding finance and other charges, providing that amount does not exceed $50, in instances when respondent fails to comply with the requirements of § 226.13 of Regulation Z, as required by section 161(e) of the Truth in Lending Act.

I. Failing to comply with any of the provisions of the Fair Credit Billing Act, as implemented by the applicable provisions of Regulation Z, 12 CFR 226.6(d), 226.7(k), 226.9(a), 226.10, 226.13 and 226.25.

J. Failing to implement, within one hundred eighty (180) days after service of this order, an initial educational program, a full and complete description of which will have been received by and filed with the Commission as a supplemental report of compliance pursuant to Part VI of this order, for all of respondent's officers and employees who are responsible for establishing respondent's consumer credit billing policies and procedures, and also for those whose primary function is to respond to and resolve customers' written notifications of billing errors. The initial educational program shall consist of:

1. Furnishing to each such officer and employee a copy of this order, a copy of the FCBA and those portions of Regulation Z which implement the FCBA, and written educational materials which explain the FCBA and the provisions of Regulation Z which implement the FCBA, as they apply to respondent's credit billing and billing adjustment practices, including but not limited to §§ 226.6, 226.7, 226.9, 226.10, 226.13 and 226.25; and

2. Informing orally each such officer and employee, at a general meeting or otherwise, of the provisions of this order and of the duties of respondent and its officers and employees under the FCBA and the provisions of Regulation Z which implement the FCBA. Respondent shall submit a written agenda of its oral presentation to its employees as part of the supplemental report of compliance filed pursuant to Part VI of this order; and

3. Securing a signed statement from each such officer that she or he has read this order, the FCBA, the provisions of Regulation Z which implement the FCBA, and the educational materials described in Paragraph J.1. and has received the instructions described in Paragraph J.2. A copy of each such statement shall be retained for at least three (3) years and shall be made available for inspection by a duly authorized representative of the Commission upon request.

K. Failing to provide the documents described in Paragraph J.1. hereof to each officer or employee who within five (5) years after the service of this order is given the responsibilities described in Paragraph J. hereof and to require each such officer to sign within twenty (20) days of the assumption of said responsibilities a statement that she or he has been so instructed. A copy of each such statement shall be retained for at least three (3) years and shall be made available upon request for inspection by a representative of the Commission.

L. Failing to conduct a refresher educational program at least once a year for five (5) years after acceptance of this order for all officers and employees having the responsibilities described in Paragraph J. hereof, for the purposes of explaining the requirements of the FCBA and the provisions of Regulation Z which implement the FCBA and explaining the responsibilities of such officers and employees in conformity with this order. Respondent shall:

1. Inform orally each such officer and employee, at a general meeting or otherwise, of the requirements of the FCBA and Regulation Z as they pertain to respondent's credit billing and billing adjustment practices.

2. If necessary to explain the requirements of, or any amendments to, the FCBA or to the provisions of Regulation Z which implement the FCBA, furnish each such officer or employee with written educational materials in addition to those described in Paragraph J.1. Such additional written materials shall be retained for a period of three (3) years and shall be made available upon request for inspection by a Commission representative.

M. Respondent shall not have liability under Part I of this order for any act in good faith done or omitted in conformity with any rule, regulation or interpretation thereof regarding the FCBA by the Federal Reserve Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe.

II

Definition: For purposes of Part II of this order:

a. "eligible customer" shall mean each and every person who held an open end credit account with respondent and who, during the period January 1, 1977 through December 31, 1978, sent a written inquiry concerning a billing error to respondent at P.O. Box 1516, New York, N.Y. In each and every instance, eligibility shall be determined without reference to the validity of the underlying claim.

b. any duty which is required to be performed on a specified day and which falls upon a non-business day shall be performed on the next following business day.

It is further ordered that respondent Macy's New York, Inc., a corporation, its successors and assigns or any other entity continuing its business, and respondent's officers, agents, representatives and employees acting as such, directly or through any corporation, subsidiary, division or other device, in connection with open end credit accounts created or maintained in connection with the sale of merchandise or services to the public, in or affecting commerce, shall:

A. Submit to the New York Regional Office of the Federal Trade Commission ("NYRO"), on or before the forty-fifth (45th) day after the date this order is served on respondent ("date of service"), a list or compilation of the names and addresses of all persons identified by respondent as eligible customers.

B. Add to its compilation of eligible customers each and every person on file with NYRO who is an eligible customer and who is not included in respondent's compilation. NYRO shall provide the names of each such eligible customer to respondent on or before the fiftieth (50th) day after the date of service.

C. Submit to NYRO, on or before the sixtieth (60th) day after the date of service, a notarized affidavit, executed by a Senior Vice President of respondent, to the effect that respondent has made or has caused to be made a good faith search of documents relating to billing error disputes in its customer service departments, including those handling the general merchandise, bill adjustments, furniture, and rugs and floor coverings departments, in order to locate the names and addresses of all eligible customers under Part II of this order.

D. Deposit, on or before the tenth (10th) day after the date of service, the sum of two hundred twenty-five thousands dollars ($225,000) into an account at a banking institution to be agreed upon between respondent and NYRO. The principal amount of said bank account shall be available only for the payment of refunds under Part II of

this order. No charges against this amount shall be made for administrative costs, which costs shall be paid by respondent. Respondent shall retain any interest accrued on this account, if any.

E. On or before the fifty-fifth (55th) day after the date of service, make or cause to be made a search of its active open end credit files and shall obtain the address used for mailing or delivery of periodic statements ("billing address") for each and every eligible customer who has an active open end credit account with respondent.

F. On or before the sixtieth (60th) day after the date of service, mail or cause to be mailed by first class mail to each eligible customer who does not have an active open end credit account with respondent, at his or her last known billing address, (1) a notification ("Notification") in the language, manner and form set forth in Appendix A; together with, (2) a self-addressed, postage prepaid response form in the language, manner and form set forth in Appendix B.

G. Designate a separate mailing address which shall be used solely for purposes of receiving the response forms pursuant to Paragraph II.F. of this order.

H. With respect to each Notification returned undelivered, ascertain or cause to be ascertained whether the mailing address appearing on such Notification has been accurately transcribed from respondent's records. Respondent or its designee shall thereafter, on or before the ninety-fifth (95th) day after the date of service, correct any addresses inaccurately transcribed and mail or cause to be mailed all returned Notifications in the same manner and form set forth in Paragraph II.F. of this order.

I. On or before the one hundred twentieth (120th) day after the date of service, apportion or cause to be apportioned equally the sum of two hundred twenty-five thousand dollars ($225,000) among the eligible customers for whom respondent has obtained a current mailing address pursuant to Paragraphs II.E., II.F. and II.H.; and mail, or cause to be mailed by first class mail, a refund by check to each such eligible customer. Each refund shall be accompanied by a letter in the language, manner and form set forth in Appendix C.

J. With respect to each mailed refund which is returned undelivered, ascertain or cause to be ascertained whether the mailing address appearing on each such refund is accurately transcribed from the current mailing addresses obtained by respondent pursuant to Paragraphs II.E., II.F. and II.H. Resonent or its designee shall thereafter correct any addresses inaccurately transcribed and shall thereafter mail or cause to be mailed all the returned refunds in the same manner and form set forth in Paragraph II.I. of this order.

K. On or before the two hundredth (200th) day after the date of service, file with NYRO a report in writing setting forth the manner and form in which it has complied with Part II of this order.

L. Maintain for two (2) years after the date of the last act required by Order II, records and documents evidencing its compliance with Part II of this order.

III

It is further ordered that respondent Macy's New York, Inc., a corporation, its successors and assigns or any other entity continuing its business, and respondent's officers, agents, representatives and employees, acting as such, directly or through any corporation, subsidiary, division or other device, in connection with open end credit accounts created or maintained in connection with the sale of merchandise or services to the public, in or affecting commerce, shall forthwith cease and desist from:

A. Including the statement "additional correspondence enclosed" or a statement to that effect on preaddressed envelopes mailed or delivered to customers for the payment of the customers' bills, unless the words "Billing error notices must be mailed to (address used by respondent for receipt of billing error notices".), or substantially similar words, are included immediately adjacent to any such statement. Provided, however, that when only using the words "order enclosed" or "address change enclosed" or words to that effect, on such preaddressed envelopes, respondent need not set forth the notice required by this paragraph.

B. Billing its customers prior to delivery for furniture, broadloom carpeting, mattresses, or major appliances delivered from respondent's warehouse distribution center. Provided, however, that (1) when delivery of merchandise is deferred at the request of a customer, respondent may bill the customer at the time the merchandise is available for delivery; and (2) nothing in this paragraph shall prohibit respondent from billing customers for any deposits required by respondent and agree to by the customer prior to delivery of the merchandise.

C. Failing to post in a prominent location in each area designated by respondent for bill adjustments in each of its stores, a sign to be displayed to the public which is not smaller in dimension than twenty-four (24) inches by thirty-six (36) inches, and which sets out, clearly and conspicuously, the information provided in Appendix D.

D. Failing, in instances in which respondent provides a telephone number on the periodic statement, to include clearly and conspicuously on the part of each periodic statement which is retained by the customer, a notice, adjacent to such telephone number, in substantially the following language: "If you telephone us with a billing inquiry, you do not protect your rights under federal law. To do so, write to us at the address indicated on this statement or accompanying statement of billing inquiries."

IV

It is further ordered that, in the event that respondent Macy's New York Inc., a corporation, its successors and assigns or any other entity continuing its business, provides customer complaint resolution procedures, in addition to those specifically required by the FCBA, or causes customers to waive or forfeit their rights under the FCBA, it shall forthwith cease and desist from:

A. Representing, directly or by implication, that it will resolve disputes regarding billing errors within a reasonable period of time after receipt of written notifications of such billing errors, unless respondent in fact resolves such disputes within a reasonable period of time.

For purposes of this Part of the Order, "written notifications of billing errors" shall mean (1) written notifications of billing errors made at the area designated by respondent for bill adjustments on a form which shall be provided by respondent for that purpose; or (2) written notifications of billing errors (other than those reported to respondent through a billing error notice pursuant to the provisions of the FCBA) addressed to respondent as follows: a) address disclosed by respondent on its billing statement for receipt of payments from customers; or b) Macy's, New York, New York or Macy's at its Herald square store.

"Written notifications" shall not include any written inquiries directed to any individual by name, title or position, other than chairman of the board or president or those addressed to the customer service department. For purposes of this Part of the order the term "resolve" shall mean (1) correcting the customer's account in the amount of the error; (2) after a reasonable investigation, correcting the customer's account by a differing amount from that indicated by the customer as being erroneously billed, and mailing to the

customer a written explanation of the change(s); or (3) after a reasonable investigation, setting forth to the customer, in writing, the reasons why respondent believes that the amount was correctly shown on the customer's periodic statement. Provided, however, that if the customer makes a billing inquiry at the area designated by respondent for bill adjustments and the billing error is resolved at that time, any explanations or notifications of correction may be conveyed orally to the customer at that time.

B. Failing to credit any finance or other charges imposed as a result of an erroneous billing in each instance in which: (1) respondent has resolved a billing error dispute in favor of the customer; and (2) notification of the billing error was in writing addressed to any of the locations specified in Paragraph IV.A of this order but not reported to respondent through a billing error notice pursuant to the provisions of the FCBA.

V

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of any successor corporation or corporations, or any other change in the corporation, including the creation or dissolution of subsidiaries, which may effect compliance obligations arising out of this order.

VI

It is further ordered that respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order, and within one hundred eighty (180) days after service upon it of this order, file with the Commission a written supplemental report setting forth a full and complete description of the initial educational program required by this order.

Appendix A.—(Macy's Letterhead)

(Date)———
(Name) ———
(Address) ———
Re: Refund for Eligible Macy's Credit Card Customers per Macy's/Federal Trade Commission Consent Agreement

Dear Customer: Macy's New York, Inc. has entered into a Consent Agreement with the Federal Trade Commission regarding the Fair Credit Billing Act. As part of the Agreement, Macy's has established a fund of $225,000 which will be divided equally among customers who wrote to our billing inquiry address during the years 1977 and 1978. Our records indicate that you are eligible for such a refund.

The purpose of this letter is to make certain that Macy's has your present mailing address. Please complete the attached address verification form and return it within twenty-five (25) days in the enclosed prepaid envelope. Only those who complete and return this response form within 25 days after the above date will receive a refund. The refund will be mailed to you within 90 days of our receipt of the response form.

Very truly yours,

Macy's New York, Inc.,

By ———— (Name), Vice President.

Appendix B

(Response form)

Please mail my refund to:
Name ————————
Address ———— (Street)
———— (City)
———— (State) (Zip code)

Appendix C.—(Macy's Letterhead)

(Date)————————
Re: Refund for Eligible Macy's Credit Card Customers per Macy's/Federal Trade Commission Consent Agreement

Dear Customer: Macy's New York, Inc. has entered into a Consent Agreement with the Federal Trade Commission regarding the Fair Credit Billing Act. As part of this Agreement, Macy's has established a fund of $225,000 which has been divided equally among customers who wrote to our billing inquiry address during the years 1977 and 1978.

Our records indicate that you are eligible for such a refund. Therefore, please find enclosed your check in the amount of ———.

Very truly yours,

Macy's New York, Inc.,

By ———— (Name) Vice President.

Appendix D.—If You Have a Billing Complaint To Protect Your Rights Under Federal Law You Must Write Within 60 Days of the Date of the Bill

Macy's Address ————————
Box No. ————————

Include:

(a) your name and account number;

(b) the dollar amount of the suspected error;

(c) why you believe there is a possible mistake.

Analysis of Proposed Consent Order to Aid Public Comment

Macy's New York, Inc., File No. 782–3056

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from Macy's New York, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter charges Macy's New York, Inc., a large New York department store, with violations of the Fair Credit Billing Act ("FCBA") and with unfair, misleading or deceptive credit billing practices in violation of Section 5 of the Federal Trade Commission Act.

The central aspect of the billing error resolution procedures of the FCBA and its implementing Regulation Z require that a creditor, after receiving a consumer letter that claims a billing error, conduct a reasonable investigation and resolve the dispute within 30 days, or acknowledge the letter within 30 days, conduct a reasonable investigation and resolve the dispute within two billing cycles. The complaint charges that Macy's failed to comply with these requirements.

The complaint also alleges, among other violations of the FCBA, that Macy's failed to include a notice on its periodic statements advising customers that disputed amounts need not be paid while the dispute is pending and also impermissibly instituted collection action on unpaid disputed amounts prior to resolution of billing disputes. Also alleged is that Macy's failed to credit customers' charge account payments promptly, thus subjecting them to finance charges for late payment.

The Macy's complaint charges additionally that Macy's failed to comply with the forfeiture provisions of the FCBA. Congress intended this forfeiture provision to encourage creditors to carefully monitor their own compliance with the statute. The FCBA requires that any creditor who fails to comply with the billing error resolution procedures set out in the statute forfeits the right to collect up to $50 of the disputed amount, including any finance charges imposed on that amount.

Finally, the complaint alleges that Macy's failed, after resolution of a billing dispute in favor of the customer, to credit customers' accounts with the accrued finance charges imposed as a result of the erroneous billing.

With respect to Section 5 of the Federal Trade Commission Act, the complaint charges that, among other things, Macy's misrepresented that billing disputes not covered by the FCBA would be resolved. Billing error disputes not covered by the statute include customer complaints which do not comply with the requirements of the FCBA, as, for example, when customers fail to write their complaints to Macy's

at the address designated by it for receipt of notifications of billing errors. The complaint further alleges that under these same circumstances Macy's failed to credit customers' accounts with accrued finance charges imposed on an erroneous billing after the billing error dispute was resolved in favor of the customer.

Under the Section 5 Count as well, the complaint alleges that Macy's implied that it had reasonable procedures, other than through the FCBA, to resolve billing disputes. In fact, the complaint alleges that Macy's, in a substantial number of instances, failed to correct these billing disputes or did so only after the customer had contacted Macy's two or three more times, and that customers were not advised that notifications of billing disputes outside the FCBA failed to preserve their rights under the FCBA.

Finally, the complaint charges that Macy's billed customers for deliveries of merchandise significantly prior to their actual delivery. When customers did not pay these billed amounts because the merchandise had not yet been delivered, Macy's imposed finance charges on the unpaid balances. The complaint charges that this practice deprived customers of money rightfully theirs in violation of Section 5 of the Federal Trade Commission Act.

Under the terms of the proposed order, Macy's New York, Inc. is required to correct the violative practices charged in the complaint and to ensure that it does not violate the FCBA in the future.

The order further requires Macy's to institute a comprehensive educational program for officers and employees who either establish the company's credit billing procedures or who respond to and resolve notifications of billing errors. The educational program is designed to reach present and future personnel and includes a refresher course to be given annually for five years. The educational program, which includes oral and written presentations, is designed to ensure Macy's future compliance with the FCBA and the Commission's order.

Finally, the order requires Macy's to establish a redress fund of $225,000 to be apportioned equally among those customers who (1) held an open-end credit account with the store during the period January 1, 1977 through December 31, 1978; and (2) who sent Macy's written inquiry during that period concerning a billing error at the address designated by it for receipt of billing error notifications. The order describes procedures for Macy's to follow in order to ascertain present mailing addresses for all those individuals who its records indicate are eligible for this redress.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Michael A. Baggage,

Secretary.

[FR Doc. 83-26658 Filed 9-28-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 11

[Docket No. RM83-13-000]

Annual Charges for Use of Government Dams and Other Structures Under Part I of the Federal Power Act

September 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Supplemental notice to Notice of Proposed Rulemaking.

SUMMARY: On March 31, 1983, the Commission issued a proposed rule which would amend the regulations governing annual charges under the Federal Power Act for Hydroelectric power projects that use Government dams and other structures. 48 FR 15134–53 (April 7, 1983). This rule proposes to adopt a formula for determining annual charges instead of the current case-by-case approach. One element of this formula would be based upon regional estimates of power value. In response to comments that additional information would be useful, this Notice sets forth the proposed regions and power values.

DATES: Comments must be received on or before October 31, 1983.

ADDRESSES. Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Bernard Chew (202) 376–9264 or Jan McPherson (202) 357–8033.

SUPPLEMENTARY INFORMATION: On March 31, 1983, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking to amend its regulations governing annual charges for hydroelectric power projects that use Government dams and other structures.[1] The Notice of Proposed Rulemaking sets forth and explains the methodology by which the Commission proposes to establish these annual charges on a generic basis. Among other items, the Notice of Proposed Rulemaking describes the criteria for selecting the geographic regions for which power values would be determined and details the manner in which these power values would actually be calculated.

Many commenters, however, responded that the description of criteria for selecting regions and of factors for determining regional power values were too general to permit meaningful comment. In addition, members of the public indicated that more specificity would be needed to assess the impact of the rule on particular projects, either actual or proposed.

After considering these comments, the Commission is publishing in this Notice the selection of geographic regions and the calculation of power values for each region, based upon 1982 data now available. In addition, this Notice contains further information on the methods and data employed in determining regional power values.

The Commission will accept written comments limited to the material set forth in this Notice. The comments may not, however, address other unrelated material or issues found in the earlier Notice of Proposed Rulemaking. The Commission expects that this Notice of Regions and 1982 Regional Power Values will be useful for calculating project net benefits and the resulting annual charges under the methodology set forth in the Notice of Proposed Rulemaking. When the final rule is promulgated in this docket, the Commission will also issue its final determination on the selection of regions and on the regional power values to be applied under the rule until future updates are published.

I. Introduction

This Notice consists of three parts: a definition of the power value regions, a listing of estimated power values by region, and an Appendix describing the methods and data employed to calculate the regional power values. Using historical data on fuel costs and information on utility coordination arrangments and generation construction plans, the Commission proposed to establish 25 power value regions within which both the short-term and long-term marginal power costs are similar. For each region, 1982 data that became available following issuance of the proposed rule were used to calculate

[1] Issued March 31, 1983, 48 FR 15,134 (1983).

power values, levelized over the 45-year period from 1982 to 2027, the three combinations of financing costs and tax rates, representative of privately owned, publicly-owned, and cooperatively-owned utilities. The values are expressed in constant 1982 dollars as functions of the availability of project power during peak load periods.

The listed power values exclude capacity value for the first three years of operation, which is a nominal value for the time required to realize capacity expense savings resulting from project construction. However, additional data are provided to allow computation of power values including capacity value in all years or excluding capacity value for periods other than three years.

II. Power Value Regions

Power value regions are selected areas within which the estimated utility cost of electric power supply at the margin are similar. The incremental cost of non-firm energy purchases (short-run marginal cost) is about the same throughout a region, as is the incremental cost of firm power and energy from new capacity (long-run marginal cost). Because of the similarity of marginal power costs throughout a region, the regional average marginal costs can be used to approximate the value of power in the region.[2]

The regions are defined in terms of states, power pools, or the service areas of major utilities serving the region. Within a region there are smaller municipal and cooperative systems, but regional boundaries are generally defined by the major utility systems' service areas since their costs generally determine the market value of electricity in that region. Also, these utility territories are well known and provide an administratively simple means to draw regional boundaries. The summary identifications include descriptions of the geographic areas, utility names as needed to define the area limits, and a listing of the FPC Power Supply Areas contained in the regions.

Region 1.—New England Power Pool, comprising all New England areas. (Power Supply Areas 1 and 2.)

Region 2.—Eastern portion of the New York Power Pool, including service areas of Consolidated Edison Co., Long Island Lighting Co., Central Hudson Gas and Electric Co., Orange and Rockland Utilities, Inc. and the Eastern and Central Divisions of Niagara Mohawk Power Corp. (Power Supply Area 4 plus part of 3.)

Region 3.—Upstate portion of the New York Power Pool, including the service territories of Rochester Gas and Electric Co., New York State Electric and Gas Corp., and the Western Division of Niagara Mohawk Corp. (Part of Power Supply Area 3.)

Region 4.—Eastern part of PJM pool, including all areas served by New Jersey and Delaware utilties plus the areas served by Philadelphia Electric Co. and Baltimore Gas and Electric Co. (Part of Power Supply Area 5.)

Region 5.—Western part of PMJ pool, including areas served by Pennsylvania Power and Light Co., Pennsylvania Electric Co., Metropolitan Edison Co. and Potomac Electric Power Co. (Power Supply Area 6 plus part of 5.)

Region 6.—Western Pennsylvania, western Maryland, northern West Virginia. Allegheny Power System service area plus that of Duquense Light Co. (Power Supply Area 7.)

Region 7.—Ohio, most of West Virginia, eastern Kentucky, southwestern Virginia, eastern Indiana, lower Michigan. Service areas of American Electric Power System, Central Area Power Coordination Group, Cincinnati-Dayton group, and the Michigan Electric Coordinated Systems. (Power Supply Areas 8, 9, 10, 11 and part of 12.)

Region 8.—All kentucky, except area served by Kentucky Power Co., plus central and southern Indiana areas served by Public Service Co. of Indiana, Indianapolis Power and Light Co. and Southern Indiana Gas and Electric Co. Includes KIP coordinating group. (Power Supply Area 19 plus part of 12.)

Region 9.—Northern Indiana and northern Illinois. Service areas of Commonwealth Edison Co. and Northern Indiana Public Service Co. (Parts of Power Supply Areas 12 and 14.)

Region 10.—Wisconsin, except area served by Northern States Power Co., and upper Michigan. Service areas of members of the Wisconsin-Upper Michigan Systems coordinating group. (Power Supply Area 13 plus part of 16.)

Region 11.—Illinois, except Commonwealth Edison area, Missouri areas served by Union Electric Co., Missouri Power and Light Co., and Missouri Edison Co., all of Iowa and the portion of Minnesota served by Interstate Power Co. Includes the Illinois-Missouri Pool and a portion of the Mid-Continent Area Power Pool. (Power Supply Areas 15 and 40, plus part of 14 and part of 17.)

Region 12.—Nebraska, South Dakota, except area served by Black Hills Power and Light Co., North Dakota, Montana area served by Montana-Dakota Utilities Co., Minnesota, except for Interstate Power Co. area, and the Wisconsin area served by Northern States Power Co. Includes a portion of the Mid-Continent Area Power Pool. (Power Supply Areas 16, 26, 27.)

Region 13.—All Missouri areas except those included in Power Value Region 11, plus all of Kansas. Includes the Missouri-Kansas Pool. (Power Supply Areas 29 and 34 plus part of 17.)

Region 14.—Virginia area served by Virginia Electric and Power Co. plus North Carolina, exept the Nantahala Power Co. area, and South Carolina. Includes all the VACAR coordination group area. (Power Supply Areas 18 and 21.)

Region 15.—Georgia, Alabama, Southeast Mississippi, Florida panhandle. Includes all the Southern Company system area. (Power Supply Areas 22 and 23.)

Region 16.—Florida, except the panhandle region served by Gulf Power Co. Includes all members of Florida Coordinating Group except GPC. (Power Supply Area 24.)

Region 17.—Tennessee, northern Alablama, nothern Mississippi. Tennessee Valley Authority coodination area including Nantahala Power and Light Co. (Power Supply Area 20.)

Region 18.—Louisiana, Arkansas, western Mississippi, Oklahoma, east Texas and Texas panhandle. Includes the service areas of all members of the Southwest Power Pool Reliability Council. (Power Supply Areas 25, 33, 35, 36.)

Region 19.—North Texas. North Texas Interconnected System area, including service areas of Dallas Power and Light Co., Texas Power and Light Co., Texas Electric Service Co., West Texas Utilities Co. and the Texas Municipal Power Agency. (Power Supply Area 37.)

Region 20.—South Texas. South Texas Interconnected Systems area, including service areas of Houston Lighting and Power Co., Central Power and Light Co., Brownsville Public Utilities Board, South Texas Electric Cooperative, San Antonio Public Service Board, and the Austin Electric Department. (Power Supply Area 38.)

Region 21.—Central and western Montana, Wyoming, southwest South Dakota. Service areas of Montana Power Co., Black Hills Power and Light Co., and the Eastern Division of Pacific Power and Light Co. Includes a portion of the Rocky Mountain Power Pool. (Power Supply Areas 30, 31.)

Region 22.—Colorado, Utah and southeast Idaho. Includes areas of Idaho served by Utah Power and Light Co. and Wyoming served by Colorado Public

[2] For additional discussion, *see* Appendix, section 1.

Service Co. Includes a portion of the Rocky Mountain Power Pool. (Power Supply Area 32 and part of 41.)

Region 23.—Arizona and New Mexico, plus the Texas area served by El Paso Electric Co. (Power Supply Area 39 plus part of 48.)

Region 24.—Washington, Oregon and Idaho, except the area served by Utah Power & Light Co. plus the northern California service area of Pacific Power & Light Co. and areas of Nevada, Montana, Wyoming and California served by Bonneville Power Administration's cooperative customers. Part of the Northwest Power Pool. (Power Supply Areas 42, 43, 44, 45 and part of 41.)

Region 25.—California, and Nevada, except areas included in Region 24. Includes California Power Pool. (Power Supply Areas 46 and 47, plus part of 48.)

III. Regional Power Values

Estimated power values are listed below for the 25 regions as functions of both the ratio of project peak season capacity factor to annual capacity factor [3] and the utility ownership form. The power values are levelized over a 45-year period from 1982 to 2027 on the basis of assumptions described in the Notice of Proposed Rulemaking. The power values are stated in constant 1982 dollars and should be used only in analyses where costs are also expressed in 1982 dollars. Details of the calculations and data sources are described in the Appendix. The power values would not apply to peaking units.

[3] For definitions of terms, refer to the Notice of Proposed Rulemaking, Docket RM83-13-000, issued March 31, 1983, 48 FR 15,134 (1983).

Estimated Power Values for Run-of-River Hydropower Projects

(Cents/kWh, levelized 1982-2027, 1982 dollars. No firm capacity or energy value during first three years of project operation. Pr. is privately-owned utility; Pu. is publicly-owned utility; Co. is cooperatively-owned utility.)

Utility Ownership	PSCF/ACF [1]									
	0	.5			1.0			1.5		
	All Forms	Pr.	Pu.	Co.	Pr.	Pu.	Co.	Pr.	Pu.	Co.
Region:										
1	4.44	4.67	4.37	4.46	4.90	4.30	4.47	5.13	4.22	4.49
2	4.58	4.66	4.34	4.43	4.74	4.11	4.29	4.82	3.87	4.14
3	2.80	3.28	2.97	3.06	3.75	3.15	3.32	4.23	3.32	3.59
4	4.07	4.23	3.93	4.01	4.39	3.80	3.97	4.56	3.67	3.92
5	3.21	3.59	3.29	3.38	3.97	3.38	3.56	4.36	3.47	3.73
6	2.17	2.80	2.50	2.59	3.44	2.85	3.02	4.08	3.19	3.46
7	2.66	3.23	2.93	3.01	3.81	3.20	3.38	4.39	3.48	3.74
8	2.04	2.67	2.37	2.46	3.31	2.70	2.88	3.94	3.03	3.30
9	3.86	4.00	3.70	3.79	4.15	3.54	3.72	4.29	3.38	3.65
10	2.41	3.05	2.75	2.83	3.69	3.08	3.26	4.33	3.42	3.68
11	2.34	2.93	2.63	2.72	3.51	2.92	3.10	4.10	3.21	3.47
12	1.69	2.31	2.02	2.10	2.93	2.35	2.51	3.55	2.68	2.93
13	2.37	2.89	2.60	2.68	3.43	2.83	3.01	3.96	3.07	3.33
14	2.56	3.15	2.86	2.94	3.74	3.17	3.32	4.33	3.47	3.71
15	2.77	3.36	3.07	3.15	3.93	3.36	3.51	4.51	3.65	3.88
16	4.22	4.42	4.14	4.22	4.62	4.05	4.22	4.83	3.97	4.22
17	2.35	2.86	2.58	2.66	3.37	2.81	2.97	3.89	3.05	3.28
18	3.48	3.67	3.38	3.47	3.86	3.29	3.45	4.05	3.19	3.44
19	3.31	3.37	3.09	3.17	3.43	2.86	3.03	3.49	2.64	2.89
20	4.26	4.57	4.28	4.37	4.88	4.29	4.47	5.18	4.31	4.58
21	1.09	1.75	1.46	1.54	2.42	1.84	2.00	3.09	2.22	2.47
22	1.87	2.46	2.17	2.26	3.06	2.48	2.64	3.65	2.78	3.03
23	2.83	3.10	2.81	2.89	3.37	2.79	2.98	3.65	2.77	3.02
24										
25	4.57	4.38	4.09	4.17	4.19	3.60	3.77	3.99	3.11	[2] 3.36

[1] PSCF/ACF is the ratio of the project's peak season capacity factor to its annual capacity factor.
[2] In the Pacific Northwest, power value does not depend on peak season capacity factor. The power value is the cost of providing equivalent firm and non-firm energy from the thermal alternative. *See* Appendix, section 2. For a project with a ratio of firm energy to average energy=.75, the Region 24 power values are: 2.96 (Pr.), 2.32 (Pu.) and 2.50. (Co.).

IV. Comment Procedures

The Commission invites interested persons to submit written data, views, and other information concerning the matters set forth in this Notice. Comments and information are invited particularly on the selection of regions and on the estimation of regional non-firm energy values. For example, actual 1982 average rates for utility marginal energy transactions compared to estimated 1982 regional average marginal energy costs would be useful. The Commission is not reopening the comment period on other matters set forth in the Notice of Proposed Rulemaking issued on March 31, 1983.

All comments must be submitted in writing to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should refer to Docket No. RM83-13-000. An original and 14 copies should be filed. All comments must be received by the Commission 30 days after date of publication in **Federal Register.**

All written coments will be placed in the Commission's public file and will be available for public inspection during regular business hours at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Appendix

1. *Power Value Region Selection.*—The basic criterion for definition of power value regions is similarity of both short- and long-run marginal electric energy costs. Similar short-run marginal costs among utilities occur when they have similar fuel costs for intermediate load and peaking operation. Similarity of long-run marginal costs requires similarity of base load fuel costs. Consequently, similarity of oil and gas use and similarity of delivered coal costs are proposed as the principal factors in region selection.

A significant contribution to levelizing marginal costs among utilities in a region is the power transfer capability provided by interconnections. In the case of a centrally dispatched power pool, non-firm energy is available at the pool running rate. Where there is not formal pooling, the exchanges of economy energy under bilateral agreements or energy broker schemes reduce the differences in incremental non-firm energy costs. Power value regions often include coordinating groups of utilities which make regular exchanges of power and energy for economy reasons. Generally, all members of a centrally dispatched power pool are grouped in the same region. However, where there are significant differences in marginal production costs among pool members, the members were placed in separate regions.

The delivered costs of fuel, especially coal, can vary substantially with plant location in a region because of transportation costs. However, in a well-coordinated region, the costs of increments of power and energy from new capacity tend to be similar for all utilities. This is because utilities generally will arrange to purchase power or share in the ownership of another utility's generating unit additions, if such arrangements will provide a lower power cost than construction of their own units. Consequently, similarity of existing coal delivered costs, reflecting utility optimization of power economics, should be given more weight in regional selection than location relative to coal supplies.

2. *Power Value Calculation.*—The formulas for total power value discussed in the Notice of Proposed Rulemaking recognize the separate contributions of capacity value, firm energy value and non-firm energy value to the total value of project power. They include an adjustment to the firm energy value where the thermal alternative of equivalent load carrying capability would produce more or less energy than the project. The total power value formula, as given in the Notice,

$$PV = CV + EV_f(Z) + EV_{nf}(1 - Z)$$

can be restated in terms of the annual fixed cost of the thermal alternative, FC_t, the energy cost of the alternative, EC_t, and the region lambda, EC_d, to cover all values of Z while including the energy value adjustment. Using the relations

$$CV = FC_t\left(\frac{100}{8760\ ACFT}\right) Z,$$

and $EV_f = EC_t + (Z-1)(EC_t - EC_d)$ for $Z > 1.0$, or $EV_f = EC_t$ for $Z < 1.0$, and $EV_{nf} = EC_d$ (the levelized region lambda)

substitution in the power value formula yields

$$PV = FC_t\left(\frac{100}{8760\ ACFT}\right) Z, + EC_t + (Z-1)(EC_t - EC_d) \text{ for } Z > 1.0$$

and

$$PV = FC_t\left(\frac{100}{8760\ ACFT}\right) Z, + EC_t + (Z) + (EC_d(1 - Z) \text{ for } Z > 1.0$$

which are identical. Consequently, the single formula

$$PV = \left[\left(\frac{FC_t}{87.6\ ACFT}\right) EC_t\right] Z + EC_d(1 - Z)$$

can be used to determine power value for any value of Z. Since Z is determined by PSCF/ACF, power values can be tabulated conveniently in terms of that project parameter.

Where capacity value is not credited for the initial years of operation, adjustments must be made to the capacity, firm energy and non-firm energy terms, as described in sections 6 and 7. The resultant expression for total power value, per kilowatt-hour of average project energy production, is:

$$PV = \left[\frac{100}{87.6\ ACFT} + EC_t\right] (Z)(c) + (EC_d)_a + (EC_d)_b\,(1 - Z)$$

where

PV = total power value, cents/kWh

FC_t = annual fixed cost of thermal alternative, $/kW-yr.

EC_t = energy cost of thermal alternative, cents/kW-hr.

$(EC_d)_a$ = levelized average regional marginal energy cost for years where capacity value does not apply, cents/kWh

$(EC_d)_b$ = levelized average regional marginal energy cost for years where capacity value applies, cents/kWh

$$Z = \frac{MAF \times ACFT \times PSCF}{ACF}$$

MAF = mechanical availability factor

$$= \frac{1 - EFOR\ hydro}{1 - EFOR\ thermal}$$

EFOR = equivalent forced outage rate

ACFT = annual capacity factor of thermal alternative

PSCF = peak season capacity factor of project

ACF = annual capacity factor of project

c = correction factor for capacity value and firm energy to reflect absence of capacity value in initial years of operation

Power value in the Northwest (Region 24) consists of only the firm and non-firm energy values. In this region, thermal generation additions are based on the need for firm energy. Peaking and cycling generation is accomplished with existing hydropower units and the concept of equivalent load carrying capability as the basis for selecting the

least cost thermal alternative is not applicable. Instead, the basis is equivalent annual firm energy capability. The "firm" critical water year energy of a hydropower project establishes the thermal alternative size, based on its average capacity factor capability. Although surplus non-firm hydro energy available in the region for part of the year can substitute for some production from a thermal unit, the value of this "firmed" hydro energy is the cost of the thermal alternative energy it displaces.

Therefore, the value of a project's energy consists of the fixed charge costs of the thermal equivalent, plus its production costs for generation, plus the value of the "firmed" non-firm hydro energy and the value of the project's non-firm energy. The non-firm energy value is the cost of thermal generation it displaces elsewhere in the region.

Because of similar coal costs for existing and new thermal units and because such units are used only to supply energy, the production cost of a new thermal unit in Region 24 is treated as essentially the same as the cost of displaced generation at existing thermal units. Assuming this equality, the power value for Region 24 hydro power generation is estimated by the special formula:

$$PV = \left[\frac{FC_t}{(87.6)(ACFT)}\right](J)(c)_t + EC_d$$

$$\text{where } J = \frac{\text{Project firm energy}}{\text{Project average energy}}$$

3. *Alternative Thermal Power Plant Data*

Where hydropower projects at Government dams have no control or only limited control over water releases, the least cost alternative is generally a baseload coal-fired plant. This includes hydro projects with annual capacity factors in the 30 to 60 percent range and peak season capacity factors in the 20 to 65 percent range, which represent the ranges for most ofthe porjects likely to be constructed at Federal dams. The power value data provided are applicable to these cases.[1]

[1]Where conditins allow substantial control over releases for power purposes, peaking operation of a project is possible. The least cost alternative in such cases would not be baseload coal-fired generation, and this Notice does not provide power value data for these situations.

The basic assumptions used to estimate the annual costs of coal-fired alternatives are listed below. While utility practices in selecting a coal-fired plant design vary as a function of timing requirements, cost of money, projectedfuel characteristics, and availability of partners, all regions are large enough and have sufficiently strong internal transmission to permit addition of generating units of economic scale. The cost consequences of variations in selected steam pressures and temperatures, sulfur removal methods, coal characteristics and other design parameters are normally small. Consequently, a single generic plant design is assumed for all regions. However, there are significant differences in regional construction costs.

The coal cost for an alternative thermal generating unit is generally taken as the average delivered coal cost in the region. This is because it is unlikely that the lowest current coal price could be matched for a new unit, while the highest current price would not necessarily be reached by competitive bids for significant new long-term supply contracts. However, where there is compelling evidence that the average regional coal cost is not representative of fuel cost for a new unit serving the region, the coal cost is taken as the average coal cost for an adjoining region within which or near which a new plant would have been likely to be sited.

(a) *Alternative Baseload Coal-Fired Power Plant Data*

Unit size (two unit plant)	600 MW.
Environmental control	Full scrubbing and closed-cycle cooling.
On-line date	July 1982.
Start construction first unit	July 1975.
Operating lifetime	35 years.
Average interest rate during construction:	
Private utility	10.0%.
Publicly-owned utility	7.5%.
Cooperatively-owned utility	8.75%.
Heat rate (HR)	10,100 Btu/kWh.
Expected Annual Capacity Factor (ACFT).	0.6.
Equivalent Forced Outage Rate (EFOR).	1.85%.
Mechanical Availability Factor (MAF)	1.20.
Levelized cost of fuel (F) ¢/million Btu.	1.079 × 1982 regional coal cost.
Cost of money, zero inflation (M):	
Private utility	4.0%.
Publicly-owned utility	3.0%.
Cooperatively-owned utility	3.5%.
Depreciation, (35 years sinking fund):	
Private utility	1.358%.
Publicly-owned utility	1.654%.
Cooperatively-owned utility	1.500%.
Annual Tax Rate, percent of investment:	
Private utility	4.0%.
Publicly-owned utility	0.
Cooperatively-owned utility	1.0%.
Annual insurance cost rate % of investment.	0.25%.
Fixed charge rate (zero inflation) (R):	
Private utility	9.608%.
Publicly-owned utility	4.904%.
Cooperatively-owned utility	6.250%.
Average fuel inventory as percent of annual consumption.	25%.
Annual levelized fixed operating cost (FOC)—(O&M plus G&A).	20.0 $/kW-yr.
Annual levelized variable O&M cost, including consumables (O&M).	0.3 ¢/kWh.

(b) *Investment Costs for Baseload Coal-Fired Powerplants Completed in 1982, $/kW*

Construction costs were determined for each of the 20 cities included in the Concept V cost estimating code. A representative city (construction cost) from among these 20 is proposed for each region on the basis of probable plant locations and likely cost levels.

	City representing construction cost	Private utility	Publicly owned utility	Cooperatively owned utility
Power value region:				
1	Boston	1009	938	974
2	New York	1048	973	1010
3	Cleveland	1010	938	974
4	Philadelphia	1011	939	975
5	Pittsburgh	995	925	960
6	Pittsburgh	995	925	960
7	Cleveland	1010	938	974
8	Cincinnati	1003	933	968
9	Chicago	1005	934	970
10	Chicago	1005	934	970
11	St. Louis	993	924	958
12	Minneapolis	968	900	933
13	Kansas City	984	915	950
14	Atlanta	947	879	913
15	Atlanta	947	879	913
16	Atlanta	947	879	913
17	Birmingham	938	873	906
18	New Orleans	934	868	902
19	Dallas	953	885	919
20	Dallas	953	885	919

	City representing construction cost	Private utility	Publicly owned utility	Cooperatively owned utility
21	Denver	974	906	940
22	Denver	974	906	940
23	Denver	974	906	940
24	Seattle	1023	951	987
25	Denver	974	906	940

4. *Fuel Cost Data.*—Data for the delivered cost of fuel reported on FPC Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants", were used to develop regional fuel costs. Both the average cost of the upper fuel cost quartile and the average coal cost are used to estimate regional lambdas. *See* section 7, *infra.* Also, the average coal cost is used to determine firm energy values.

1982 Regional Fuel Costs

	(A) average cost of fuel Btu for upper cost quartile of generation ¢/10^6 Btu	(B) average delivered coal cost ¢/10^6 Btu
Power value region:		
1	473	235
2	518	192
3	281	161
4	452	179
5	332	173
6	192	157
8	183	142
9	435	[1] 248
10	216	176
11	218	156
12	151	110
13	229	143
14	232	186
15	254	201
16	452	217
17	209	173
18	370	176
19	397	86
20	437	253
21	87	70
22	171	119
23	316	106
24	118	117
25	559	[2] 102

[1] A coal-fired unit to serve the Chicago area would probably have been constructed outside the area. Consequently, the coal cost for Regional 11 is used for Region 9 thermal alternative fuel costs.

[2] It is assumed that a coal-fired plant entering service in 1982 for California loads would have used Utah Coal. Consequently, the coal cost for Region 22 is used for Region 25 thermal alternative fuel costs.

The average cost of the fuel used for the upper cost quartile of generation is determined from the costs of individual fuel deliveries, the amounts of the deliveries and the proportion of fuel generation in the region. This can be mathematically expressed as follows:

$$A = \frac{(f_1q_1 + f_2q_2 + \ldots f_Nq_N}{(q_1 + q_2 + \ldots q_N)}$$

where

A = Regional annual average fuel cost for the upper production cost quartile of annual generation, cents/10^6 Btu

f = Cost of individual fuel delivery, cents/10^6 Btu

q = amount of individual fuel delivery, 10^6 Btu

1, 2, . . . N = the sequence of fuel deliveries in year, arranged in order of descending cost per 10^6 Btu.

N = that fuel delivery in the sequence at which

$$(q_1 + q_2 + \ldots q_N = \frac{.25}{(G_F/G_T)} Q^T$$

where

G_F = Annual fuel generation in region, MWh

G_T = total annual generation in region, MWh

Q_T = total annual fuel deliveries in region, 10^6 Btu

5. *Coal Cost Escalation.*—The projected regional levelized coal cost, including escalation, is viewed as the major determinant of firm energy value. Since it is assumed that by 2020 all utilities will be using coal or coal derived fuels for generation at the margin (cycling and peaking generation), the non-firm energy value also depends upon the projected regional cost of coal. The escalation assumption uses the latest Energy Information Administration coal price escalation projection for a 10-year period following the project on-line date, with no further real escalation thereafter.

In April 1983, the EIA published its report "1982 Annual Energy Outlook" containing projections of real average coal price escalation to 1990. Eight scenarios were examined: Case A, Middle World Oil Price (Table A.1.4); Case B, Low World Oil Price (Table B.1.4); Case C, High World Oil Price (Table C.1.4); Case D, Higher Vehicle Efficiency (Table D.1.4); Case E, High Utilization of Existing Powerplants (Table F.1.4); Case G, Higher Coal Transportation Rates (Table G.1.4); and Case H, Low Industrial Electricity Demand (Table H.1.4). All the scenarios except Cases G and H resulted in the same projection of average steam coal prices, expressed in 1982 dollars per million Btu:

	1975	1980	1985	1986	1987	1988	1989	1990
Cases A-F	1.58	1.71	1.74	1.76	1.78	1.79	1.82	1.86
Cases G	1.58	1.71	1.84	1.91	1.99	2.09	2.20	2.37
Cases H	1.58	1.71	1.73	1.75	1.77	1.78	1.80	1.85

By interpolation, the price for 1982 is 1.72 $/million Btu. From 1982 to 1990 the compound rate of increase for Cases A–F is 0.98 percent per year, for Case G is 4.09 percent per year and for Case H is 0.91 percent per year. (The real price escalation of coal from 1973 through 1982 averaged about 8 percent per year.)

While EIA assigns no probabilities to the various scenarios examined, Case A, Middle World Oil Price, was used to project the cost of escalation of coal for power value determinations. Using the 0.98 percent per year EIA Case A projection over the 10-year period 1982–1992 results in an escalation factor for 1992 and subsequent years of $(1.0098)^{10}$ or 1.1024. The levelized coal cost escalation factor for the period of 45 years assumed to remain in the license after a project goes on line is determined by summing the present worths of a 0.98 percent per year geometric series from 1982 to 1992 and a level series of 1.1024 from 1992 to 2027, then levelizing at a discount rate of 4 percent. The factor thus determined is 1.079, to be applied to 1982 coal prices to obtain levelized escalated coal costs.[2]

6. *Alternative Capacity cost and Energy Cost.*—The annual capacity cost or fixed cost of the thermal alternative (FC_t) is

$$FC_t = I \times R + FIC + FOC \ (\$/kW\text{-}yr.)$$

[2] For comparison, if a real escalation of 0.98 percent per year had been assumed over the full 45 years of the remaining license term, instead of just the first 10 years, the levelized coal cost escalation factor would have been approximately 1.175.

$$\text{where } FIC \times \frac{(.25)\ (8760)\ (.6)}{10^6} (F \times HR \times M) = \frac{B \times M}{6.98}$$

$F = 1.079 \times B$
$HR = 10{,}100$
and B = 1982 average regional coal cost, ¢/million Btu.

The energy production cost of the thermal alternative (EC_t) is $EC_t = F \times HR \times 10^{-6} + O\&M$, (¢/kWh)

where

F = projected levelized cost of coal for the alternative = $1.079 \times B$.

Values of alternative capacity and energy costs, by region, are provided in the following table.

1982 Coal Unit Capacity and Energy Costs

	FC_t—Levelized capacity cost of alternative			EC_t—Levelized energy cost of alternative (¢/kWh)
	Private utilities ($/kW-yr.)	Public utilities ($/kW-yr.)	Cooperative utilities ($/kW-yr.)	
Power value region:				
1	118	67	82	2.86
2	122	69	84	2.39
3	118	67	82	2.05
4	118	68	82	2.25
5	116	66	81	2.18
6	116	66	81	2.01
7	118	67	82	2.25
8	117	66	81	1.84
9	117	66	81	1.99
10	118	67	82	2.21
11	116	66	81	2.00
12	114	65	79	1.50
13	115	65	80	1.86
14	112	64	77	2.32
15	112	64	77	2.49
16	112	64	78	2.66
17	111	64	77	1.88
18	111	63	77	1.91
19	112	64	78	1.24
20	113	64	79	3.05
21	114	65	79	1.06
22	114	65	79	1.59
23	114	65	79	1.45
24	119	67	82	1.57
25	114	65	79	1.59

When capacity and firm energy credits are not considered for the intial years of project operation, the levelized capacity and firm energy values are reduced accordingly in the computation of total power value. The reduction factor is the ratio of the sum of the present worths in the years with capacity value to the sum of the present worths when credited for all years. The factor, designated c, is listed for years of no capacity value from 1 to 7.

	c
Years of no capacity value:	
1	0.954
2	.909
3	.866
4	.825
5	.785
6	.747
7	.710

7. Marginal Energy Cost.—The average regional marginal energy cost (average lambda) is estimated from the empirical relationship

$$\text{Average Lambda} = \frac{A}{100} + 0.2\ (¢/kWh)\ ^3$$

where

A = average cost of fuel used for the most costly quartile of regional annual generation, ¢/kWh

The relationship is approximately equivalent to assuming the following: An average incremental fuel heat rate for peaking and cycling generation of 10,000 Btu/kWh, an average variable cost for peaking and cycling O&M of 0.2. ¢kWh, and that one-fourth of the annual generation is peaking and cycling.

The initial year lambda is assumed to remain constant (no real escalation) until 1990, and to then decline linearly to a value in 2020 corresponding to an average fuel cost for peaking and cycling generation equal to 1.2 times the average fuel cost for base load generation in that year. It remains at that level until 2027.

The levelized no-firm energy value, EC_d, over the period 1982–2027 is determined by summing the present worths of each year's lambda and applying the levelizing factor.

Where capacity and firm energy values are not credited for the initial years of project operation, the marginal energy cost constitutes the total power value in those years. Computation of a levelized power value reflecting the absence of capacity and firm energy values in the initial years is accomplished as indicated in section 2, using the separate levelized non-firm energy contributions for the years without capacity value and for those with capacity value.

The contribution to the total levelized power value of the non-firm energy of the years where capacity credits are not applicable is the sum of the present worths on non-firm energy for those years, levelized over the 45-year period. Since the non-firm energy costs are assumed to be constant until 1990, the present worth of the non-firm energy for no-capacity value years up to seven is simply the initial year value multiplied by the level series present worth factor for the number of no-capacity-value years. The resultant power value contribution of the years with no capacity credit is:

$$(EC_d)_a = g \times \text{initial year lambda,}$$

where

g = PWF for years without capacity value divided by PWF for 45 years
PWF = Present worth factor

The power value contribution of any non-firm energy in the remaining years where capacity credit is given is simply the present worth of the marginal energy costs in those years, levelized over the full period. It is calculated as the difference between the total levelized non-firm energy value for all the years, less the contribution of the years without capacity credit.

$$(EC_d)_b = EC_d - (EC_d)_a$$

Using the empirical relationship between the initial average lambda and regional fuel costs and the assumptions stated for its reduction between 1990

[3] This relationship appears to be more accurate than the average lambda equals 1.2 times A divided by 100 mentioned in the NOPR.

and 2020 results in the following expression for marginal energy cost levelized over the period 1982–2027:

$$EC_d = .697\frac{A}{100} + .400\frac{B}{100} + .20$$

Values of g for up to seven years of no capacity credit are as follows:

	g
Years of no capacity credit:	
1	.0464
2	.0910
3	.1339
4	.1752
5	.2149
6	.2530
7	.2897

Values of EC_d, and of $(EC_d)_a$ and $(EC_d)_b$ for three years of no capacity credit, are provided in the following table for each region.

NON-FIRM ENERGY VALUES

	Levelized regional average lambda EC_d ¢/kWh	Levelized contribution of first 3 years $(EC_d)_a$ ¢/kWh	Levelized contribution of last 42 years $(EC_d)_b$ ¢/kWh
Power value region:			
1	4.44	.66	3.78
2	4.58	.72	3.86
3	2.80	.40	2.40
4	4.07	.63	3.44
5	3.21	.47	2.74
6	2.17	.28	1.89
7	2.66	.36	2.30
8	2.04	.27	1.77
9	3.86	.61	3.25
10	2.41	.32	2.09
11	2.34	.32	2.02
12	1.69	.23	1.46
13	2.37	.33	2.04
14	2.56	.34	2.22
15	.277	.37	2.40
16	4.22	.63	3.59
17	2.35	.31	2.04
18	3.48	.52	2.96
19	3.31	.56	2.75
20	4.26	.61	3.65
21	1.09	.14	.95
22	1.87	.26	1.61
23	2.83	.45	2.38
24	1.49	.18	[1] 1.31
25	4.57	.78	3.794

[1] Fuel generation is not used for peaking and cycling in this region and EC_d should be regarded as the cost of displaced fuel energy rather than system running cost. *See* section 2, *supra*.

(16 U.S.C. 792–828c; 42 U.S.C. 7107–7352; E.O. 12009, 1977 Comp., p. 142)

[FR Doc. 83-26303 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-210 (Kentucky-2)]

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

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or cost. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Kentucky that the Berea Sandstone be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 10, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or C. W. Gray, Jr., (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking By Director, OPPR

In the matter of High-Cost Gas Produced from Tight Formations, Docket No. RM79–76–210 (Kentucky–2).

Issued: September 26, 1983.

I. Background

On July 18, 1983, The Commonwealth of Kentucky Public Service Commission (Kentucky) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Berea Sandstone located in Pike County, Kentucky, to designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Kentucky's recommendation that the Berea Sandstone be disignated a tight formation should be adopted. Kentucky's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended area includes all of Pike County in eastern Kentucky, except for 14 irregularly shaped excluded areas as shown on maps on file with the Commission. The Berea Sandstone (called Berea grit by drillers) is a depositional unit of early Mississippian (Kinderhookian) age which consists of very fine grained argillaceous, calcareous sandstone to siltstone interbedded with shale. This recommended interval is delimited by the underlying Ohio Shale of Devonian age (called Black, Brown, Cinnamon or Devonian shale by drillers) and the overlying Sunbury Shale (called Coffee shale by drillers). Kentucky states that the thickness of the Berea Sandstone in Pike County ranges from less than 20 to over 125 feet. The average depth to the top of the Berea Sandstone is 2,400 feet in western Pike County and increases to 3,500 feet in the eastern part of the county; however, the range of the depth to the top of the Berea Sandstone is from the surface to 4,617 feet.

III. Discussion of Recommendation

Kentucky claims in its submission that evidence gathered through information and testimony presented at a public hearing in Frankfort, Kentucky, convened by Kentucky on this matter demonstrates that:

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

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

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

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

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶30,180 (1980), notice is hereby given of the proposal submitted by Kentucky that the Berea Sandstone, as described and delineated in Kentucky's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment of this propsed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 10, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–210 (Kentucky–2) and should give reasons including supporting data for any recommendations. Comments should include the name , title, mailing adress, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written coments will be avialable for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Wahington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

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

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Kentucky's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271 [Amended]

Section 271.703 is amended by adding paragraph (d)(196) to read as follows:

§ 271.703 Tight formations

* * * * *

(d) *Designated tight formations.*

* * * * *

(196) *Berea Sandstone in Kentucky.* RM79–76–210 (Kentucky–2).

(i) *Delineation of formation.* The Berea Sandstone (called Berea grit by drillers) encompasses all of Pike County, Kentucky, except for 14 irregularly shaped excluded areas as shown on maps on file with the Commission.

(ii) *Depth.* The Berea Sandstone occurs near the base of Mississippian—age deposits between the Sunbury Shale (called Coffee shale by drillers) and the Ohio Shale (called Devonian shale by drillers). The average depth to the top of the Berea Sandstone is 2,400 feet in western Pike County and increases to 3,500 feet in the eastern part of the county; however, the range of the depth to the top of the Berea is from the surface to 4,617 feet.

[FR Doc. 83–26681 Filed 9–28–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Antidumping Duties

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The International Trade Administration proposes to remove 19 CFR 353.53(e) from the Code of Federal Regulations. That regulation provides that with respect to antidumping investigations concluded by a discontinuance issued prior to January 1, 1980, the International Trade Administration will review each discontinuance under section 751 of the Tariff Act of 1930, as amended. The regulation further states that each discontinuance will remain in effect until modified or terminated. Since that regulation was promulgated in early 1980, it has become apparent to the International Trade Administration that Congress repealed the statutory authority for discontinuances in 1979, and that the International Trade Administration lacks the legal authority to review them. Because questions concerning the legality of 19 CFR 353.53(e) arose shortly after its issuance, the International Trade Administration has not reviewed discontinuances under this regulation. Therefore, the proposed removal will not affect the present administration of the antidumping law.

DATE: Written comments must be received on or before November 14, 1983.

ADDRESS: Written comments should be addressed (in triplicate) to the Office of Compliance, Attention: Antidumping Regulations Revision, International Trade Administration, United States Department of Commerce, Room B–099, 14th Street and Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: William L. Matthews, Office of Compliance (202) 377–5253.

SUPPLEMENTARY INFORMATION:

Background

The Department of the Treasury ("Treasury") administered the Antidumping Act, 1921 ("the 1921 Act") until its repeal, effective January 1, 1980. During that time, Treasury developed a practice of "discontinuing" antidumping investigations under certain circumstances. Treasury regulations referenced that practice in 1972, 19 CFR 153.33(c), 37 FR 26298, 26303, and subsequently codified the discontinuance procedure (19 CFR 153.33, 41 FR 26203, 26209–26210 (1976)). Under those procedures, Treasury could discontinue a pending investigation if it was satisfied that (1) possible dumping margins were minimal relative to the export volume of the particular merchandise, prices were revised to eliminate any likelihood of present dumping, and assurances were given eliminating any likelihood of future

dumping (2) sales of the particular merchandise to the United States were terminated and assurances were given that sales would not resume, or (3) other circumstances made it no longer appropriate to continue the pending investigation. Once a case was discontinued, the investigation stopped and Treasury no longer withheld appraisement of merchandise covered by the discontinuance unless it subsequently determined that there were or were likely to be sales at less than fair value, in which event Treasury reopened the discontinued investigation and withheld appraisement. (For all practical purposes, "withholding of appraisement" was identical to "suspension of liquidation" under current law.)

The Trade Act of 1974, Pub. L. 93–618 ("the Trade Act"), statutorily recognized Treasury's discontinuance practice by amending section 201(b) of the 1921 Act to give Treasury express authority to issue tentative and final discontinuances. (Discontinuances issued by Treasury based on the criteria outlined above, both before and after the Trade Act amendments and in existence on December 31, 1979, are listed in the appendix to this proposed rule.) This authority ended on January 1, 1980, the effective date of the Trade Agreements Act of 1979 ("the TAA"), Pub. L. 96–39. Among other things, the TAA repealed the 1921 Act in its entirety and amended the Tariff Act of 1930 ("the Tariff Act") to include new antidumping provisions.

Soon after enactment of the TAA, Reorganization Plan No. 3 of 1979, 44 FR 69273, and Executive Order 12188, 45 FR 989, 993, transferred the authority for administering the antidumping statute to the Secretary of Commerce. Pursuant to this authority, the International Trade Administration ("ITA") adopted regulations for implementing the new antidumping provisions (45 FR 8190; February 6, 1980). Among those regulations was 19 CFR 353.53(e), which provided that ITA would review discontinuances pursuant to section 751 of the Tariff Act and that discontinuances would remain in effect until modified or terminated.

Reasons for Removing 19 CFR 353.53(e)

ITA has reviewed the legal status of discontinuances in light of the repeal of the 1921 Act. We now believe that 19 CFR 353.53(e) was adopted by ITA without authority and should be considered void *ab initio*.

At the time of the repeal of the 1921 Act, existing agency actions or proceedings under that statute fell into three categories: (1) antidumping "findings," which were based on a determination of sales at less than fair value and a finding of injury to a domestic industry, (2) pending investigations, and (3) discontinuances. In passing the TAA, Congress enacted specific transitional provisions for dealing with two of these categories. For example, section 106(a) of the TAA expressly preserved existing antidumping findings. In addition, Congress prescribed elaborate rules for completing pending antidumping investigations in which no final determination had been made before January 1, 1980 (TAA, section 102(b), 19 U.S.C. 1671 note).

By contrast, the transitional provisions of the TAA failed even to mention discontinuances, which Congress had specifically authorized in 1974 under section 201(b) of the 1921 Act. Further, there is no mention in the legislative history accompanying the TAA of any congressional interest in preserving discontinuances. Therefore, any authority for reviewing discontinuances issued under the Trade Act, and earlier discontinuances of a similar nature, ended with the general repeal of the 1921 Act, at which time the discontinuances themselves ceased to exist under the law.

Comments

The period for the submission of comments will close November 14, 1983. All comments received during this period will be considered by the ITA in developing the final regulations. Submissions (original and two copies) shall be in writing and shall not contain information of a proprietary nature, because they will be made available for public inspection and copying, with the exception of those submitted by other Federal agencies.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington D.C. 20230. Written public comments on file at the facility may be inspected and copied in accordance with 15 CFR Part 4. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Regulatory Flexibility Act

This proposed rule is not subject to the requirements of sections 603 and 604 of Title 5, United States Code, added by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it will not have a significant economic impact on a substantial number of small entities. No domestic entities will be directly affected by the proposed rule. Accordingly, no small entities will be required to use any professional skills in complying with the proposed rule because the proposed rule places no projected reporting, recordkeeping, or other compliance requirements on small entities. Further, the proposed rule will reduce any uncertainty or confusion that the present regulation causes.

Executive Order 12291

This proposed rulemaking does not involve a major rule as defined in Section 1(b) of E.O. 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 19 CFR Part 353

Administrative practice and procedure, Antidumping, Business and industry, Investigations, Imports, Customs duties and inspection, Freedom of information, Confidential business information, Surety bonds, and Trade agreements.

Proposed Amendment

PART 353 [AMENDED]

§ 353.53

[Amended]

For the reasons set out in the preamble, the International Trade Administration proposes to amend Part 353 of Title 19 of the Code of Federal Regulations by removing § 353.53(e).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Appendix

Date	Commodity/country	Federal Register
Apr. 9, 1971	Electron Probe Microanalyzers (Manufactured by Hitachi, Ltd., Tokyo) from Japan	36 FR 6841
Apr. 9, 1971	Precisions Miniature and Instrument Ball Bearings from Japan	36 FR 6841
June 30, 1971	High Voltage Porcelain Insulators (Manufactured by NGK Insulators, Ltd., Nagoya) from Japan.	36 FR 12318
Sept. 29, 1971	Bicylce Tires and Inner Tubes from Japan	36 FR 19146
Nov. 3, 1971	Pentaerythritol from Italy	36 FR 21085
Feb. 2, 1972	Butylated Hydroxytoluene (BHT) from Japan	37 FR 2525
Mar. 24, 1972	Shoeboard from the United Kingdom	37 FR 6122
June 9, 1972	Hat Bodies of Fur, Not on Skin, from Czechoslovakia	37 FR 11595
Aug. 31, 1972	Neopentyl Glycol from Japan	37 FR 17769
Sept. 21, 1972	Stainless Steel Sheet from Japan	37 FR 19655
Nov. 8, 1972	Deflection Yokes (of the types used in color television receivers from Japan)	37 FR 23735
Apr. 19, 1973	High Speed Tool Steel (except that produced by Stora Kopparberg AB) from Sweden	38 FR 9677
May 2, 1973	Electronic Ceramic Packages and Parts Thereof from Japan	38 FR 10824
Oct. 26, 1973	Upholstery Spring Wire of Coiling and Knotting Quality from Japan	38 FR 29620
Dec. 17, 1973	Hand-Operated, Plastic Pistol-Grip Type Liquid Sprayers from Korea	38 FR 34675
Jan. 16, 1974	Mandelic Acid from the United Kingdom	39 FR 2017
Jan. 16, 1974	Mandelic Acid from Japan	39 FR 2017
Sept. 5, 1975	Certain Non-Powered Hand Tools from Japan	40 FR 41155
Jan. 5, 1976	Water Circulating Pump, Wet Motor Type, Suitable for Use in Residential and Commercial Hydronic Heating Systems from Sweden.	41 FR 783
Apr. 29, 1976	Acrylic Sheet (produced by Mitsubishi Rayon Co., Ltd.) from Japan	41 FR 17948
Aug. 18, 1976	Automobiles from Belgium	41 FR 34982
Aug. 18, 1976	Automobiles from Canada	41 FR 34983
Aug. 18, 1976	Automobiles from France	41 FR 34984
Aug. 18, 1976	Automobiles from Italy	41 FR 34985
Aug. 18, 1976	Automobiles (except those manufactured by Honda Motor Co., Ltd., Nissan Motor Co., Ltd., and Toyota Motor Co., Ltd.) from Japan.	41 FR 34986
Aug. 18, 1976	Automobiles from Sweden	41 FR 34987
Aug. 18, 1976	Automobiles (except those manufactured and sold by Rolls Royce Motors, Ltd.) from the United Kingdom.	41 FR 34988
Aug. 18, 1976	Automobiles (except those manufactured by Porsche, A.G) from West Germany	41 FR 34989
Sept. 7, 1976	Certain Portland Hydraulic Cement (produced and sold by Cementos de Chihuahua) from Mexico.	41 FR 37609
Dec. 6, 1976	Automobile Body Dies from Japan	41 FR 53385
June 9, 1977	Pressure Sensitive Plastic Tape (produced and sold by Nopi GmbH and Beiersdorf A.G.) from West Germany.	42 FR 29586
Dec. 30, 1977	Impression Fabric of Man-Made Fiber (produced by Shirasaki Tape Co., Ltd.) from Japan	42 FR 65344
Jan. 16, 1978	Polyvinyl Chloride Sheet and Film (produced by China Gulf Plastics Corp.) from the Republic of China (Taiwan).	43 FR 2254
Apr. 24, 1978	Welded Stainless Steel Pipe and Tubing (producing by Yamato Industries Co., Ltd.) from Japan.	43 FR 17439
June 16, 1978	Sorbates (produced by Uneo Fine Chemical Industries, Ltd.) from Japan	43 FR 26175
Aug. 28, 1978	Prestressed Concrete Steel Wire Strand (produced by Kawatetsu Wire Products Co., Ltd.) from Japan.	43 FR 38495
Oct. 19, 1978	Motorcycles (produced and sold by Yamaha Motor Co., Ltd.) from Japan	43 FR 48754
Nov. 6, 1978	Certain Steel Wire Nails (produced by Tree Island Steel Co., Ltd., and The Steel Co. of Canada, Ltd. (Stelco)) from Canada.	43 FR 51743
Dec. 7, 1978	Cumene from Italy	43 FR 57369
Dec. 11, 1978	Viscose Rayon Staple Fiber from Austria	43 FR 57999
Feb. 28, 1979	Viscose Rayon Staple Fiber from Sweden	44 FR 11286

[FR Doc. 83-26632 Filed 9-26-83; 3:55 pm]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

Drawbridge Operation Regulations: Wilmington River, Atlantic Intracoastal Waterway, Georgia

[CGD7 83-08]

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Georgia Department of Transportation, the Coast Guard is considering expanding the regulations governing the Memorial Bridge at Thunderbolt, Georgia by permitting the number of openings to be limited during certain hours on Sundays between 15 May and 15 September. This proposal is being made because periods of peak vehicular traffic have increased. This action should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Seventh Coast Guard District, 51 S.W. 1st Avenue, Room 816, Miami, Florida 33130. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Bridge Administrator, (305) 350-4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons of concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District will evaluate all communciations received and determine a course of final action on this proposal. The proposed addition to the regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and Lieutenant W. D. Hobson, project attorney.

Discussion of Proposed Amendment

This addition to the regulation is being considered to match and relieve peak vehicular traffic on Sundays. Traffic counts taken in June, 1982 indicate that an average of 1440 vehicles cross the bridge on Sundays between 12 noon and 6:00 p.m. which is an increase of 33 percent over earlier traffic counts taken in February, 1977 and is approaching roadway capacity. In June, 1982, the draw opened on Sundays on average of 1.6 times per hour between 12 noon and 2:00 p.m. and 4:00 p.m. and 6:00 p.m. The proposed addition would limit the opening of the draw on Sundays to twice per hour during peak vehicular traffic periods. Although the proposal is less restrictive than the present Sunday unregulated operation it would eliminate multiple openings which affects the flow of vehicular traffic. Since the regulations continue to exempt tugs with tows, the major commercial users of the waterway, it is expected that there will be only minimal economic impact.

Economic Assessment and Certification

The proposed addition to the regulations has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed amendment is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplication, Analysis, and Review of regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted since its impact is expected

to be minimal. In accordance with sec. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.404(b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.404 Wilmington River, AIWW, mile 579.9, Chatham County Island Expressway, S.R. 26, Causton Bluff, Georgia; Wilmington River, AIWW, mile 582.8, State of Georgia Memorial Bridge, S.R. 80, Thunderbolt, Chatham County, Georgia.

* * * * *

(b) The draw of the Memorial bridge need not open for passage of vessels from 7:45 a.m. to 9:15 p.m. and 5:00 p.m. to 6:30 p.m., Monday through Friday, except legal holidays. However, the draw shall open at 8:30 a.m. and 5:45 p.m., if any vessels are waiting to pass, and as outlined in paragraph (c) of this section. From 15 May to 15 September from 12 noon to 1:30 p.m. and 4:00 p.m.to 6:00 p.m., on Sundays, Memorial Day, July 4th and Labor Day the draw need only open on the hour and half hour, if any vessels are waiting to pass and as outlined in paragraph (c) of this section.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: September 20, 1983.

A. D. Breed,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 83–26639 Filed 9–28–83; 8:45 am]

BILLING CODE 4910–14–M

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. RSOR–6, Notice No. 3]

Control of Alcohol and Drug Use in Railroad Operations; Extension of Time for Public Comment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Extension of time for comments on advance notice of proposed rulemaking (ANPRM).

SUMMARY: FRA announces that the deadline for written comments on the ANPRM concerning alcohol and drug use in railroad operations is extended from September 12, 1983, to October 17, 1983, in order to permit more complete submissions of information and views.

DATES: The new deadline for written comments on the ANPRM is October 17, 1983.

ADDRESSES: Three copies of written comments should be submitted to the Docket Clerk, Office of Chief Counsel (RCC–1), Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Walter Rockey, Special Assistant to the Associate Administrator for Safety, FRA, Washington, D.C. 20590. Telephone: 202–426–0895.

SUPPLEMENTARY INFORMATION: On July 5, 1983, FRA published in the **Federal Register** an ANPRM on the subject of alcohol and drug use by employees engaged in railroad operations (48 FR 30723) (Notice No. 1). Thereafter, FRA conducted a total of five days of public hearings to gather information and views on the alternatives available for regulatory and other action in response to this problem. *See* Notice No. 2, 48 FR 36492 (August 11, 1983).

On September 1, 1983, the first day of the final hearing, the Association of American Railroads requested that FRA extend the closing date for written comments from the originally announced date of September 12, 1983. On September 2, 1983, FRA announced to participants at the hearing that the closing date for written comments would be extended to October 17, 1983. Based on testimony received at the hearings, FRA believes that a limited extension of the comment period is appropriate to facilitate the submission of information and views on this very complex subject matter.

Issued in Washington, D.C., on September 26, 1983.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 83–26532 Filed 9–28–83; 8:45 am]

BILLING CODE 4910–06–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte MC–43; Sub-No. 15]

Elimination of Thirty Day Leasing Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed rulemaking.

SUMMARY: On August 29, 1983 (48 FR 39251, August 30, 1983), the Commission proposed rules to eliminate the requirement at 49 CFR 1057.12(c) that equipment be leased for a minimum duration of 30 days when operated by its owner. They also proposed to eliminate the related recordkeeping requirement for the agricultural exemption (49 CFR 1057.25). Comments were due 30 days from publication of the notice, on September 29, 1983. The purpose of this document is to give notice that the time for filing comments has been extended 30 days, in response to a written request from the Independent Truck Owner-Operators Association.

DATE: Comments must be received by October 29, 1983.

ADDRESS: Send original and 15 copies of comments to: Ex Parte No. MC–43 (Sub-No. 15), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robert G. Rothstein, (202) 275–7912.

or

Mary Kelly, (202) 275–7292

SUPPLEMENTARY INFORMATION: The Independent Truck Owner-Operators Association (I–TOO) has filled a written request that the time for filing comments in this proceeding be extended until October 29, 1983.

I–TOO points to the statement in the proposal that the Commission is particularly desirous of obtaining comments from owner-operators. I-TOO request the extension so that it can have additional time to relate the proposal to its owner-operator members, and to solicit their comments.

The 30-day extension of time for filing comments in this proceeding is reasonable and warranted. The

extension will provide additional time for all parties to prepare comments without unduly delaying the completion of this proceeding.

It is ordered:

I-TOO's request for an extension of time for filing of comments in this proceeding is granted. Comments are now due October 29, 1983.

Decided: September 26, 1983

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-26742 Filed 9-28-83; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1164

[Ex Parte MC-143]

Owner-Operator Food Transportation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission's decision which implemented the statutory post-licensing conditions governing owner-operator food transportation requires that an annual report form be filed approximately one year after the grant of authority and on the same date in successive years. Due to the large number of owner-operators authorized to participate in this traffic and the variety of grant dates, mailing of forms to owner-operators on the anniversary date has become administratively cumbersome. The Commission proposes to make the system more efficient by requiring all owner-operators to file their reports on the same date annually for transportation conducted during the prior calendar year.

In addition, the current report form requires owner-operators to show the total regulated tonnage transported and the total tonnage of exempt agricultural commodities transported. The law does not specifically require the collection of this data and due to its questionable utility, this requirement appears incompatible with the statutory mandate to streamline and simplify, to the maximum extent practicable, the reporting requirements applicable to owner-operator food transportation. It is, therefore, proposed to eliminate the tonnage reporting requirement from the annual report form.

DATE: Comments must be submitted on or before October 31,1983.

ADDRESS: Send an original and 10 copies of comments to: Ex Parte No. MC-143, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: P. M. Schulze, 202-275-7841.

SUPPLEMENTARY INFORMATION: In the decision adopting final rules concerning owner-operator food transportation, 132 M.C.C. 521 (46 FR 19494, March 31, 1981), the Commission prescribed annual report form OP-143 to be mailed to each owner-operator on or about the first year after the grant of authority and on the same date in successive years. The owner-operator would complete the report and return it to the Commission.

From July 1, 1980 (when the Motor Carrier Act of 1980 became law), to May 9, 1983, 548 owner-operators applied for food transportation authority. As of the latter date, 404 grants of authority were made.

Our implementation of the program has caused reporting to become burdensome to the Commission and is probably confusing to the owner-operator. More specifically, the number of authorized owner-operators and the diversity of their grant dates has the potential for requiring that some report forms be mailed each day of the year. Likewise, receipt of the completed forms can be expected on a daily basis. In the aggregate, this procedure consumes more time and effort than one annual mailing and one yearly deadline for submission of the completed form. Moreover, with the proposed system it will be possible to provide the owner-operator with a timely reminder and a copy of the required form. This should reduce confusion and ease the filing burden on the owner-operator.

The Commission, therefore, proposes to amend 49 CFR 1164.4 to require owner-operators to file Form OP-143 on March 31 of each year.

The Act limits the owner-operator food transporter to an amount of regulated tonnage which does not exceed the tonnage of exempt agricultural commodities transported annually. Form OP-143 now requires the owner-operator to report the tonnage of exempt and regulated commodities respectively. This information is of no statistical use to the Commission and, since the certification itself deals directly with the tonnage limitation, appears to be surplusage which is unduly burdensome to owner-operators. This is particularly onerous in view of the statutory mandate of 49 U.S.C. 11145(c) which directs the Commission to ease the reporting burden on owner-operator food transporters to the maximum extent feasible. For this reason it is proposed that the tonnage reporting requirement be eliminated.

Regulatory Flexibility

This rule will change the form required to be filed by authorized owner-operators (all of whom are presumed to be small entities). It will make the filing date uniform for all owner-operator food transporters and eliminate the burden of reporting exempt and regulated tonnages. The effect of this rule change will be of substantial economic benefit to a significant number of small entities.

This decision is not a major federal action significantly affecting energy consumption or the quality of the human environment.

This action is taken under the authority of 49 U.S.C. 10922(b)(4)(E), 10923(b)(5)(A), 11145(c), and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1164

Motor carriers, Reporting and foods, Freight, Recordkeeping requirements.

Decided: September 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83-26575 Filed 9-28-83; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 190
Thursday, September 29, 1983

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with § 800.6(d)(3) of the regulations of the Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that a panel of five members of the Council will meet on October 13 and 14, 1983 in Mobile, Alabama to consider a proposal by the Federal Highway Administration to assist in the construction of Interstate 210 from Prichard, Alabama to Mobile, Alabama. This project will adversely affect the following historic properties in downtown Mobile: Mobile City Hall, a National Historic Landmark; the GM & O Railroad Terminal, a property inlcuded in the National Register of Historic Places; the Church Street East Historic District, the Lower Dauphin Street Commercial Historic District and its extension, and the DeTonti Square Historic District, three historic districts included in the National Register; and Water Street archeological properties, properties eligible for inclusion in the National Register.

Pursuant to 800.6(b)92) of the Council's regulations, the Chairman of the Council decided that a panel should consider this proposal in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended).

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

The Council's regulations require that the panel be composed of five members, three from the private sector (with one charing) and two Federal members. This panel will be chaired by Mr. Alexander Aldrich of Saratoga Springs, New York. The panel will meet in Mobile. The exact time and place has yet to be set and may be obtained from the Executive Director.

The panel will consider the written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by October 5, 1983. Persons wishing to make oral statements should notify the Executive Director by October 5, 1983. Additional information concerning the meeting or the submission of statements is available from the Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004 (202–786–0505), Attn: Amy P. Schlagel.

Dated: September 23, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83–25654 Filed 9–28–83; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Revisions to Existing Systems of Records

Notice is hereby given that effective this date and pursuant to 5 U.S.C. 552a the Office of Inspector General is revising its Privacy Act systems of records: USDA/OIG Systems 1 through 6. The revisions reflect organizational changes, and add the Food and Agriculture Act of 1981, Pub. L. 97–98, 7 U.S.C. 2270 as an authority for the systems. The revisions contain no new routine uses.

The revised systems are set forth below:

USDA/OIG–1

SYSTEM NAME:

Employee Records, USDA/OIG.

SYSTEM LOCATION:

In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, and in the following U.S. Department of Agriculture, Office of Inspector General, Regional Offices and suboffices:

OIG Regional Offices

26 Federal Plaza, Room 17–130, Audit; Room 1707, Investigations, New York, New York 10278
6505 Belcrest Road, Room 422, Audit; Room 432–A, Investigations, Hyattsville, Maryland 20782
1447 Peachtree Street, N.E., Room 900, Audit; Room 901, Investigations, Atlanta, Georgia 30309
165 North Canal Street, Suite 1400 S–C, Chicago, Illinois 60606
101 South Main, Room 324, Audit; Room 311, Investigations, Temple, Texas 76501
P.O. Box 293, Kansas City, Missouri 64141
555 Battery Street, Room 514, Audit; Room 526, Investigations, San Francisco, California 94111

OIG/Audit Suboffices

Deguetau Federal Building, Room 581, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918
Building 124 Federal Center, 424 Trapelo Road, P.O. Box 429, Waltham, Massachusetts 02154
Room 862 Federal Building, 228 Walnut Street, P.O. Box 907, Harrisburg, Pennsylvania 17108
4908 Northwest 34th Street, Suite 8, Northwood Square, Gainesville, Florida 32605
Federal Building, Suite 1410, 100 West Capitol, Jackson, Mississippi 39201
Imperial Towers Office Building, 333 Waller Avenue, Room 203, Lexington, Kentucky 40504
4004 Hillsboro Road, Room 219, Nashville, Tennessee 37215
310 New Bern Avenue, Room 333, Raleigh, North Carolina 27601

200 North High Street, Room 346, Columbus, Ohio 43215
Manley-Miles Building, Room 107, 1405 South Harrison Road, East Lansing, Michigan 48823
Suite 1802, 5610 Crawfordsville Road, Indianapolis, Indiana 46224
333 Sibley, Suite 560, St. Paul, Minnesota 55101
3746 Government Street, Alexandria, Louisiana 71302, Mailing Address: P.O. Box 5889, Alexandria, Louisiana 71301
1114 Commerce Street, Room 812–A, Federal Building, Dallas, Texas 75242
2514 Federal Building, Little Rock, Arkansas 72201
USDA, OIG, P.O. Box 29383, New Orleans, Louisiana 70189
210 Walnut Street, Room 167, Des Moines, Iowa 50309
Drake Executive Plaza, Suite 220, 2625 Redwing Road, Fort Collins, Colorado 80526
200 Fourth Street, Southwest, Room 207, Huron, South Dakota 57350
100 Centennial Mall North, Room 276, Lincoln, Nebraska 68508
1520 Market Street, Room 1624, Box 14153 Main Post Office, St. Louis, Missouri 63178
24000 Avila Road, 4th Floor, Laguna Niguel, California 92677
511 Northwest Broadway, Room 304, Portland, Oregon 97209
915 Second Avenue, Room 312, Seattle, Washington 98174

OIG/Investigation Suboffices

Deguetau Federal Building, Room 220, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918
Waltham Federal Center, Building 124–S, 424 Trapelo Road, Waltham, Massachusetts 02154
120 South Warren Road, King of Prussia, Pennsylvania 19406
P.O. Box 874, Federal Building, Granby Hall, Norfolk, Virginia 23510
4908 Northwest 34th Street, Suite 6, Gainesville, Florida 32605
Federal Building, Suite 1412, 100 West Capitol Street, Jackson, Mississippi 39269
4004 Hillsboro Road, Room 211, Nashville, Tennessee 37215
310 New Bern Avenue, Room 328, Raleigh, North Carolina 27611
200 North High Street, Room 350, Columbus, Ohio 43215
Manley-Miles Building, Room 107, 1405 South Harrison Road, East Lansing, Michigan 48823
Suite 1804, 5610 Crawfordsville Road, Indianapolis, Indiana 46224
333 Sibley, Suite 560, St. Paul, Minnesota 55101
Room 14A21, Federal Building, 1100 Commerce, P.O. Box 50606, Dallas, Texas 75250
Federal Building Customs House, 721 19th, Street, Room 475, Denver, Colorado 80202
300 North Los Angeles Street, Room 2311, Los Angeles, California 90012
Federal Building, 915 Second Avenue, Room 312, Seattle, Washington 98104

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG temporary and permanent employees, former employees of OIG and predecessor offices, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records show personnel management and work-related information, including position, title, grade, pay rate, pay, temporary and permanent address, phone number, performance evaluations, promotions, travel information, accident reports and related information, activity reports, participation in savings and contribution programs, availability for employment, for assignment, or for transfer, qualifications, awards, hours worked, issuance of credentials, passports, and other identification, assignment and accountability of property and other things of value, parking space assignments, training and development, and special assignments. Records in system do not include employee Official Personnel Folder (OPF) data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–452, as amended, 5 U.S.C. App.; 5 U.S.C. 301; 7 U.S.C 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other agencies in the Department and Executive Branch agencies, such as the Office of Personnel Management (OPM), as necessary, for proper personnel actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer and in file folders, notebooks, and card file boxes.

RETRIEVABILITY:

By name of individual employee.

SAFEGUARDS:

Available on official need-to-know basis. Kept in locked offices after office hours.

RETENTION AND DISPOSAL:

Records are retained as long as needed and then discarded. Personal information that might be considered derogatory or embarrassing is shredded when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Director, Policy and Liaison Staff, (PLS) OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

RECORD ACCESS PROCEDURES:

To gain access to information in the system, send request to Director, Policy and Liaison Staff, OIG, USDA, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURES:

To contest information in this system, send request to Director, Policy and Liaison Staff, OIG, USDA, Washington, D.C. 20250.

RECORD SOURCE CATEGORIES:

The primary information is furnished by the individual employee. Additional information is provided by supervisors, coworkers, references, and others.

USDA/OIG–2

SYSTEM NAME:

Intelligence Records, USDA/OIG.

SYSTEM LOCATION:

In the Headquarters Office in the Agriculture Administration Building, 14th Independence Avenue, S.W., Washington, D.C. 20250, and in the OIG offices listed in the system of records designated USDA/OIG–1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Suspects and unpaid informants.

CATAGORIES OF RECORDS IN THE SYSTEM:

Names, occupations, other information about suspects and allegations against them; and types of information previously furnished by or to be expected from informants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–452, as amended, 5 U.S.C. App.; 5 U.S.C. 301; 7 U.S.C. 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or

prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on Sheets of paper and index cards.

RETRIEVABILITY:

Retrievable by name of individual subject.

SAFEGUARDS:

Available on an official need-to-know basis and kept in locked storage when not in use.

RETENTION AND DISPOSAL:

Kept indefinitely and continually updated; out-of-date material is burned.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General, Investigations (AIG/I) Division, Office of the Inspector General, Washington, D.C. 20250. Inquiries and requests should be addressed to: Director, Policy and Liaison Staff, USDA, OIG, Washington, D.C. 20250.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) this system has been exempted from the following provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) as investigatory material complied for law enforcement purposes. This exemption is contained in 7 CFR 1.123.

USDA/OIG-3

SYSTEM NAME:

Investigative Files and Subject/Title Index, USDA/OIG.

SYSTEM LOCATION:

In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 29250, and in the OIG Regional and Investigation Suboffices listed in the system of records designated USDA/OIG–1.

Except for inadvertent errors, all entries in regional office indexes are duplicated in the Headquarters index. Thus the Headquarters index is the only complete index in OIG. The Headquarters files also contain a copy of every investigative report, but not the correspondence in all cases. Older investigative files may be stored in Federal Records Centers or on microfiche. Therefore, delays in retrieving this material can be expected.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individual names in the OIG index fall into one or more of the following categories:

Subjects. These are applicants for OIG employment or individuals against whom allegations of wrongdoing have been made. In some instances, these individuals have been the subjects of investigations conducted to establish whether allegations were true. In other instances, the allegations were deemed too frivolous or indefinite to warrant inquiry.

Principals. These are individuals who are not named subjects of investigative inquiries, but may be responsible for violations. For example, the president of a firm alleged to have violated laws or regulations would likely be individually listed in the OIG index.

Complainants. These are individuals who allege wrongdoing, mismanagement, or unfair treatment relating to USDA employees and/or programs.

Others. These are all other individuals closely connected with a matter of investigative interest or whose names have been checked through the index to determine whether they were of record. Among these names are those of people who are connected with a matter only in that they have shown unusual interest in having allegations investigated or in learning the results of investigation. Also included in the index are the names of persons on the Department of Justice crime list.

CATEGORIES OF RECORDS IN THE SYSTEM:

The OIG Subject/Title Index and Investigative Files consist of:

1. Index cards and/or a microfiche index filed alphabetically by the names of individuals, organizations, and firms with a separate card or line items for each; dates of entries made into the index or dates of materials containing information about the named subjects; and identification of the OIG file or files containing information on that subject.

2. Files containing bound sheets of paper or microfiche of such sheets from investigative and other reports, correspondence, and informal notes and notations concerning (a) one investigative matter or (b) a number of incidents of the same sort of alleged violation or irregularity.

If such information was available when an index card or line item was made, the card or microfiche concerning an individual will include the individual's address, date of birth, and social security number.

3. Where investigation is being or will be conducted, but has not been completed, various case management records, investigator's notes, statements of witnesses, and copies of records. These are contained on index slips or cards and sheets of paper located in an OIG office or in the possession of the OIG investigator. Certain management records are retained after the investigative report is released as a means of following action taken on the basis of the OIG investigative report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–452, as amended, 5 U.S.C. App.; 301; 7 U.S.C. 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility for investigating or prosecuting a violation of law or enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, or any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The OIG Subject/Title Index consists of 3 inch by 5 inch cards or microfiche line items stored in steel cabinets. The investigative files are stored in steel lektriever cabinets, on microfiche sheets, or in Federal Records Centers.

RETRIEVABILITY:

The subject cards or line items are arranged alphabetically, and each card or line item identifies one or more OIG investigative case files or administrative files arranged numerically by file number. Information in investigative or administrative files concerning individuals not indexed is considered irretrievable.

SAFEGUARDS:

These records are available within USDA and to others in the Executive Branch only upon proper identification and on a need-to-know basis. These records are kept in limited-access areas during duty hours and in locked offices at all other times.

RETENTION AND DISPOSAL:

The cards or line items are kept indefinitely and investigative case files are maintained for 15 years. However, certain investigative case files of unusual significance are kept indefinitely. Administrative files are kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management and Budget Staff, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

RECORD ACCESS PROCEDURES:

To request access to information in this system, write to Director, Policy and Liaison Staff, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURE:

To contest information in this system, send request to Director, Policy and Liaison Staff, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) this system has been exempted from the following provisions of 5 U.S.C. 552a, (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) as investigatory material compiled for law enforcement purposes or compiled solely for determining suitability, eligibility or qualifications for Federal civilian employment. This exemption is contained in 7 CFR 1.123.

USDA/OIG-4

SYSTEM NAME:

Liaison Records, USDA/OIG.

SYSTEM LOCATION:

Headquarters Offices in Agriculture buildings at 14th and Independence Avenue, SW., Washington, D.C. 20250, and in the OIG offices listed in the system of records designated USDA/OIG-1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or officials of Federal, State, and local governmental agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Such information as name, title, address, phone number, and type of assistance previously given or interest previously shown or expected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-452, as amended, 5 U.S.C. App.; 5 U.S.C. 301; 7 U.S.C. 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed to other investigative agencies (e.g., FBI, Secret Service, IRS) to coordinate investigative efforts or for those agencies to use in their independent investigations and to facilitate referral to OIG investigative information to other Executive Agencies that have an official interest.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards and sheets of paper.

RETRIEVABILITY:

By name of individual or by name of agency.

SAFEGUARDS:

Information is usually obtained from public records or previous contacts and is generally available to OIG employees and others on request. Records are in the custody of OIG employees during working hours and in locked offices at other times.

RETENTION AND DISPOSAL:

Information is kept indefinitely and disposed of when updated. Out-of-date information is discarded.

SYSTEMS MANAGER(S) AND ADDRESS:

Directors of the offices indicated in "System location."

NOTIFICATION PROCEDURE:

Inquiries and requests should be addressed to Director, Policy and Liaison Staff, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

RECORD ACCESS PROCEDURES:

To gain access to information in this system, send requests to Director, Policy and Liaison Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURES:

To contest information in this system, send requests to Director, Policy and Liaison Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

RECORD SOURCE CATEGORIES:

Public documents and directories and previous contacts with individuals listed.

USDA/OIG-5

SYSTEM NAME:

Management Information and Data Analysis System, USDA/OIG.

SYSTEM LOCATION:

Computer files are maintained on the Computer Sciences Infonet System with main offices at 650 North Sepulveda, El Segundo, California. Source documents and printouts are kept in OIG Headquarters, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250 and in the OIG regional offices listed in the system of records designated as USDA/OIG-1 (with the exception of the New York Regional Office).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG professional audit employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Management Information and Data Analysis System provides audit management officials with a wide range of information on audit operations, including job performers of OIG professional audit personnel in grade GS-13 and below. The system identifies individual audit assignments of employees and provides information on their use of direct and indirect time; significant dates relating to each audit such as starting date, exit conference date, and report release date; the number and significance of audit findings and the identity of all the professionals who participated in the assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-452, as amended, 5 U.S.C. App.; 5 U.S.C. 301; 7 U.S.C. 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provided upon request to the General Accounting Office for reviewing OIG audit operations. Disclosure may also be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer discs and/or magnetic tape.

RETRIEVABILITY:

Information in the system can be retrieved by OIG Headquarters and regions. Information can be retrieved by audit report number, employee social security number, or geographic location.

SAFEGUARDS:

Normal computer security is maintained over access to discs and magnetic tapes. Printouts are available within USDA as necessary and are kept under lock and key when not in use. Source documents are kept in file cabinets in the offices listed above.

RETENTION AND DISPOSAL:

Discs and/or magnetic tapes are cleared, retired, or destroyed, when no longer useful, in accordance with General Services Administration and USDA retirement and/or destruction schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Audits, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Director, Policy and Liaison Staff, USDA/OIG, Washington, D.C. 20250. A request for information pertaining to an individual should contain: Name, address, and particular information requested.

RECORD ACCESS PROCEDURE:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to the Director, Policy and Liaison Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURES:

Same as access procedures described above.

RECORD SOURCE CATEGORIES:

Information in the system comes entirely from OIG audit employees.

USDA/OIG-6

SYSTEM NAME:

Audit Information System, USDA/OIG.

SYSTEM LOCATION:

Records included in this system may be located at audit sites throughout the United States or at any of the Departmental Computer Centers. The Departmental Computer Centers are: (1) Washington Computer Center, 12th and Independence Avenue, S.W., Washington, D.C. 20250; (2) New Orleans Computer Center, P.O. Box 29383, New Orleans, Louisiana 70189; (3) Kansas City Computer Center, P.O. Box 293, Kansas City, Missouri 64141; (4) St. Louis Computer Center, 1520 Market Street, Room 1624, Box 14153 Main Post Office, St. Louis, Missouri 63178; (5) Fort Collins Computer Center, Drake Executive Plaza, Suite 220, 2625 Redwing Road, Fort Collins, Colorado 80526.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system employs temporary data sets, computer printouts, and other audit records obtained from USDA agencies, nonfederal sources, and Federal agencies other than USDA. Individuals covered by these records are participants in programs administered and/or funded by the Department of Agriculture; employees of USDA and other Federal, State, county, and municipal agencies; and officials and employees of contractors, grantees, and cooperators that conduct business related to USDA programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system may contain, for short periods of time, various categories of records relating to administration of, or individual participation in, USDA programs. For example, the categories of records may relate to the Department's farm, food, loan and research programs and to payroll records of USDA or other governmental employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-452, as amended, 5 U.S.C. App.; 5 U.S.C. 301; 7 U.S.C. 2270; 7 CFR 2.33.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are routinely used for analysis during the course of Office of Inspector General (OIG) audits. To facilitate this analysis, USDA, other Federal, State, or other governmental computer tapes containing program participation or employment information may be matched against themselves or each other to find duplications that indicate possible improper or illegal participation in USDA programs. Matching may be conducted by OIG, other USDA agencies, other Federal agencies, and/or State, county, or municipal agencies. The computer printouts of duplicates may be furnished to OIG auditors and investigators, the nonfederal entity responsible for operating the program, other Executive Branch audit agencies, the General Accounting Office, the Department of Justice, other law enforcement agencies, and the Congress.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored electronically on computer direct access storage devices or magnetic tape and in computer printouts and other audit records.

RETRIEVABILITY:

Electronically stored information may be retrieved using standard audit software analysis and retrieval packages and is limited only by the data elements maintained in the data set. This information may be transmitted and received using standard teleprocessing procedures. Data elements may include such information as an individual's name, address, social security numbers, employee identification, case or farm number, and specific information about the individual's program participation or employment. Information located in computer printouts and other audit records may be retrieved manually while audits are in process. After an audit is completed, information about individuals can only be retrieved by first identifying the audit involved (by type, location and time conducted) and then retrieving the information from audit work materials by mechanical or electronic search. If individual participation was investigated, personal privacy information about that individual may be retrievable, by name, from system USDA/OIG-3, described above.

SAFEGUARDS:

Normal computer security is maintained over access to electronically encoded data. Computer printouts and other audit records are protected in accordance with the sensitivity of data contained therein.

RETENTION AND DISPOSAL:

Electronically encoded data is seldom retained for more than six months. It is then destroyed either by degaussing or overwriting the computer media. Computer printouts and manually prepared audit records may be incorporated into audit files where they are retrievable only by audit number or report title. Audit files are retained in accordance with General Services Administration retirement and/or destruction schedules. Computer

printouts not incorporated into audit files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers are the USDA Regional Inspectors General for Audit in whose geographical areas the audit sites and Departmental Computer Centers are located. These are as follows: (1) Regional Inspector General for Audit, North Atlantic Region, OIG, USDA, 26 Federal Plaza, Room 17–130, New York, New York 10278; (2) Regional Inspector General for Audit, Northeast Region, OIG, USDA, 6505 Belcrest Road, Room 422, Hyattsville, Maryland 20782 (Washington Computer Center); (3) Regional Inspector General for Audit, Southeast Region, OIG, USDA, 1447 Peachtree Street, N.E., Room 901, Atlanta, Georgia 30309; (4) Regional Inspector General for Audit, Midwest Region, OIG, USDA, 165 North Canal Street, Suite 1400 S–C, Chicago, Illinois 60606; (5) Regional Inspector General for Audit, Southwest Region, OIG, USDA, 101 South Main Street, Room 311, Temple, Texas 76501 (New Orleans Computer Center); (6) Regional Inspector General for Audit, Great Plains Region, OIG, USDA, 9435 Holmes, Room 210, Kansas City, Missouri 64131; Mailing Address: P.O. Box 293, Kansas City, Missouri 64141 (Kansas City, Fort Collins, and St. Louis Computer Centers); (7) Regional Inspector General for Audit, Western Region, OIG, USDA, 555 Battery Street, Room 526, San Francisco, California 94111.

NOTIFICATION PROCEDURE:

Any individual may request information contained in this system of records or information as to whether the system contains records pertaining to that individual by contacting the Director, Policy and Liaisn Staff, OIG, USDA, Washington, D.C. 20250. The individual is reminded that this system of records is temporary and usually is accessible only while an audit of a particular program or activity is in process. The period of accessibility normally ranges from one month to approximately six months, depending on the type of audit and the use made of the information. Any request for information pertaining to an individual should contain that person's name, address, the USDA program the individual is participating in, any pertinent identification number such as a case number, and the particular information requested. Proof of identity and/or authorization to access will be required.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to that person by submitting a written request to the Director, Policy and Liaison Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURES:

These inquiries also should be sent to the Director, Policy and Liaison Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained mainly from USDA agencies and State and local governments that administer USDA programs on a cooperative basis and may be obtained from other grantees and program participants and other Federal agencies.

Information generally relates to a USDA Program or activity which is being audited. Upon conclusion of the audit, the information is either destroyed, returned to the originator, or stored in an audit file from which information about individuals cannot be retrieved without manual and/or electronic search.

John R. Block,

Secretary of Agriculture.

September 23, 1983.

[FR Doc. 83-26651 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Land and Resource Management Plan; Shasta-Trinity National Forests, Shasta, Siskiyou, Tehama, and Trinity Counties, California; Intent to Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a National Environmental Impact Statement in January 1979. This Environmental Impact Statement documented the results of an analysis of 62 million acres of roadless and undeveloped land within the 190 million acre National Forest system. The purpose of this Roadless Area Review and Evaluation (RARE II) was to determine which of these roadless areas were more suitable for wilderness than for other National Forest uses.

In California, RARE II analyzed over 6 million acres located in the Forest Service Pacific Southwest Region. Of the total acres analyzed, about 983,000 acres were recommended for wilderness; 2,643,000 acres for further planning for wilderness; and 2,395,000 acres were not considered suitable for wilderness or were designated nonwilderness.

In 1979, the State of California challenged the adequacy of the RARE II Environmental Impact Statement prepared as the basis for making the decisions for the allocation of the roadless land to either wilderness or nonwilderness use. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision which applied specifically to 46 roadless areas in California. This decision sets a binding precedent for all Federal Courts in the Ninth Circuit.

As a result of the October 1982 court decision, all the roadless areas on the National Forests in California that meet the original criteria for the RARE II study will be reevaluated. The reevaluation of the RARE II areas on the Shasta-Trinity National Forests will be done as part of the Forest's present land and resource management planning. The areas to be studied are:

Area name	Number	Total acres		Rare II Recommendation
		Gross	Net	
Backbone	05216	14,029	8,829	Non-Wilderness.
Bake Oven Ridge A	A5800	893	893	Wilderness.
Bake Oven Ridge B	B5800	1,434	1,374	Non-Wilderness.
Bell-Quinby A	A5218	3,184	3,184	Wilderness.
Bell-Quinby B	B5218	13,031	13,031	Non-Wilderness.
Bonanza King	05217	20,136	14,536	Non-Wilderness.
Castle Crags A	A5219	11,211	8,961	Wilderness.
Cherry Flat	05805	136	136	Non-Wilderness.
China Springs A	W5803	481	481	Wilderness.
China Springs B	N5803	886	886	Non-Wilderness.
Chinquapin	05221	22,454	21,754	Non-Wilderness.
Cow Creek	05222	23,963	23,963	Non-Wilderness.
Devils Rock	05223	17,516	14,816	Non-Wilderness.
Dog Creek	05224	5,899	4,499	Non-Wilderness.
Eagle	05300	7,373	6,773	Non-Wilderness.
East Beegum	05225	8,019	8,019	Non-Wilderness.
East Girard	05227	43,758	29,258	Non-Wilderness.
Fisher Gulch B	B5299	4,684	4,684	Non-Wilderness.
Hobo Gulch	05802	467	467	Wilderness.
Kettle Mountain	05230	9,079	4,279	Non-Wilderness.

Area name	Number	Total acres		Rare II Recommendation
		Gross	Net	
Little French Cr. A	A5228	11,988	11,988	Wilderness.
Little French Cr. B	B5228	2,437	2,437	Non-Wilderness.
Little French Cr. C	C5228	35,669	35,269	Non-Wilderness.
Mt. Shasta A	A5231	26,830	16,960	Wilderness.
Mt. Shasta B	B5231	10,272	9,117	Non-Wilderness.
Orleans Mtn (Trinity Mtn)	N5079	3,309	3,309	Non-Wilderness.
Panther	05232	11,160	11,160	Non-Wilderness.
Pattison	05233	29,866	29,166	Non-Wilderness.
Penney Ridge	05234	5,229	5,229	Non-Wilderness.
Salt Gulch	05286	6,524	6,524	Non-Wilderness.
Slate Creek	05235	7,039	6,939	Non-Wilderness.
South Fork	05236	17,783	17,683	Non-Wilderness.
Stoveleg Gap	05801	1,197	1,197	Wilderness.
Trinity Alps	NF906			
Addition A		34,864	34,850	Wilderness.
Addition B		24,943	24,943	Wilderness.
Addition C		9,587	9,587	Wilderness.
Addition G		2	2	Wilderness.
Exclusions 1&6		10,697	3,057	Non-Wilderness.
Wells Mountain	05133	9,237	9,237	Non-Wilderness.
West Beegum	05239	5,188	5,188	Non-Wilderness.
West Girard	05238	41,150	34,550	Non-Wilderness.

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals and organizations on the Forest Plan mailing list and other individuals and organizations requesting a copy. In addition, there will be open houses held on November 15, 1983 at the Civil Defense Hall in Weaverville and on November 17, 1983 at the Forest Headquarters, 2400 Washington Avenue in Redding. Both open houses will run between 2:00 p.m. and 5:00 p.m. and again from 6:00 p.m. through 9:00 p.m. These open houses will be held to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

Written comments concerning the reevaluation are encouraged. These comments should be directed to Forest Supervisor Barney Coster, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001. These comments should be received by November 30, 1983. For further information about the proposed reevaluation, contact Gary Adams, Land Management Planning Officer Shasta-Trinity National Forests at the above address, or call (916) 246-5407.

Dated: September 22, 1983.

Barney Coster,

Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 83-26615 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1981, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term continued in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name and location of stockyard	Date of posting
MN-179 Minnesota Feed Pig Markets, Inc., Pipestone, Minnesota.	June 1, 1983.
TX-328 Hereford Cattle Commission Co., Inc., Hereford, Texas.	July 25, 1983.

Done at Washington, D.C., this 23rd day of September 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-26528 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-02-M

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

IN-158 Henry County Livestock Auction, New Castle, Indiana

MO-258 Uder Bros. Livestock Auction Co., Lebanon, Missouri

SC-135 Palmetto Livestock, Inc., Anderson, South Carolina

SC-136 Corley's Horse Auction, Batesburg, South Carolina

SD-112 DeSmet Livestock Exchange, DeSmet, South Dakota

TN-181 Murfreesboro Livestock Market, Inc., Murfreesboro, Tennessee

Notice is hereby given, therefore, that the Packers and Stockyards Administration, pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by October 14, 1983.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 23rd day of September 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-26529 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

Alabama Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20-21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Alabama Electric Cooperative, Inc. (AEC), Andalusia, Alabama, for the construction of 46 kV and 115 kV transmission facilities in Geneva County, Alabama, and Holmes, Washington, Bay, Calhoun, and Jackson Counties, Florida.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and AEC's Borrower's Environmental Report (BER) may be reviewed in the office of Director, Southeast Area—Electric,

Room 0270, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–8434, or at the office of Alabama Electric Cooperative, Inc. (Mr. Charles R. Lowman, Manager), P.O. Box 550, Andalusia, Alabama 36420, telephone (205) 222–2571, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for assistance with financing from AEC, has reviewed the BER submitted by AEC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of 46 and 115 kV transmission lines and four new substations to be built along the following points: from an existing substation near Fountain in Washington Co. 36.2 km (22.5 mi) to a proposed 115/12.5 kV substation to be constructed near Altha in Calhoun County, on 24.9 km (15.5 mi) to a proposed 115/46 kV substation to be constructed near Grand Ridge, 6.4 km (4 mi) to a proposed 115/12.5 kV substation to be constructed near Sneads. A 46 kV transmission line is proposed for construction from the proposed 115/46 kV substation at Grand Ridge 11.3 km (7 mi) to an existing substation at Dellwood. Grand Ridge, Sneads and Dellwood are all in Jackson County. The project also includes the proposed construction of a 14.5 km (9 mi), 115 kV transmission line from a tie point on the existing Clayhatchee-Glendale line in Geneva County, Alabama to a proposed 115/12.5 kV substation to be constructed near Pittman in Holmes County, Florida. Based upon AEC's BER, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources, including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains. The transmission line will cross 9.3 km (5.8 mi) of floodplains, 9.3 km (5.8 mi) of wetlands, and 23.6 km (14.8 mi) of prime farmland. Each of the four substations proposed for construction will be located on prime farmland and together will displace 4 ha (10 a). No practicable alternative that would avoid floodplains, wetlands, or prime farmland could be found.

Alternatives considered include no action, alternative line routings and substation sitings. After reviewing these alternatives, REA determined that the proposed project is an environmentally acceptable alternative because it best meets AEC's needs with a minimum of adverse impacts.

REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850 Rural Electrification Loans and Loan Guarantees.

Dated: September 23, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83–26653 Filed 9–28–83; 8:45 am]

BILLING CODE 3410–15–M

Alabama Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Alabama Electric Cooperative, Inc. (AEC), Andalusia, Alabama, for the construction of 115 kV transmission facilities in Baldwin County, Alabama.

FOR INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and AEC's Borrower's Environmental Report (BER) may be reviewed in the office of Director, Southeast Area—Electric, Room 0270, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–8434, or at the office of Alabama Electric Cooperative, Inc., (Mr. Charles R. Lowman, Manager), P.O. Box 550, Andalusia, Alabama 36420, telephone (205) 222–2571, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from AEC, has reviewed the BER submitted by AEC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of the construction of 5 km (3 mi) of 115 kV transmission line on a new right-of-way and the conversion of 24 km (15 mi) of 46 kV transmission line to 115 kV, the conversion of 230/46 kV substation to 230/115 kV and the conversion of four 46/12.5 kV substations to 115/12.5 kV. The conversion portion of the proposed project will require the replacement of the existing support structures and conductor that make up the 46 kV line using the same right-of-way between the South Foley and Orange Beach Substations via the Gulf Shores Substation. The project will include the conversion of the 46 kV line from the Gulf Shores Junction (tie point) to the Gulf Park Substation. The South Foley, Gulf Shores, Orange Beach and Gulf Park substations presently operated at 46/12.5 kV will be converted to 115/12.5 kV. The 115 kV transmission line on the new right-of-way will provide a 5 km (3 mi) loop feed from Turkey Hill to the South Foley and Gulf Shore substations. The existing 230/46 kV Turkey Hill substations is to be converted to 230/115 kV by constructing a 115 kV metering point adjacent to it. The metering point will be used to step the voltage down to 115 kV and meter power wheeled across Alabama Power Company's system. Based upon AEC's BER, REA prepared an Environmental Assessement concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources, including threatened and endangered species, prime farmlands, cultural resources, wetlands and floodplains. REA has determined that the conversion of the 46 kV system to 115 kV will have no additional impact to the environment. The 115 kV line on the new right-of-way will have no impact to threatened and endangered species, prime farmlands, or cultural resources. The new right-of-way will cross a 100 m (328 ft) wetland area and a 366 m (1200 ft) floodplain where it transverses the Bon Scour River. Alternatives considered include an alternative transmission line route for the 115 kV line on new right-of-way and the no action alternative. After reviewing these alternatives, REA determined that the proposed project is an environmentally acceptable alternative because it best meets AEC's needs with a minimum of adverse impacts.

REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the

project would not constitute a major Federal action signficantly affecting the quality of the human environment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850 Rural Electrification Loans and Loan Guarantees.

Dated: September 23, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83-26654 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-15-M

Kansas Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality regulations (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed additional financing assistance to Kansas Electric Power Cooperative, Inc., (KEPCO) of Topeka, Kansas, for its six percent ownership participation in the Wolf Creek Generating Station (WCGS), Unit No. 1 in Coffey County, Kansas. The proposed additional financing assistance is necessary for KEPCO to fund its proportionate share of the estimated completed cost of the project. The cost increases are due to the escalation of labor and materials costs, costs of modifications and additional interest during construction expenditures resulting from construction delays.

FOR INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) may be reviewed at or obtained from the office of the Director, Western Area—Electric, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382-8848, or the office of KEPCO, (Mr. Charles Ross, Manager) 5315 SW. 21st Street, Fairlawn Plaza Mall, Topeka, Kansas 66604, telephone: (913) 273-7010, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the June 1982, U.S. Nuclear Regulatory Commission (NRC), Final Environmental Statement (FES) related to the operation of WCGS Unit No. 1, the EA prepared by Black and Veatch for KEPCO and other documents and has determined that they represent an accurate evaluation of the environmental impacts of the project. The completed project will employ a pressurized-water atomic reactor to produce up to approximately 3579 megawatts-thermal at design power level. A stream turbine-generator will use this heat to produce 1150 megawatts-electric. It has been estimated that WCGS Unit No. 1 will be ready for commercial operation in February 1985.

The NRC FES and other related documents considered potential impacts of the proposed project to resources including threatening and endangered species, important farmlands, cultural resources, floodplains, and wetlands.

REA has determined that the capital improvements, modifications and additions related to the cost overruns will have no additional effects on farmland, cultural resources, wetlands or floodplains and threatened or endangered species.

Since WCGS is 89 percent complete, KEPCO still demonstrates a need for the power and energy associated with its present 6 percent participation in WCGS and KEPCO has contractual obligations to continue its involvement in WCGS or stands to loose an amount of its participation proportionate to the amount it defaults, alternatives were limited to those found to be technically and economically feasible, and to no action. REA finds that the proposed alternative, i.e., continued participation in the project, is environmentally acceptable.

Based upon the 1982 NRC FES and other related documents, REA prepared an EA and a FONSI concerning the proposed construction completion. REA has independently evaluated the proposed project completion and has concluded that approval of additional financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA's Bulletin 20-21:320-21, dated January 21, 1980, KEPCO advertised the availability of the NRC FES in the local newspapers. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance at 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 26, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-26655 Filed 9-28-83; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Information Collections by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On September 14, 1983, the Office of Management and Budget approved the extension of the following reporting forms:

Report of Aircraft Operating Expenses and Related Statistics—extended through September 30, 1984, under OMB No. 3024-0058.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

September 21, 1983.

[FR Doc. 83-26468 Filed 9-28-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation (Wave 3).

Form Numbers: Agency—4300X, 4305; OMB—0607-0425.

Type of Request: Revision of a Currently Approved collection.

Burden: 300 respondents; 150 reporting hours.

Needs and Uses: This program collects information concerning the distribution of income received directly as money or indirectly as inkind benefits. The effect of tax and transfer programs on this distribution is extremely important for the formulation of government domestic policy. Wave 3 will pretest topical module questions on Education, Work History, and Health and Disability, since there are major factors affecting a person's work, earnings, income sources, and participation in public programs.

Affected Public: Individuals or Households.

Frequency: Pretest.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Cencus.

Title: Current Industrial Reports Program. Voluntary Surveys (Wave II)

Form Numbers: Agency—M-20A, et. al.; OMB-0607-0011 et. al.

Type of Request: Revision of a Currently Approved Collection.

Burden: 2,427 respondents; 10,984 reporting hours.

Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, annual, and biennial surveys which provide key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Primary users of the data are government agencies, business firms, trade associations, and private research and consulting organizations. The Federal Reserve Board uses CIR data in its index of industrial production and the Bureau of Industrial Economics uses many of the CIR tables in its *U.S. Industrial Outlook.*

Affected Public: Business or Other For-Profit.

Frequency: Monthly, Quarterly, Annually, Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: Current Industrial Reports Program Mandatory Surveys (Wave II).

Form Numbers: Agency—M-20L, et. al.; OMB—0607-0088 et. al.

Type of Request: Revision of a Currently Approved Collection.

Burden: 17,062 respondents; 22,344 reporting hours.

Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, annual, and biennial surveys which provide key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Primary users of the data are government agencies business firms, trade associations, and private research and consulting organizations. The Federal Reserve Board uses CIR data in its index of industrial production and the Bureau of Industrial Economics uses many of the CIR tables in its *U.S. Industrial* Outlook.

Affected Public: Business or Other For-Profit.

Frequency: Monthly, Quarterly, Annually, Biennially.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe 395-4814.

Agency: Bureau of the Census.

Title: Water Use in Manufacturing. Water Use in Mineral Industries.

Form Numbers: Agency—MC-5001, MC-5002; OMB—New.

Type of Request: New.

Burden: 15,000 respondents; reporting hours.

Needs and Uses: This survey is conducted as part of the economic censuses. Federal, state, and local government agencies and private organizations use the results as benchmark data for their studies of industrial water use. The Bureau of Mines uses the date in assessing the impact of mining on surface or underground water systems.

Affected Public: Business or Other For-Profit

Frequency: Quniquennially.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Tiile: Forward Trace Study

Form Numbers: Agency—D-8106; OMB—0607-0418.

Type of Request: Revision of a Currently Approved Collection.

Burden: 8,900 respondents; 1,625 reporting hours.

Needs and Uses: The Forward Trace Study in part of the Census Coverage Evaluation Research studies to improve the ability to evaluate the 1990 Decennial Census coverage. The study traces a sample of the population with the purpose of determining ways to reduce an undercount. The information will be used by the Bureau of the Census in statistical form only. It will aid in making the decision of whether forward tracing can and should be used to help measure census coverage.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avnue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Departmental Clearance Officer.

[FR Doc. 83-26516 Filed 9-28-83; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on October 25, 1983, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland..

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents associated with agricultural production; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4:00 p.m. is: (1) Introductory remarks by the Acting Director, Bureau of the Census; (2) current Census Bureau activities and legislative situation; (3) status of the 1982 Census of Agriculture publications; (4) 1982 Census Computer Tape Program; (5) response to the 1982 Census of Agriculture; (6) economic/agriculture comparability; (7) data processing 1987; (8) data collection methodology; (9) 1990 census; (10) Committee recommendations; and (11) election of chairperson-elect.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 3009, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-7731.

Dated: September 26, 1983.

C. L. Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 83-26614 Filed 9-28-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-580-051]

Bicycle Tires and Tubes From Korea; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on bicycle tires and tubes from Korea manufactured by Korea Inoue Kasei Co., Ltd. The review convers the period January 1, 1981 through December 31, 1981.

As a result of the review, the Department has preliminarily determined the aggregate net subsidy to

be 1.06 percent *Ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: John S. McKean or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 32205) the final results of its last administrative review of the countervailing duty order on bicycle tires and tubes from Korea (44 FR 25701, January 12, 1979) and announced its intent to conduct the next administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately, manufactured by Korea Inoue Kasei Co., Ltd. ("KIK"). Such merchandise is currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1981 and includes seven programs: (1) The Foreign Capital Inducement Law ("FCIL"), (2) short-term preferential financing, (3) tax exemptions for land acquisition, (4) tax exemptions for imported capital equipment, (5) accelerated depreciation, (6) reserve funds for export market development, and (7) reserve funds for export losses.

The Department also investigated one additional program alleged by the petitioner during the previous review to confer a countervailable subsidy. The program involves possible rent, construction, and/or loan benefits conferred on firms located on government-owned land.

Analysis of Programs

(1) Foreign Capital Inducement Law

Under the FCIL program, KIK receives partial forgiveness of its income and property tax liabiltiies. In 1981, KIK received a 62.68 percent exemption from its total income tax liability and a 50 percent exemption from its total property tax liability. The *Ad valorem* benefits attributed to this program are 0.94 percent and 0.01 percent, respectively.

(2) Short-term Preferential Financing

The financing program provides short-term loans at preferential rates to manufacturers for the purpose of acquiring imported raw materials used in production for export.

We calculated the rate on preferential loans outstanding in 1981, using the loan-by-loan difference between comparable commercial interest rates and the preferential rates. We have preliminarily determined that the benefit bestowed under this program is 0.11 percent *ad valorem*.

(3) Other Programs

We examined the following programs and preliminarily find them not to have been used by KIK during the period of review: (a) Tax exemptions for land acquisition, (b) tax exemptions for imported capital equipment, (c) accelerated depreciation, (d) reserve funds for export market development, and (e) reserve funds for export losses.

The Department also investigated an alleged rent, construction, and/or loan benefit available to firms located on government-owned land and found no evidence of its existence.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 1.06 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 1.06 percent of the f.o.b. invoice price on all shipments by KIK of this merchandise exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or before August 9, 1981.

Because the International Trade Commission ("the ITC") determined that no industry in the United States would be injured by importations of this merchandise if this countervailing duty order were revoked with respect to KIK (48 FR 24795), the Department revoked this order effective August 10, 1981, the date the ITC notified the Department that KIK had requested an injury determination.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: September 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-26627 Filed 9-28-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

NTIS To Seek Commercial Vendors To Distribute Technical Reports

AGENCY: National Technical Information Service (NTIS), Commerce.

ACTION: NTIS to seek commercial vendors to distribute technical reports.

SUMMARY: The National Technical Information Service announces its interest in entering into nonexclusive agreements with commercial vendors for the distribution of its technical reports.

ADDRESS: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

FOR FURTHER INFORMATION CONTACT: Michael R. Rubin, Attorney Advisor, NTIS, (202) 377-5394.

SUPPLEMENTARY INFORMATION: The National Technical Information Service (NTIS) announces its interest in entering into nonexclusive agreements with commercial vendors for the distribution of its technical reports to the North American market, which includes the U.S., Canada and Mexico. NTIS will make available copies of archived reports which were accessioned in previous years, and also those of newly accessioned technical reports which are added each year to the NTIS inventory. This action is consistent with this Administration's desire to rely more heavily on the private sector when it is feasible to do so. This announcement is composed of four sections:

- A description of NTIS, its products and pricing policies, and its current methods of document distribution;
- An outline of the terms for availability of the archived reports;
- An outline of the working relationship which NTIS seeks to establish with interested commercial

vendors, describing the responsibilities of each party; and

• Procedures by which interested commercial vendors may seek to enter into these agreements with NTIS.

Each of these topics is addressed below.

Description of NTIS

Under legislation enacted in 1950, the National Technical Information Service (NTIS) is "a clearinghouse for the collection and dissemination of scientific, technical, and engineering information", which is to be self-sustaining from the sale of its documents. (See 15 U.S.C. 1151–57). NTIS, an agency of the U.S. Department of Commerce, is the central source for the public sale of U.S. Government-sponsored research, development, and engineering reports, as well as foreign technical reports and other analyses prepared by national and local government agencies, their contractors, or grantees. It is the central source for federally generated machine-processable data files, and manages the Federal Software Center for intragovernment distribution. NTIS is one of the world's leading processors of specialty information. The NTIS information collection exceeds 1.3 million titles, about 300,000 of which contain foreign technology or marketing information. All are permanently available for sale, either directly from the 80,000 titles in shelf stock or from the microfiche masters of titles less in demand. In the last year NTIS supplied its customers with more than 6 million documents and microforms. It ships about 23,500 information products daily. Full summaries of current U.S. and foreign research reports and other specialized information, in hundreds of subject categories, are published regularly by NTIS in a wide variety of weekly newsletters, a biweekly journal, an annual index, and in various subscription formats for other Federal agencies. The complete texts of the reports cited are sold in paper and microform. NTIS normally distributes copies of its technical reports via 3rd class mail, but upon customer request, faster handling and delivery is offered at an additional cost. A full price schedule of NTIS documents is available upon request from the contact point listed below.

Seventy thousand new reports of completed research are added to the data base annually. In recent years, these newly accessioned reports have been drawn in roughly equal measure from the Department of Energy, the Department of Defense, NASA, and lastly, all other Federal agencies combined. It is for the distribution of these reports that NTIS is seeking commercial vendors.

Purchase of Retrospective Reports

NTIS currently has over 900,000 technical reports available for sale which have been accessioned in previous years. These documents are available for individual years, and groups of years are available at reduced rates. NTIS will provide these documents in microfiche to interested commercial vendors upon the payment of the appropriate fee (see below):

	Number of reports	Price
Year:		
1964–67	86,073	$116,000
1968	30,526	41,000
1969	38,275	51,500
1970	41,683	56,000
1971	48,683	56,000
1972	55,602	65,500
1973	61,215	82,500
1974	58,910	79,500
1975	54,182	73,000
1976	58,854	76,000
1977	77,314	102,000
1978	67,064	88,500
1979	59,197	77,500
1980	65,154	83,500
1981	67,514	85,500
1982	67,332	84,500

The full set from 1964 to 1982 is available for $991,600. Purchases of two to five years would be discounted 5 percent, and six years or more by 10 percent.

Prospective Agreements

NTIS envisions agreements whereby it would provide commercial vendors microfiche copies of all newly accessioned documents, over the course of the agreement. (As noted above, this would total about 70,000 documents yearly.) These reports would be provided through the NTIS service, Selected Research in Microfiche ("SRIM"), and the vendors could use such copies to reproduce further copies for sale, in microfiche or paper copy, to the public. The agreements would contain these major provisions:

NTIS agrees to:

(1) Provide full updates of SRIM to the commercial vendor beweekly;

(2) Identify the commerical vendors on all approporiate promotional material and announcement media, providing addresses and telephone numbers. The vendor would be described as a "commercial vendor of NTIS" and be introduced with the statement that "NTIS documents may be obtained directly from NTIS, or from any of its commercial vendors" (followed by an alphabetical listing of the vendors.)

(3) No exclusive agreements being made by NTIS with any commercial vendor.

Each vendor agrees to:

(1) Pay an annual fee to NTIS, initially set at $70,000, plus a fee of 10 percent of the NTIS domestic sales price for each document sold by the vendor in excess of $200,000. Should the agreement be terminated, the vendor would be required to pay the 10 percent fee for a period of 2 years following termination.

(2) Provide NTIS full sales reports on a quarterly basis, and allow on site inspection by NTIS of all sales records, for verification purposes.

(3) Not sell to any foreign government or individual identified by NTIS as restricted by U.S. government policy or regulation receiving such documents.

(4) Not enter into an agreement with any third party for the purposes of further retail distribution of NTIS products without the prior agreement of NTIS.

The text of the proposed agreement is reproduced in full following this notice.

Procedures

Commercial vendors interested in entering into agreements with NTIS should contact: Michael R. Rubin, Attorney Advisor, NTIS, (202) 377–5394.

Dated: September 23, 1983.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

Agreement for the Distribution of Newly Accessioned Reports

I. Introduction

This document constitutes an Agreement between ————————, hereinafter referred to as the vendor, and the National Technical Information Service, U.S. Department of Commerce, hereinafter referred to as NTIS, setting forth the provisions for the information program to be performed during the period of this agreement.

NTIS is authorized by Section 1152, Title 15, United States Code, to collect, from whatever sources that may be available, scientific, technical, and engineering information and to make such information available to industry and business, to state and local governments, to other agencies of the Federal Government and to the general public, through the utilization of business, trade, technical and scientific publications and services.

II. Resale of NTIS Documents by the Vendor

This agreement provides for the distribution by the vendor of all newly

accessioned standard priced technical reports. NTIS will provide the vendor with microfiche copies of such technical reports within the period of this agreement. In turn, the vendor agrees to reproduce copies of those documents for sale to the public, paying NTIS the fees set out below.

III. Responsibilities of NTIS

NTIS agrees to:

A. Periodically, but usually on a biweekly basis, provide the vendor with microfiche copies of all standard priced technical reports accessioned by NTIS during the period of the agreement.

B. Identify the vendor on all appropriate promotional material and announcement media as a source of NTIS documents. The vendor would be listed in alphabetical order with any other vendors entering into similar agreements with NTIS.

C. Identify to the vendor all foreign governments and individuals who are restricted by U.S. government policy or regulation from receiving NTIS documents.

IV. Responsibilities of the Vendor

The vendor agrees:

A. To pay a $70,000 fee to NTIS, due in four quarterly installments of $17,500. In addition, the vendor will pay NTIS 10 percent of the NTIS domestic sales price for each document sold by the vendor in excess of total sales of $200,000 during the 12 month period beginning with the effective date of this agreement. The vendor agrees to continue to pay to NTIS, for a period of 24 months after the termination of this agreement, 10 percent of the NTIS domestic sales price for each NTIS report sold by the vendor during that time period, without regard to the level of total sales in that time period.

B. Not to sell NTIS technical reports to any foreign government or foreign individual identified by NTIS as restricted by U.S. government policy or regulation from receiving such documents. For verification purposes for this section the vendor agrees to maintain copies of invoices for inspection by NTIS for a period of one year after their issuance.

C. Any agreement with any third party for the purpose of further reproduction and resale of NTIS products requires the prior written approval of NTIS, which approval may be conditioned upon additional monetary considerations payable to NTIS.

V. Accounting

A. The vendor shall maintain records of all sales of NTIS products provided by NTIS to the vendor pursuant to the provisions of this Agreement in accordance with a form prescribed by NTIS. The anonymity of the end user of NTIS reports shall be preserved except as provided in section IV(B); that is, the vendor reports submitted to NTIS will not include identification of specific customers of the vendor.

B. Within thirty days of the close of any quarter, the vendor shall provide NTIS with a quarterly accounting statement reflecting the number of NTIS documents sold and the fees due to NTIS as a result of these sales. Quarterly payments to NTIS shall be made based upon this statement, and will be subject to an interest charge if they do not accompany the quarterly accounting statement. If at any time a quarterly payment shall become ninety days overdue, this agreement may be immediately terminated by NTIS.

C. Quarterly payments of the prorata portion of the $70,000 annual fee shall be paid before the beginning of each new quarter, and will be overdue and subject to an interest charge on the first day of the new quarter. If at any time a quarterly payment shall become 30 days overdue, this agreement may be immediately terminated by NTIS.

D. At the Government's request, the U.S. Government or a CPA selected by the U.S. Government shall be allowed on site inspection of the vendor's records maintained under this section by the vendor. In addition, the vendor will promptly submit a copy of its annual certified audit report to NTIS.

VI. Copyrighted Reports

Notwithstanding any other provision of this Agreement, the vendor may not reproduce any NTIS technical report to which a copyright notice is affixed unless permitted by the copyright holder.

VII. Duration and Modification

A. In order to facilitate accounting, this Agreement shall become effective on the first day of the first calendar quarter (either January 1, April 1, July 1, or October 1) after the following events have occurred:

(1) This Agreement has been signed by both the vendor and NTIS; and

(2) The first quarterly fee payment ($17,500) has been received by NTIS.

This Agreement shall remain in full force and effect for a period not to exceed one year from the effective date.

B. The provisions of this Agreement may be modified or amended only by written agreement executed by duly authorized parties.

VIII. Termination

A. In addition to the NTIS right of immediate termination upon the conditions set forth in sections V (B) and (C) of this Agreement, this Agreement may be terminated by either party at any time upon not less than sixty (60) days prior written notice to that effect to the opposite party. In case of the termination of this Agreement, the rights and obligations of each party hereunder shall cease, except that NTIS shall be entitled to all monies payable to it, including its appropriate share of any revenues generated by the vendor's sales of NTIS products, delivered to the vendor under this Agreement, for a period of 24 months following termination. Further, the vendor shall be entitled to a prorata refund of unused portions of the advance fee payment required by Section IV of this Agreement.

B. Notice of termination of this Agreement shall be sent by certified mail to the Signatory Official of the opposite party, as identified in Section IX. Notice shall be deemed effective as of the date of the mailing of the termination letter.

IX. Representative Personnel

The individuals named below shall serve in a representative capacity to facilitate communication between the parties.

NTIS

_____

_____

_____

Vendor

_____

_____

_____

X. Signatory Authority

This Agreement is executed by the duly authorized parties whose signatures are affixed below:

_____,

NTIS.

Name: _____

Title: _____

Date: _____

_____,

Vendor.

Name: _____

Title: _____

Date: _____

[FR Doc. 83-26813 Filed 9-28-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of Thailand Authorized to Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile Products From Thailand

September 26, 1983.

The Government of Thailand has notified the United States Government under terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983 that the following officials have been authorized to issue export visas for textile and apparel products exported to the United States. These officials will replace those previously designated (47 FR 46732).

Patra Skulthai
Travit Mahisarakul
Narong Nakayokee
Patom Punpatanavicha
Prapis Tantisira

The purpose of this notice is to advise the public of this change.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-26642 Filed 9-28-83; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 83-4]

Bilt-Rite Juvenile Products, Inc., et al.; Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a compliant under the Consumer Product Safety Act

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Printed below is a Complaint in the matter of Bilt-Rite Juvenile Products, Inc., et al, a corporation.

Dated: September 23, 1983.

Sheldon D. Butts,

Deputy Secretary.

Consumer Product Safety Commission

[CPSC No. 83-4]

In the matter of Bilt-Rite Juvenile Products, Inc., a corporation; Century Products, Inc., a corporation; Collier-Keyworth Co., Inc., a corporation; Cosco, Inc., a corporation; Graco Metal Products, Inc., a corporation; Pride-Trimble Corporation, a corporation; Questor Corporation, a corporation; Strolee of California, a.k.a. California Strolee, Inc., a corporation; and Welsh Company, Inc., a corporation.

Compliant

Nature of the Proceedings

1/ This is an adjudicative proceeding for public notice and remedial action for a substantial product hazard or hazards pursuant to section 15 of the Consumner Product Safety Act (CPSA), as amended, 15 U.S.C. 2064, and in accordance with 48 FR 34018. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 CFR Print 1025 (1982).

Jurisdiction

2. This proceeding is instituted pursuant to section 15 of the CPSA, 15 U.S.C. 2064.

Respondents

3. Respondent Bilt-Rite Juvenile Products, Inc. (Bilt-Rite or Respondent) is a corporation organized and existing under the laws of the State of New York with corporate offices at 71 Blaisdel Rd., Orangeburg, New York 10962 and is a wholly owned subsidiary of Gerber Products Co., Inc., Fremont, Michigan.

4. Respondent Century Products, Inc. (Century or Respondent) is a corporation organized and existing under the laws of the State of Ohio with corporate offices at 1366 Commerce Drive, Stow, Ohio, 44224 and is a wholly owned subidiary of Gerber Products Co., Inc., Fremont, Michigan.

5. Respondent Collier-Keyworth Co., Inc. (Collier-Keyworth or Respondent) is a corporation organized and existing under the laws of the State of Massachusetts with corporate offices at 1 Tuttle Place, Gardner, Mass. 01440.

6. Respondent Cosco, Inc. (Cosco or Respondent) is a corporation organized and existing under the laws of the State of Indiana with corporate offices at 2525 State St., Columbus, Indiana 47201.

7. Respondent Graco Metal Products, Inc. (Graco or Respondent) is a corporation organized and existing under the laws of the State of Pennsylvania 19520.

8. Respondent Pride-Trimble Corporation (Pride-Trimble or Respondent) is a corporation organized and existing under the laws of the State of California with corporate offices at 539 W. Rosecrans, Gardena, California, 90248 and is a wholly owned subsidiary of Virco Mfg. Corporation, Los Angeles, California.

9. Respondent Questor Corporation (Questor or Respondent) is a corporation organized and existing under the laws of the State of Delaware with corporate offices at 5750 North Hoover Blvd., Building A, Tampa, Florida, 33631.

10. Respondent Strolee of California (also known as California Strolee, Inc.) (Strolee of California or Respondent) is a corporation organized and existing under the laws of the State of California with corporate offices at 19067 S. Reyes Ave., Compton, California, 90221.

11. Respondent Welsh Company, Inc. (Welsh or Respondent) is a corporation organized and existing under the laws of the State of Missouri with corporate offices at 1535 S. 8th St., St. Louis, Missouri, 63104.

12. Respondents Century Products, Inc. and Pride-Trimble Corporation manufactured and distributed in commerce certain dropside mesh-sided cribs, identified more fully below, which are "consumer products" within the meaning of sec. 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1) (1982).

13. Respondents Bilt-Rite Juvenile Products, Inc., Century Products, Inc., Collier-Keyworth Co., Inc., Cosco, Inc., Graco Metal Products, Inc., Pride-Trimble Corporation, Questor Corporation, Strolee of California (aka California Strolee, Inc.), and Welsh Company, Inc., manufactured and distributed in commerce certain dropside mesh-sided playpens (also known as play yards), identified more fully below, which are "consumer products" within the meaning of sec. 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

14. Respondents are "manufacturers" of "consumer products" which have been "distributed in commerce," as those terms are defined in sections 3(a), (1), (4), (8), (11), and (12) of the CPSA, 15 U.S.C. 2052(a) (1), (4), (8), (11), and (12) (1982).

Count One—Cribs

15. The allegations of paragraphs 1, 2, 4, 8, 12, and 14 are hereby realleged.

The Consumer Products

16. From about 1958 to and including some portion of 1980, Respondent Pride-Trimble manufactured over one million dropside mesh-sided cribs.

17. Prior to and during some portion of 1980, Respondent Century Products, Inc. manufactured approximately 34,500 to 44,500 dropside mesh-sided cribs.

18. The cribs manufactured by Respondents (hereafter, cribs) have a base or floor made of pressed wood, masonite, or a similar material that measures approximately 40" x 26", and extendable legs which can raise them about 20" from the floor of a room. The cribs can be folded and are portable.

19. The sides of the cribs can be lowered and are known as "dropsides."

20. The cribs bear no labels warning of suffocation or asphyxiation hazards.

21. The cribs were produced or distributed for sale to consumers for use by infants and young children (children) in or around permanent or temporary households or residences, in recreation or otherwise, or for the personal use, consumption, or enjoyment of children in or around a permanent or temporary household or residence, in recreation, or otherwise.

22. The cribs are "consumer products" within the meaning of section 3(a)(1), CPSA, 15 U.S.C. 2052(a)(1).

Substantial Product Hazard

23. When a side of a crib is down, the mesh of that side forms a loose pocket which can extend beyond and below the floor of the crib.

24. When a side of a crib is down, there is no barrier to prevent a child from falling off the floor of the crib.

25. Children can and have fallen off the floor of a crib with a side down into the loose mesh pocket.

26. Children caught or trapped in the mesh pocket of a lowered side can and have been killed by lack of air due to compression of the chest or obstruction of the nose and/or mouth or by other causes.

27. Children entrapped in the mesh pocket of a lowered side can suffer brain damage or other injury caused by lack of air and/or compression.

28. Three children are known to have died in cribs manufactured by Respondent Pride-Trimble when they became entrapped in the mesh pocket formed by a lowered side.

29. One child is known to have died in a crib manufactured by Respondent Century Products, Inc. when she became entrapped in the mesh pocket formed by a lowered side.

30. One child is known to have suffocated to death in the mesh pocket formed by the lowered side of a crib similar to those manufactured by Respondents Pride-Trimble and Century.

31. Six children are known to have been killed in the same manner in dropside mesh-sided playpens.

32. In addition, one child is known to have stopped breathing and required emergency treatment when she became entrapped in the mesh pocket of a lowered side of a crib manufactured by Respondent Pride-Trimble.

33. The dropsides of the cribs are a defect in the cribs within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

34. The mesh pocket formed by a side when it is down is a defect in the cribs within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

35. The lack of a barrier to prevent children from falling off the floor of the cribs when a side is lowered is a defect in the cribs within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

36. Parents and others such as baby sitters are unaware of the asphyxiation hazards presented by a crib with a side that is down.

37. The cribs contain no warnings that a side that is lowered presents asphyxiation hazards.

38. Warnings accompanying the cribs are inadequate to give notice of the asphyxiation hazards presented by a lowered side.

39. The failure to provide warnings and the lack of adequate warnings are defects in the cribs within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

40. The defects in the cribs either singly or in combination or both, create a substantial risk or risks of injury because of the thousands of cribs distributed by Respondents Pride-Trimble and Century; the dropsides which are present in all the cribs; the lowering of the dropsides that will take place in the reasonable and foreseeable use and misuse of the cribs; the five children who have already been killed by becoming entrapped in the lowered mesh sides of dropside mesh-sided cribs; and the deaths and injuries that can and will occur in the future.

41. The cribs present a substantial product hazard or hazards within the meaning of sections 15 (a), (c), and (d) of the CPSA, 15 U.S.C. 2064 (a), (c), and (d).

Count II—Playpens

42. The allegations of paragraphs 1–11, 13, and 14 are hereby realleged.

The Consumer Products

43. Respondent Pride-Trimble manufactured over three million dropside mesh-sided playpens prior to May 1983.

44. Each Respondent manufactured thousands of dropside mesh-sided playpens prior to 1983 and manufactured and/or distributed the playpens during some portion of 1983.

45. The dropside mesh-sided playpens manufactured by Respondents (hereafter playpens) have a base or floor made of pressed wood, masonite, or a similar material that measures approximately 40" x 40" or 36" x 36" and non-adjustable legs which raise them approximately six inches from the floor of a room. The playpens can be folded and are portable.

46. The sides of the playpens can be lowered and are known as "dropsides."

47. The playpens bear no labels warning of suffocation or asphyxiation hazards.

48. The playpens were produced or distributed for sale to consumers for use by infants and young children (children) in or around permanent or temporary households or residences, in recreation or otherwise, or for the personal use, consumption or enjoyment of children in or around a permanent or temporary household or residence, in recreation, or otherwise.

49. The playpens are "consumer products" within the meaning of section 3(a)(1), CPSA, 15 U.S.C. 2052(a)(1).

Substantial Product Hazard

50. When a side of a playpen is down, the mesh of that side forms a loose pocket which can extend beyond and below the floor of the playpen.

51. When a side of a playpen is down, there is no barrier to prevent a child from falling off the floor of the playpen.

52. Children can and have fallen off the floor of a playpen with a side down into the loose mesh pocket.

53. Children caught or trapped in the mesh pocket of a lowered side can and have been killed by lack of air due to compression of the chest or obstruction of the nose and/or mouth or by other causes.

54. Children entrapped in the mesh pocket of a lowered side can suffer brain damage or other injury caused by lack of air and/or compression.

55. Two children are known to have died in playpens manufactured by Respondent Pride-Trimble when they became entrapped in the mesh pockets formed by lowered sides.

56. Two children are known to have died in playpens manufactured by Respondent Questor when they became entrapped in the mesh pockets formed by lowered sides.

57. One child is known to have died in a playpen manufactured by Respondent Century Products, Inc. when he became entrapped in the mesh pocket formed by a lowered side.

58. One child is known to have suffocated to death in the mesh pocket formed by the lowered side of a playpen manufactured by one of Respondents or similar to those manufactured by Respondents.

59. Five children are known to have been killed in the same manner in dropside mesh-sided cribs.

60. In addition, one child is known to have lowered her head into the mesh pocket formed by the lowered side of a

playpen manufactured by Respondent Cosco, Inc.

61. The dropsides of the playpens are a defect in the playpens within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

62. The mesh pocket formed by a side when it is down is a defect in the playpens within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

63. The lack of a barrier to prevent children from falling off the floor when a side is lowered is a defect in the playpens within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

64. Parents and others, such as baby sitters, are unaware of the asphyxiation hazards presented by a playpen with a side that is down.

65. The playpens bear no warnings that a side that is lowered presents asphyxiation or suffocation hazards.

66. Warnings accompanying the playpens are inadequate to give notice of the asphyxiation hazards presented by a lowered side.

67. The failure to provide warnings and the lack of adequate warnings are defects in the playpens within the meaning of section 15(a)(2), CPSA, 15 U.S.C. 2064(a)(2).

68. The defects in the playpens, either singly or in combination or both, create a substantial risk or risks of injury because of the thousands of playpens distributed by each Respondent; the dropsides which are present in all the playpens; the lowering of the dropsides that will take place in the reasonable and foreseeable use and misuse of the playpens; the six children who have already been killed by becoming entrapped in the lowered mesh sides of dropside mesh-sided playpens; and the deaths and injuries that can and will occur in the future.

69. The playpens present a substantial product hazard or hazards within the meaning of sections 15 (a), (c), (d), CPSA, 15 U.S.C. 2064 (a), (c), and (d).

Relief Sought

Wherefore, Complaint Counsel requests the Commission to:

A. Determine that the cribs and playpens present a substantial product hazard or hazards within the meaning of sec. 15(a)(2), 15 U.S.C. 2064(a)(2), and that notification under sec. 15(c) of the CPSA, 15 U.S.C. 2064(c), is required to adequately protect the public and

1. Order Respondents to give public notice of the defect or defects in the cribs and playpens by

(a) Mailing posters and notices to obstetricians, and the maternity wards of hospitals nationwide;

(b) Mailing notice to parents of children 21 months or younger;

(c) Placing paid television and radio advertisements on national network and local stations during prime adult viewing and listening time;

(d) Holding a press conference;

(e) Mailing notice to TV stations, radio stations, newspapers, wire services, trade publications, and health organizations;

(f) Placing paid advertisements half a page in size for three consecutive issues in the following magazines: TV Guide, Parents Magazine, Woman's Day, Good Housekeeping, Essence, Consumer Reports, Mothers Manual, American Baby, Baby Talk Magazine, and Expecting Parents Magazine;

(g) Mailing notice to the organizations specified in Attachment 1;

(h) Providing posters at least 11" by 22" to all retail customers with at least one poster for each retail outlet;

(i) Providing posters at least 11" by 22" to all wholesale customers for distribution to their retail customers with at least one poster for each retail outlet of each retail customer;

(j) Mailing notice to day care centers; and

(k) Sending a representative to contact reporters and other appropriate media personnel in each of the largest 26 cities in the United States;

2. Order Respondents to mail notice to each distributor and retailer of any of the cribs and playpens;

3. Order Respondents to mail notice to every person to whom they know a crib or playpen was delivered or sold;

4. Order Respondents to give all notice with at least the content specified in Attachment 2.

B. Determine that the cribs and/or playpens present a substantial product hazard or hazards and that action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), is in the public interest and order Respondents to

1. Repair the defects in the cribs and playpens, replace the cribs and playpens with like or equivalent products which do not contain the defects, or refund the purchase price of the cribs and playpens, or provide repair, replacement, or refunds as alternative remedies and

2. Submit a plan satisfactory to the Commission within 15 days of issuance of an order for taking the actions specified in paragraph B. 1 above.

C. Prohibit Respondents from manufacturing the cribs and playpens for sale, offering them for sale, distributing them in commerce, and importing them into the customs territory of the United States.

D. Order Respondents to reimburse each person for any reasonable and foreseeable expenses incurred in availing himself of any of the remedies in paragraph B.

E. Determine that reimbursement is in the public interest and order Respondents to reimburse all distributors and retailers for their expenses in connection with carrying out the order or orders of the Commission mandating the actions in paragraphs A and/or B including giving credit or refunds for returned inventory and paying transportation expenses.

F. Order Respondents to keep records of their actions taken to comply with paragraphs A through E and supply these records and extracts from these records to Commission staff for a period of three years after entry of each Commission order in this proceeding to establish compliance with the actions ordered.

G. Order Respondents to notify the Commission at least 60 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order for a period of three years after issuance of each order in this proceeding.

H. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

Issued by order of the Consumer Product Safety Commission.

Dated: September 21, 1983.

David Schmeltzer,

Associate Executive Director for Compliance and Administrative Litigation.

[FR Doc. 83-26508 Filed 9-28-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Coastal Engineering Research Board; Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Coastal Engineering Research Board.

The meeting will be held at the Seacrest Hotel and Motor Inn, Old Silver Beach, North Falmouth, Massachusetts from 8:15 a.m. to 5:30 p.m. on October 18, from 8:00 a.m. to 5:00 p.m. on October 19, and from 8:30 a.m. to 1:00 p.m. on October 20, 1983.

The October 18 session will be devoted to the Coastal Engineering Research Center relocation, the FY 1984

coastal engineering research program, NOAA contract procedures, remote sensing, Arctic Ocean engineering program, and an overview of New England Division (NED) projects.

October 19 will be devoted to a field trip to Woods Hole Oceanographic Institute, Cape Cod Canal, Cliff Walk, and the New Bedford hurricane barrier.

The morning of October 20 will be devoted to discussion of the field inspection, problems and research needs of New England Division, coastal presentations by academic engineers and scientists from the NED area, and closing remarks.

Participation by the public is scheduled for 9:00 a.m. on October 20. Members of the public may attend the field inspection but must provide their own transportation.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Tilford C. Creel, Executive Secretary, Coastal Engineering Research Board, Waterways Experiment Station, P.O. Box 631, Vicksburg, MS 39180.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 83-26672 Filed 9-28-83; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (EIS) for the East Grand Forks Flood Control Project in Polk County, Minnesota

AGENCY: U.S. Army Corps of Engineers, St. Paul District, Defense.

ACTION: Notice of intent to prepare a draft supplement to the final environmental impact statement.

SUMMARY: 1. In 1953, a federally authorized project was planned and levees were designed to protect East Grand Forks, Minnesota, from flooding. For various reasons, the project was not constructed. Project authorization was extended in 1970 and a Final EIS was filed in 1971. Since then, many changes have occurred which required reevaluation of the authorized project and reformulation of other measures and plans. Major changes in levee alignments and levels of protection have been identified and will require the preparation of a Supplement to the Final EIS.

2. The only reasonable alternative to the proposed action is no action; i.e., no increase in flood protection for the city of East Grand Forks.

3. Copies of the Draft Supplement to the Final EIS will be provided to all concerned Federal, State, and local agencies; affected Indian tribes; private organizations; and individuals. Anyone else who is interested in reviewing this supplement is invited to do so and should contact the St. Paul District, Corps of Engineers to assure that they are included on the mailing list.

4. Significant issues identified to date which will be analyzed in depth in the Draft Supplement to the Final EIS include the following: potential effects of the levee alignment on sites which may qualify for inclusion on the National Register; effects on recreational resources of the project area; effects of levee alignment and construction on the natural resources in the area; relocations or changes in community structure; and the effect of local sponsorship on community resources.

Review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and applicable Corps of Engineers regulations and guidance.

Input into the planning process has been received from Federal, State, and local agencies. Several workshops and meetings are scheduled for October and November in East Grand Forks, Minnesota, and will serve as the scoping process for this project.

5. The Draft Supplement to the Final EIS is currently scheduled to be available for public distribution in August 1984.

6. Questions concerning the proposed action and Draft Supplement can be directed to Colonel Edward G. Rapp, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnestoa 55101.

Dated: September 23, 1983.

Edward G. Rapp,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-26617 Filed 9-28-83; 8:45 am]

BILLING CODE 3710-CY-M

Intent to Prepare a Draft Environmental Impact Statement for a Proposed Flood Control Project at Fairlawn, Garfield, Lodi, Paramus, Rochelle Park, Saddle Brook, South Hackensack, Wallington, Bergen County, New Jersey

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. *Description of Proposed Action.* The primary purpose of this project is to provide flood protection to the Boroughs of Fair Lawn, Lodi, Paramus and Wallington, the City of Garfield and the Townships of Rochelle Park, Saddle Brook and South Hackensack during periods of high water from the Saddle River and Sprout Brook. Various structural and/or nonstructural measures are under consideration.

2. *Reasonable Alternatives.* Reasonable alternatives under consideration include: channel modifications, levee and floodwall plans, combination channel, levees and floodwall plans, nonstructural methods such as floodproofing and raising of structures, and a "no action" alternative.

3. *Scoping Process.* a. *Public Involvement* has been continuous since the beginning of the detailed investigation of the potential project area. Public coordination activities in the project area include workshops on plan formulation, subbasin coordination meetings, meetings with environmental representatives and meetings with municipal officials. In addition, environmental interests were called by phone and invited to participate in the formulation of plans by alerting the study group to areas of special environmental concern. Local interests were interviewed for the cultural reconnaissance. Other public meetings and coordination are planned.

b. *Significant Issues Requiring In-depth Analysis.* Possible loss of: Wetland areas; aquatic habitats; aesthetics; Cultural resources—one prehistoric site and eight historic sites. One historic site has been nominated to the National Register of Historic Places.

c. *Assignments.* Cultural resources reconnaissance was conducted.

Impact assessment used U.S. Fish and Wildlife Service (USFWS) Planning Aid Reports.

d. *Environmental review and consultation.* USFWS reviewed plans, for which they submitted Planning Aid Reports. New Jersey Department of Environmental Protection, Division of Fish, Game and Shellfisheries conducted an aquatic survey and reviewed the plans in consultation with USFWS. Literature and herbaria studies were conducted for federal rare, threatened and endangered plant and animal species under the auspices of the FWS.

The cultural reconnaissance was reviewed by the State Historic Preservation Officer and the State Archaeologist.

4. Scoping Meeting will be held Oct. 27, 1983, 7:30 p.m., Felician College, Lecture Hall, Main Bldg., 260 South Main St., Lodi, N.J. 07644.

5. Estimate date of statement availability June 30, 1984.

Address:

Project Manager: Reginald Perry. Tel. No. 212/264–3579

EIS Coordinator: M. Lou Benard, Tel. No. 212/264–3609

U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: September 19, 1983.

Samuel P. Tosi,

Chief, Planning Division.

[FR Doc. 83–26616 Filed 9–28–83; 8:45 am]

BILLING CODE 3710–06–M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to section 10, paragraph (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training will meet on October 13–14, 1983. The October 13, 1983, session will be from 8:15 a.m. to 4:30 p.m. The working session of the Board will be on October 14, 1983, from 8:30 a.m. to 11:00 a.m. The Board will be hosted by the Marine Corps Development and Education Command in Quantico, Virignia. All sessions will be open to the public.

The Board will tour Marine Corps facilities including the Computer Sciences School, the Officers Candidate School, and The Basic School and receive briefings on the Marine Corps general professional development education and non-commissioned officer education system.

In the working session, an update on the lateral entry initiatives will be presented with new developments concerning the math/science/computer volunteer and certification pilot project.

Dated: September 23, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 83–26494 Filed 9–28–83; 8:45 am]

BILLING CODE 3810–AE–M

Government-owned Inventions Available for Licensing

The inventions listed below are assigned to the United States Government and are in the custody of the Department of the Navy. They are available for domestic and, possibly, foreign licensing.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $1.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Va. 22161. Requests for copies of patent applications must include the patent application serial number. Claims are deleted from patent application copies sold to avoid premature disclosure.

FOR FURTHER INFORMATION CONTACT: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), 800 North Quincy Street, Arlington, Va. 22217. Telephone number (202) 696–4005.

List of Patents

1. Patent 3,434,551: Buoyant Coring Apparatus. Filed June 26, 1967, patented March 25, 1969.

2. Patent 3,621,447: Electrical Connection for Deep Submergence Lights. Filed December 22, 1969, patented November 16, 1971.

3. Patent 3,998,223: Syringe Apparatus. Filed October 24, 1975, patented December 21, 1976. Patent 4,092,858: Oceanographic Sensor with inSitu Cleaning and Bio-Fouling Prevention System. Filed March 11, 1977, patented June 6, 1978.

4. Patent 4,233,678: Serial Phase Shift Beam-former Using Charge Transfer Devices. Filed March 12, 1979, patented November 11, 1980.

5. Patent 4,229,832 Diver's suit Excess Gas Exhaust Valve. Filed May 21, 1979, patented October 28, 1980.

6. Patent 4,326,374: High Velocity Exhaust: Diffuser and Water Baffle. Filed March 18, 1980, patented April 27, 1980.

7. Patent 4,241,427: Condition Responsive Cable with Bendable Coaxial Sensor Mount. Filed October 27, 1978, patented December 23, 1980.

8. Patent 4,241,898: Purge Valve for Diver's Mask. Filed January 8, 1979, patented December 30, 1980.

9. Patent 4,244,455: Rotary Shaft Decoupling Mechanism. Filed October 17, 1978, patented January 13, 1981.

10. Patent 4,244,456: Ejected Roller Shaft Disconnect Mechanism. Filed September 21, 1978, patented January 13, 1981.

11. Patent 4,246,671: Buoy Anchoring System. Filed November 21, 1979, patented January 27, 1981.

12. Patent 4,248,854: Production of Antibody Toward Asbestos and Immunoassay Therewith. Filed August 27, 1979, patented February 3, 1981.

13. Patent 4,251,794: Flexible Linear Thermal Array. Filed December 10, 1979, patented February 17, 1981.

14. Patent 4,293,339: Underwater Wax Formulation. Filed February 28, 1980, patented October 6, 1981.

15. Patent 4,295,212: Linear Acoustic Array. Filed January 28, 1980, patented October 13, 1981.

16. Patent 4,317,000: Contrahelically Laid Torque Balanced Benthic Cable. Filed July 23, 1980, patented February 23, 1982.

17. Patent 4,330,812: Circuit Board Electronic Component Cooling Structure with Composite Spacer. Filed August 4, 1980, patented May 18, 1982.

18. Patent 4,346,348: Laser Technique for Accurately Determining the Compensation Density in N-Type Narrow Gas Semiconductor. Filed February 28, 1980, patented August 24, 1980.

19. Patent 4,345,207: Method and Apparatus for Obtaining Enhanced NMR Signals. Filed April 24, 1980, patented August 17, 1982.

20. Patent 4,346,953: Antenna Coupling Assembly, Filed April 10, 1980, patented August 31, 1982.

21. Patent 4,347,474: Solid State Regulated Power Transformer with Waveform Conditioning Capability. Filed September 18, 1980, patented August 31, 1982.

22. Patent 4,347,485: Excimer-Pumped Blue-Green Laser. Filed May 23, 1979, patented August 31, 1982.

23. Patent 4,347,517: Microstrip Backfire Antenna. Filed January 26, 1981, patented August 31, 1982.

24. Patent 4,347,580: Array Convolver/Correlator. Filed July 21, 1980, patented August 31, 1982.

25. Patent 4,347,593: Piezoceramic Tubular Element With Zero End

Displacement Filed December 7, 1979, patented 31 Aug 1982.

26. Patent 4,347,891: Thermochemical Energy Transport Process. Filed May 6, 1980, patented Setpember 7, 1982.

27. Patent 4,348,074: Application of Ion Implantation to Linbo Integrated, Optical Spectrum Analyzers. Filed March 3, 1980, patented September 7, 1982.

28. Patent 4,348,347: Stretch-Staging of Resin-based Fiber-Impregnated Tape. Filed April 27, 1981, patented September 7, 1982.

29. Patent 4,349,292: In-Flight Hydrophone Deployment System for Underwater Vehicles, Filed March 5, 1981, patented September 14, 1982.

30. Patent 4,350,728: Cross Reinforcement in a Graphite-Epoxy Laminate. Filed October 1980, patented September 21, 1982.

31. Patent 4,350,890: Apparatus for Monitoring Low Level Light Emission in Underwater Environment. Filed December 12, 1980, patented September 21, 1982.

32. Patent 4,350,993: Heterojunction and Schottky Barrier FBS Targets. Filed June 16, 1980, patented September 21, 1982.

33. Patent 4,351,776: Preparation of Iodophthalonitrile. Filed October 8, 1980, patented September 28, 1982.

34. Patent 4,352,095: A/D Dynamic Range Enhancing Technique. Filed June 25, 1981, patented September 28, 1982.

35. Patent 4,352,563: Method of Providing Phase Biasing in a Continuous Single-Mode Fiber Ring Interferometer. Filed September 22, 1980, patented October 5, 1982.

36. Patent 4,354,873: Underwater Antifoulant Composition. Filed May 18, 1981, patented October 19, 1982.

37. Patent 4,355,791: Snubber Assembly. Filed December 1, 1980, patented October 26, 1982.

38. Patent 4,355,867: Spherical Segment Insertion Apparatus. Filed January 2, 1981, patented October 26, 1982.

39. Patent 4,356,492: Multi-Band Single-Feed Microstrip Antenna System. Filed January 26, 1981, patented October 26, 1982.

40. Patent 4,356,788: Deepwater Propellant Embedded Anchor Having Emergency Release Mechanism. Filed April 27, 1981, patented November 2, 1982.

41. Patent 4,357,180: Annealing of Ion-Implanted GaAs and InP Semiconductors. Filed January 26, 1981, patented November 2, 1982.

42. Patent 4,357,608: Scanning Radar System. Filed September 3, 1980, patented November 2, 1982.

43. Patent 4,357,688: Low Cost Sonobuoy. Filed September 11, 1981, patented November 2, 1982.

44. Patent 4,359,411: Flexible Semiconductor Polymers. Filed October 3, 1980, patented November 16, 1982.

45. Patent 4,359,735: Multi-Sampling-Channel Pulse Compressor. Filed November 6, 1980, patented November 16, 1982.

46. Patent 4,359,736: Frequency Phase Coding Device. Filed November 24, 1980, patented November 16, 1982.

47. Patent 4,359,738: Clutter and Multipath Suppressing Sidelobe Canceller Antenna System. Filed August 9, 1977, patented November 16, 1982.

48. Patent 4,360,182: High-Agility Reflector Support and Drive System. Filed June 25, 1980, patented November 23, 1982.

49. Patent 4,360,348: Underwater Vehicle Porting System. Filed February 20, 1981, patented November 23, 1982.

50. Patent 4,360,924: Laser Bottlenecking Technique. Filed October 23, 1980, patented November 23, 1982.

51. Patent 4,361,879: Ferrofluid Transducer. Filed August 25, 1980, patented November 30, 1982.

52. Patent 4,326,203: Corner Fed Electric Non Rectangular Microstrip Dipole Antennas. Filed September 26, 1979, patented April 20, 1982.

53. Patent 4,362,932: Wide Band Data Processing Technique. Filed January 22, 1981, patented December 7, 1982.

54. Patent 4,362,968: Slow-Wave Wideband Cyclotron Amplifier. Filed June 24, 1980, patented December 7, 1982.

55. Patent 4,363,114: Low Noise Remote Optical Fiber Sound Detector. Filed January 21, 1981, patented December 7, 1982.

56. Patent 4,363,115: Low Frequency, Log-Periodic Acoustic Array. Filed January 26, 1981, patented December 7, 1982.

57. Patent 4,364,048: Interleaved Sweep Radar Display for Improved Target Detection. Filed August 13, 1980, patented December 14, 1982.

58. Patent 4,367,845: Automatic Temperature Control System for Diver Heating System. Filed July 29, 1981, patented January 11, 1983.

59. Patent 4,368,479: Silicon Barrier Josephson Junction Configuration. Filed October 29, 1980 patented January 11, 1983.

60. Patent 4,368,987: Conjugate-Phase, Remote-Clock Synchronizer. Filed 25 Jun 1980, patented 18 Jan 1983.

61. Patent 4,370,657: Electrically End Coupled Parasitic Mictostrip Antennas. Filed March 9, 1981, patented January 25, 1983.

61. Patent 4,371,771: Cutting Torch and Method. Filed November 10, 1980, patented February 1, 1983.

62. Patent 4,371,809: Integral-Shadow-Grid Controlled-Porosity Dispenser Cathode. Filed June 19, 1980, patented February 1, 1983.

63. Patent 4,371,838: Optical Fiber Waveguide For Measuring Magnetic Fields. Filed 24 Sep 1980, patented 1 Feb 1983.

64. Patent 4,371,874: Chaff Dipole Elements and Method of Packaging. Filed October 5, 1973, patented February 1, 1983.

65. Patent 4,372,642: Multiple Thin Film Absorption of Reflected Substrate Modes in Waveguide System. Filed 25 Nov 1980, patented 8 Feb 1983.

66. Patent 4,373,190: Efficient, Precompression, Bandwidth-Tolerant, Digital Pulse Expander-Compressor. Filed January 22, 1981, patented February 8, 1983.

67. Patent 4,374,048: Electrically Conductive Polymeric Compositions. Filed 7 Aug 1981, patented 15 Feb 1983.

68. Patent 4,374,665: Magnetrostrictive Devices. Filed 23 Oct 1981, patented 22 Feb 1983.

69. Patent 4,374,781: Alkylated Phosphazene Oligomers And Method of Preparation. Filed 3 Nov 1980, patented 22 Feb 1983.

70. Patent 4,375,372: Use of Cubic Rare-Earth-Iron Laves Phase Intermetallic Compounds as Magnetostrictive Transducer Materials. Filed 16 Mar 1972 patented 1 Mar 1983.

71. Patent 4,376,302: Piezoelectric Polymer Hydrophone. Filed 13 Apr 1978, patented 8 Mar 1983.

72. Patent 4,376,917: Solid-State Cyclotron Maser. Filed 25 Jun 1980, patented 15 Mar 1983.

73. Patent 4,377,509: Packaging for Ocean Disposal of Low-Level Radioactive Waste Material. Filed 14 Jul 1980, patented 22 Mar 1983.

74. Patent 4,377,744: Remote Lens Focusing System For an Aerial Camera. Filed 14 Jul 1980, patented 22 Mar 1983.

75. Patent 4,380,022: Monolithic Fully Integrated Class B Push-Pull Microwave GaAs Messet With Differential Inputs And Outputs With Reduced Miller Effect. Filed 9 Dec 1980, patented 12 Apr 1983.

List of Patent Applications

1. Patent application 649,614; Float Torjectory Projectile. Filed January 14, 1976.

2. Patent application 142,951: Wavelength Multiplexer-Demultiplexer. Filed April 23, 1980.

3. Patent application 189,428: Multi-Component Propellant Charges. Filed September 22, 1981.

4. Patent application 241,952: GaAs FET Oscillator. Filed March 9, 1981.

5. Patent application 250,471: Underwater Excavator. Filed April 2, 1981.

6. Patent application 257,683: Visual Field Perimeter and Psychomotor Tracking Performance Measuring Apparatus. Filed April 27, 1981.

7. Patent application 258,068: Handhole Seat Resurfacing Tool for Naval Fired Boilers. Filed April 27, 1981.

8. Patent application 261,353: Low Susceptibility Proof Mass for a Single Axis Drag Compensation System. Filed May 7, 1981.

9. Patent application 269,171: Quick Deployment Vehicle. Filed June 2, 1981.

10. Patent application 269,182: Device for Economizing Data Bandwidth. Filed June 2, 1981.

11. Patent application 278,785: Internal Tube Welding Apparatus. Filed June 29, 1981.

12. Patent application 280,767: Laser Formed Video Tube Calibration Markers. Filed July 6, 1981.

13. Patent application 308,310: Optical Fiber System for Measuring Magnetic Fields. Filed October 5, 1981.

14. Patent application 317,028: Underwater Depth Telemetry. Filed November 2, 1981.

15. Patent application 335,308: Cavity-Microstrip Milti-Mode Antenna. Filed December 28, 1981.

16. Patent application 338,356: Method and Apparatus for Determining Lubricant Stability. Filed June 14, 1981.

17. Patent application 334,858: Phase Dependent Radio Navigation Apparatus with Balanced Active Voltage Probe Antenna and Impulse Noise Blanker. Filed January 11, 1982.

18. Patent application 338,787: Utilization of Entire Transmitted Bandwidth in Continuous Transmission FM Sonar. Filed January 11, 1982.

19. Patent application 341,410: 1,3-Diamino-5, Fluoro-2,4,6-Trinitrobenzene and Methods of Preparation. Filed January 21, 1982.

20. Patent application 342,543: Pneumatic Launcher System. Filed January 25, 1982.

21. Patent application 361,942: Refractory Ohmic Contacts to GaAs and the Method of Making Same. Filed March 25, 1982.

22. Patent application 364,818: Oil Filled Towed Array Hose Without Couplings. Filed April 2, 1982.

23. Patent application 365,816: Realtime Data Smoother and Significant Values Selector. Filed April 5, 1982.

24. Patent application 368,793: Apparatus and Method for Determining the Phase Sensitivity of Hydrophones. Filed April 15, 1982.

25. Patent application 374,557: Method for Measuring Particle Velocity Using Differential Photodiode Arrays. Filed May 3, 1982.

26. Patent application 376,468: Serial Pipeline FFT Processor. Filed May 10, 1982.

Patent application 387,633 Microbending Fiber Optic Acoustic Sensor. Filed June 6, 1982.

27. Patent application 388,296: Continuous Contour Linear Assembly Press Joint. Filed June 14, 1982.

28. Patent application 389,132: Wide-Band Distributed RF Coupler. Filed June 12, 1982.

29. Patent application 389,133: Wide-Band Hyrotron Traveling-Wave Amplifier. Filed June 16, 1982.

30. Patent application 391,786: NF_4 XeF_7 and $(NF_4)XeF_8$. Filed June 24, 1982.

31. Patent application 393,949: Preparing of SiC/A1 Composites from Scrap. Filed June 30, 1982.

32. Patent application 394,194: Fiber Optic Hull Penetrator Insert. Filed July 1, 1982.

33. Patent application 394,759: Fabrication of Graded SiC/A1 and G/A1 Composites For Use in the First Wall of a Controlled Thermonuclear Reactor. Filed July 1, 1982.

34. Patent application 395,388: Low-Drag Body Conformal Acoustic Array. Filed July 6, 1982.

35. Patent application 395,566: Tapered Seal for Flow-Through Module. Filed July 6, 1982.

36. Patent application 398,500: Magnetic Bridge Proximity Sensor. Filed July 15, 1982.

37. Patent application 402,016: Sampled Towed Array Telemetry. Filed July 26, 1982.

38. Patent application 403,688: A Dual Channel Gate Peak Detector. Filed July 30, 1982.

39. Patent application 404,684: Wideband Electrical/Optical Multiplexer. Filed August 3, 1982.

40. Patent application 406,428: Fast Granular Superconductive Bolometer. Filed August 9, 1982.

41. Patent application 410,229: Improved Permeable Base Transistor Structure. Filed August 23, 1982.

42. Patent application 411,164: Ceramic-Metal Airfield Runway Markings. Filed August 25, 1982.

43. Patent application 413,596: Zinc-Diffused Narrow Stripe AlGaAl/GaAs Double-Heterostructure Laser. Filed August 31, 1982.

44. Patent application 414,129: Quasioptical Gyroklystron Filed September 2, 1982. Patent application 415,639: W-Shaped Diffused Stripe GaAs/AlGaAs Laser. Filed September 7, 1982.

45. Patent application 417,815: Simulated Oxygen Breathing Apparatus: Filed September 13, 1982.

46. Patent application 417,826: Intensity Modulated Light Source: Filed September 13, 1982.

47. Patent application 418,870: Optical Fiber Directional Coupler Method. Filed September 16, 1982.

48. Patent application 419,257: Polarimetric Fabry-Perot Sensor. Filed September 17, 1982.

49. Patent application 419,364: A Deployment Mechanism. Filed September 16, 1982.

50. Patent application 420,209: Phase-Coded Pulse Expander-Compressor. Filed September 20, 1982.

51. Patent application 420,990: Laser Pumped by X-Band Microwave. Filed September 21, 1982.

52. Patent application 421,766: Pn Junction Controlled Field Emitter Array Cathode. September 23, 1982.

53. Patent application 422,122: Frequency-Spreading Coupler. Filed September 23, 1982.

54. Patent application 423,335: Pressure Sensitive Valve Actuator. Filed September 24, 1982.

55. Patent application 423,889: Interferometric Hydrophone Reference Leg Low Frequency Compensation. Filed September 27, 1982.

56. Patent application 423,941: Complementary Interferometric Hydrophone. Filed September 27, 1982.

57. Patent application 427,027: A Planar Compound Semiconductor Insulated Gate Field Transistor and a Virtual Self-Aligned Process for Making the Same. Filed September 29, 1982.

58. Patent application 429,692: Gauge for Measuring High Transient Pressures. Filed September 30, 1982.

59. Patent application 430,097: System for Detection of Transducer Defects. Filed September 30, 1982.

60. Patent application 431,977: Method for Making Josephson Junctions with Contamination-Free Interfaces. Filed September 30, 1982.

61. Patent application 431,981: An Opitcal RB Downconverter. Filed September 30, 1982.

62. Patent application 432,215: Temperature-Insensitive Optical Fibers. Filed October 1, 1982.

63. Patent application 433,580: Thermal Sight Training Device. Filed October 12, 1982.

64. Patent application 433,765: Method of Producing a Piezoelectric Material. Filed October 12, 1982.

65. Patent application 435,155: Gyrotron Traveling-Wave Device Including Quarter Wavelength Anti-Reflective Dielectric Layer to Enhance Microwave Absorption. Filed October 19, 1982.

66. Patent application 435,156: Superlatice Ultrasonic Wave Generator. Filed October 19, 1982.

67. Patent application 437,083: Shock-Hardened Hydrophone. Filed October 27, 1982.

68. Patent application 437,092: System for Rapid Repair of Damaged Airfield Runways. Filed October 27, 1982.

69. Patent application 437,098: Fiber Optic Sensors Operating at DC. Filed October 27, 1982.

70. Patent application 437,708: Inflatable Boat with Demountable Transom. Filed October 29, 1982.

71. Patent application 437,915: Improved Tunnell Diode and Method of Making. Filed October 29, 1982.

72. Patent application 438,211: Magnetomechanical Energy Conversion. Filed November 1, 1982.

73. Patent application 438,239: Deep Submergence Vehicle (DSV) Lightweight Cable Cutter. Filed November 1, 1982.

74. Patent application 440,685: Controlled-Line-width Laser Source. Filed November 16, 1982.

75. Patent application 440,687: Noval Alloys and Method of Making. Filed November 10, 1982.

76. Patent application 442,410: Raster Shifting Delay Compensation System. Filed November 17, 1982.

77. Patent application 443,828: Technique Fabricating Mnos Structures Utilizing Hydrogen Ion Implanation. Filed November 22, 1982.

78. Patent application 444,139: Balanced System for Ranging and Synchronization Between Satellite Pairs. Filed November 24, 1982.

79. Patent application 444,639: CCD Head and Eye Position Indicator. Filed November 26, 1982.

80. Patent application 445,777: Semi-Active Notch Filter. Filed November 30, 1982.

81. Patent application 445,877: Single Zone Lighting Controller. Filed December 1, 1982.

82. Patent application 445,875: Underwater Sound Generator. Filed December 1, 1982.

83. Patent application 446,107: Pivoting Pipe Layer. Filed December 2, 1982.

84. Patent application 446,926: A Cable Deployment System. Filed December 6, 1982.

85. Patent application 450,693: Method for Eliminating Birefringence in a Fiber Optical Coupler and a Coupler Polarization Corrector. Filed December 17, 1982.

86. Patent application 451,893: Method for Bonding Insulator to Insulator. Filed December 21, 1982.

87. Patent application 453,025: A Fast Intense Pumping System for Generation of Vacuum Ultravoilet Laser Emission from Solid State Crystals. Filed December 27, 1982.

88. Patent application 453,631: Lightweight Broadband Rayleight Wave Transducer. Filed December 27, 1982.

89. Patent application 453,674: Dinitropropl Fluorodinitroethyl Formal Plasticizer and Method of Preparation. Filed December 27, 1982.

90. Patent application 453,675: 3, 3, 3-Trinitropropanol and Method of Preparation. Filed December 27, 1982.

91. Patent application 454,308: High Frequency Ohmic Contact. Filed December 29, 1982.

92. Patent application 456,916: Bocollimated Dual Reflector Antenna. Filed January 10, 1983.

93. Patent application 462,493: Reversible Optical Waveguide Vapor Sensor. Filed January 31, 1983.

94. Patent application 462,860: Fiber Optic Interferometer Using Two Wavelengths or Variable Wavelength. Filed February 1, 1983.

95. Patent application 463,103: Test Device for Expendable Bathythermograph Set (XBT). Filed February 2, 1983.

96. Patent application 467,421: Dual Scan Rate Radar. Filed February 17, 1983.

97. Patent application 467,430: Combined Microwave Parallel Amplifier-RF Attenuator/Modulator. Filed February 17, 1983.

99. Patent application 467,714: 1:1:3 and 1:3 "Mixed" Polymitroethyl Orthocarbons Via "Mixed" Trialkoxymethyl Trichlormethyl Disulfides. Filed February 18, 1983.

100. Patent application 467,715: Derivatives of Energetic Orthofomates. Filed February 18, 1983.

101. Patent application 467,727: Radiation Source Shield and Calibration. Filed February 18, 1983.

102. Patent application 470,843: Compact Phased Array Fed Dual Reflector Antenna System. Filed February 28, 1983.

103. Patent application 471,942: Battlefield Friend or Foe Identification Trainer. Filed March 3, 1983.

104. Patent application 472,330: A Fixed Aperture, Rotating Feed, Beam Scanning Antenna System. Filed March 4, 1983.

105. Patent application 473,411: Free Electron Laser Injection Oscillator. Filed March 9, 1983.

106. Patent application 474,607: Magnetically Induced Laser. Filed March 11, 1983.

107. Patent application 477,208: Smoke Generator for Use with Water and Smoke Generant. Filed March 21, 1983.

Dated: September 23, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-26490 Filed 9-28-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Indian Education Act Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984; Noncompeting Continuation Applications

AGENCY: Department of Education.

ACTION: Application notice establishing closing dates for transmittal of certain fiscal year 1984 noncompeting continuation applications under Indian Education Act Programs.

SUMMARY: The purpose of this notice is to establish closing dates for transmittal of noncompeting continuation applications under certain Indian Education programs and to provide fiscal and programmatic information.

Organization of Notice: This notice contains two parts. Part I includes, in chronological order, the closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications: Applicants should note specifically the instructions for the transmittal of applications included below.

Transmittal of Applications: To be assured of consideration for funding, an application for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements in this document.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center,

Attention: (insert appropriate CFDA number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A ligibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Part I—Programs Listed in Chronological Order

CFDA	Program	Closing date
84.072B 84.061B 84.062B	Indian Education-(Noncompeting Continuations).	Nov. 10, 1983.
84.060B	Indian Education Grants to Local Educational Agencies and Tribal Schools—(Noncompeting Continuations).	Jan. 23, 1984.

Part II—Individual Announcements for Programs Listed in Part I

84.072B, 84.016B, 84.062B—Indian Education Discretionary Grants—Noncompeting Continuation Grants.

Closing Date: November 10, 1983.

Applications are invited for noncompeting continuation projects under the following Indian Education Act programs:

(1) Part A—Indian-Controlled Schools—Establishment; Indian-Controlled Schools Enrichment Projects.

Grants may be made to Indian tribes, Indian organizations, and local educational agencies (LEAs) that will have been LEAs for not more than three years as of the beginning of the proposed performance period for Indian-controlled schools projects. Schools must be operated for Indian children and be located on or near a reservation. Authority for this program is contained in Section 303(b) of Part A of the Act, as amended. (20 U.S.C. 241bb(b))

The purpose of the Indian-Controlled Schools—Establishment projects is to plan for and establish Indian-controlled schools. The purpose of the Indian-Controlled Schools Enrichment Projects is to support enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in those schools.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.072B.

(2) *Part B—Educational Services for Indian Children.*

Grants may be made to State education agencies (SEAs), LEAs, Indian tribes, Indian organizations, and Indian institutions for educational services projects. Authority for this program is contained in Section 1005(c) of Part B of the Act, as amended (20 U.S.C. 3385(c)).

The purpose of these projects is (a) to provide to Indian children educational services that are not available to those children in sufficient quantity or quality, and (b) to introduce innovative and exemplary approaches into the education of Indian children.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.061B.

(3) *Part B—Planning, Pilot, and Demonstraton Projects for Indian Children.*

Grants may be made to SEAs, LEAs, elementary and secondary schools for Indian children supported by the Department of the Interior, Indian tribes, Indian organizations, and Indian institutions for planning, pilot, and demonstration projects. Authority for this program is contained in Section 1005(b) of Part B of the Act, as amended (20 U.S.C. 3385(b)).

The purpose of these projects is to develop, test, and demonstrate the effectiveness of educational methods, approaches, or techniques to improve educational opportunities for Indian children.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.061B.

(4) *Part B—Educational Personnel Development (Section 1005(d)).*

Grants may be made to institutions of higher education, and to (SEAs) and LEAs in combination with those institutions, for educational personnel development projects. Authority for this program is contained in Section 1005(d)) of Part B of the Act, as amended (20 U.S.C. 3385(d)).

The purpose of these projects is to prepare educators of Indian people. The maximum stipend allowed for participants at the graduate level will be $600 per month. The maximum stipend allowed for participants at the undergraudate level will be $375 per month. A maximum allowance of $90 per month will be allowed for each dependent.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.061B.

(5) *Part B—Educational Personnel Development (Section 422).*

Grants may be made to institutions of higher education, Indian tribes, and Indian organizations for educational personnel development projects. Authority for this program is contained in Section 422 of Part B of the Act as amended (20 U.S.C. 3385(a)).

The purpose of these projects is to prepare educators of Indian people. The maximum stipend allowed for participants at the graduate level will be $600 per month. The maximum stipend allowed for participants at the under-

graduate level will be $375 per month. A maximum allowance of $90 per month will be allowed for each dependent.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.061B.

(6) *Part C—Educational Services for Indian Adults.*

Grants may be made to Indian tribes, Indian organizations, and Indian institutions for educational service projects. Authority for this program is contained in Section 316(b) of Part C of the Act as amended (20 U.S.C. 1211a(b)).

The purpose of these projects is to improve educational opportunities for Indian adults.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.062B.

(7) *Part C—Planning, Pilot, and Demonstration Projects for Indian Adults.*

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, and Indian institutions for planning, pilot, and demonstration projects. Authority for this program is contained in Section 316(a)(1), (2) of Part C of the Act as amended (20 U.S.C. 1211a(a)(1)(2)).

The purpose of these projects is to develop, test, and demonstrate the effectiveness of educational methods, approaches, or techniques to improve employment and educational opportunities for Indian adults.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.062B.

Applicable Regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Indian Education Act programs, 34 CFR Parts 250, 252, 253, and 255–259.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts, 74, 75, 77, and 78. 84.060B—Indian Education Grants to Local Educational Agencies and Tribal Schools.

Closing Date: January 23, 1984.

Authority for this program is contained in Section 303 of Part A of the Indian Education Act, as amended (20 U.S.C. 241bb(a)).

This program authorizes grants to LEAs and to certain Indian tribes and Indian organizations described in Section 1146 of Pub. L. 95–561 (20 U.S.C. 241bb–1).

The purpose of these grants is to support elementary and secondary school programs designed to meet the special educational and culturally related academic needs of Indian children.

Available Funds: The Administration's budget for fiscal year 1984 does not include funds for Indian Education Programs. However, applications are invited to allow sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

An application under this program must be marked Attention: 84.060B.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing programs under Part A of the Indian Education Act, 34 CFR Parts 250 and 251; and

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Application Forms: Application forms and program information packages may be obtained by writing to Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

FOR FURTHER INFORMATION CONTACT: Director, Indian Education Programs, U.S. Department of Edcuation, Room 2177, 400 Maryland Avenue, S.W. Washington, D.C. 20202. Telephone: (202) 245–8840.

(20 U.S.C. 241aa–241ff, 1211a, 1211h, 3385, 2285a)

Dated: September 23, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-26531 Filed 9-28-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in October 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its eleventh meeting on Sunday, October 9, 1983, starting at 9:00 a.m., in the Embarcadero-D Room, Hyatt Regency Hotel, Five Embarcadero Center, San Francisco, California.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public

who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-2918, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 23, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-26573 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-Cert-306]

Burlington Industries, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the application, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, from 8:00 a.m., to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FEDERAL REGISTER notice of application
Burlington Industries, Inc., Asheboro Plant, Asheboro, N.C.	Aug. 23, 1983	83-CERT-306	48 FR 38679 Sept. 1, 1983

The ERA has carefully reviewed the above application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted the certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on September 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-26572 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-090, as Amended; ERA Docket No. 83-CERT-154, as Amended]

G&M Finishing, Inc. and W.R. Grace & Co., Davison Chemical Div.; Amended Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications to amend existing certifications of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in each amendment request, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, S.W., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Existing certification number and date issued	Date amendment filed	FEDERAL REGISTER notice of applicant's amendment
G&M Finishing, Inc., Ephrata Plant, Ephrata, Pa.	83-CERT-090, June 22, 1983	July 27, 1983	FR 48 39681, Sept. 1, 1983.
W.R. Grace & Co., Davison Chemical Div. Plant, Cincinnati, Ohio.	83-CERT-154, July 18, 1983	Aug. 10, 1983	FR 48 39681, Sept. 1, 1983.

The ERA has carefully reviewed the above applications to amend the existing certifications in accordance with 10. CFR 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that each application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certifications and transmitted those amended certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on September 20, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-26571 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER 83-754-000]

Bangor-Hydro Electric Co.; Filing

September 26, 1983.

Take notice that on September 19, 1983, Bangor Hydro-Electric Comapny (Bangor) tendered for filing a Sales Agreement (Agreement) made as of August 1, 1983 between Bangor and the Connecticut Light and Power Company, (CL&P) and Western Massachusetts Electric Company (Western) for the sale of unit power by Bangor to CL&P.

Bangor states that the Agreement provides for a unit sale of 40,000 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company (Boston), to CL&P. Bangor has such entitlement under contract for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that CL&P pay an energy reservation charge of 3.8 mills per kilowatt hour and for their pro-rata share of the actual energy costs.

Bangor requests an effective date of August 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been mailed to CL&P.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26659 Filed 9-28-83: 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-753-000]

Bangor Hydro-Electric Co.; Filing

September 26, 1983.

Take notice on September 19, 1983, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (Agreement) made as of May 1, 1983 between Bangor and the Public Service Company of New Hampshire (PSNH) for the sale of unit power by Bangor to PSNH.

Bangor states that the Agreement provides for a unit sale of 40,000 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that PSNH pay for the capacity at the rate of $40 per kilowatt per year and for their pro-rata share of the actual energy costs.

Bangor requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been mailed to PSNH.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26660 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-755-000]

Central Hudson Gas & Electric Corp.; Filing

September 26, 1983.

Take notice on September 19, 1983, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing as a rate schedule an executed agreement dated August 30, 1983 between Central Hudson and Jersey Central Power and Light Company (JCP&L). The proposed rate schedule provides for the sale of 150 megawatts of generating capacity and associated energy by Central Hudson to JCP&L.

Central Hudson states that the rate schedule provides for a capacity charge of $833.34 per megawatt month and an energy charge equal to Central Hudson's incremental fuel and maintenance costs, incremental out-of-pocket costs, incremental cost of transmission losses and applicable taxes *or* the highest hourly estimated rate per Mwhr. of energy at which Central Hudson could have sold such energy to other buyers, less three dollars ($3.00) per Mwhr.

Central Hudson requests an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing was served on JCP&L.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26661 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-22-000]

Florida Power Corp.; Application

September 26, 1983.

Take notice that on September 16, 1983, Florida Power Corporation submitted for filing an "Application for Authority to Sell 2.09 Miles of Transmission Facilities to Florida Power & Light Company Pursuant to Section 203 of the Federal Power Act."

Florida Power Corporation proposes to sell 2.09 miles of a 230 kV single circuit transmission line consisting of the following units:

1. Two (2) steel towers and appertenances.
2. Seven (7) aluminum towers and appurtenances.
3. 1,296 suspension insulators.
4. 32,844 feet of 954 KCMIL ACRS overhead conductor.
5. 21,896 feet of 5/16 inch steel overhead groundwire.
6. 10,948 feet of right-of-way easement 175 feet wide.
7. Right-of-way clearing for the aforementioned portion of transmission line.

Florida Power Corporation also states that the reason for this purchase by Florida Power and Light is that it will eliminate the need for FP&L to construct a second 230 kV transmission line from Osceola-Orange County to its Brevard substation. FPC further states that the value of the facilities will be set at $311,013.000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26662 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-23-000]

Georgia Power Co.; Application

September 26, 1983.

Take notice that on September 19, 1983, Georgia Power Company ("GPC") submitted for filing an "Application for an Order Authorizing the Sale of Approximately 13.54 miles of Transmission Lines to the Municipal Electric Authority of Georgia ('MEAG')."

GPC proposes to sell to MEAG approximately 13.54 miles of 69 kV transmission line. These facilities would remain a part of the Integrated Transmission System. According to GPC, this sale is intended to permit MEAG to come closer to its requisite investment in the Integrated Transmission System, as required by the Integrated Transmission System Agreement between Georgia Power and MEAG.

The purchase price for the facilities will be a negotiated price of $840,000, plus an amount equal to the aggregate of all Cost of Construction (as defined in the Agreement for Sale of Transmission Facilities) incurred by the Company in connection with the upgrading prior to the closing of the sale.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26663 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-750-000]

Iowa Public Service Co.; Filing

September 26, 1983.

Take notice that on September 16, 1983, Iowa Public Service Company (Iowa) tendered for filing revised Appendix I to the Operating Agreement with the Board of Trustees of Municipal Electric Utility of Algona, Iowa, dated July 1, 1981.

Iowa indicates that the revised Appendix reflects the rates agreed upon for energy exchange between the parties and for regulation, spinning reserve and emergency service.

Iowa requests an effective date of August 10, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26664 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-412-001, ER83-348-000, ER83-349-000, ER83-350-000]

Kansas Gas and Electric Co.; Refund Report

September 26, 1983.

Take notice that on September 9, 1983, Kansas Gas and Electric Company submitted for filing a Refund Report to the Cities of Oxford, Girard and Burlington, Kansas, Kansas Power and Light and the Missouri Public Service Company. The Refund Report was submitted in compliance with a Commission Order dated August 1, 1983 in Docket Nos. ER82-412-001, ER83-348-000, et al.

With respect to the City of Oxford, Kansas, the refund amount of $5,690.42 will be credited against the additional billing that is continuing to accrue on the remainder of Oxford's additional billing until a final order is issued in Docket No. ER80-259-000.

The City of Girard, Kansas has received a refund in the amount of $21,883.16. However, no check will be issued as the additional billing of $234,843.85 (excluding interest) exceeds the refund amount.

The City of Burlington, Kansas has received its refund in the amount of $18,273.17, which represents the difference between the Schedule A billed rate and the approved Schedule A billed rate for service purchased from October 31, 1982 through June 30, 1983.

Kansas Power and Light Company received a refund of $130,987.86, which represented the difference between the billed rate (PWM-682) and the approved Settlement Rate (PWM-883) for service purchased form October 31, 1982 through July 26, 1983 (Parsons and Parsons NE. Delivery Points); and from October 31, 1982 through May 31, 1983 (Altamont and Oswego Delivery Points).

Lastly the Missouri Public Service Company was given a refund in the amount of $851.19, which represented the difference between the billed rate (PWM-682) and the approved settlement Rate (PWM-883).

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulations Commission, 825 North Capitol Street,

NE., Washington, D.C. 20426, on or before October 5, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28665 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-677-000]

Montaup Electric Co.; Filing

September 26, 1983.

Take notice that on September 1, 1983, Montaup Electric Company (Montaup) tendered for filing a revised Exhibit A to the agreement under which Montaup provides contract demand service to the Town of Middleborough, Massachusetts (Middleborough) designated Rate Schedule FERC No. 75. The revised Exhibit A reflects the expiration, as of midnight October 31, 1983, of Montaup's commitment under Article 1.8 of the agreement that the M-rate demand charge for service to Middleborough is to be derived on the basis of billing determinants established under a 100% billion ratchet. The revised Exhibit A raises the demand components of the rate to the same levels currently being charged to Montaup's other nonaffiliated M-rate customers under the settlement rates effective July 1, 1983 pursuant to the Commission's order of July 2, 1983 in Docket Nos. ER81-749-000 et al. Middleborough has been charged on a different basis only because of the special provision in its agreement with Montaup.

Montaup requests an effective date of November 1, 1983.

Copies of the filing have been served upon Middleborough and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28666 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-752-000]

Northern States Power Co.; Filing

September 26, 1983.

Take notice that on September 16, 1983, Northern States Power Company (NSP) tendered for filing Supplement No. 1 to the Shared Transmission Agreement between NSP and Southern Minnesota Municipal Power Agency.

NSP states that Supplement No. 1, dated May 1, 1983, adds the loads of Owatonna and New Prague, which are members of the Southern Minnesota Municipal Power Agency, to the Shared Transmission System.

NSP requests an effective date of June 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28667 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-748-000]

Portland General Electric Co.; Filing

September 26, 1983.

Take notice that on September 15, 1983, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System Cost determination and PGE's Appendix 1, Schedule 5. In accordance with the provisions of 18 CFR 35.13a(d)(5)(i), these documents are required to be filed with FERC within 15 working days of BPA's ASC determination. This determination was made on August 26, 1983.

PGE also states that as a result of Bonneville's review, its Average System Cost was adjusted:

Jurisdiction	Mills/kwh	
	Filed rate	Adjusted rate
Oregon	30.57	28.97

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28668 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-674-000]

Public Service Company of Colorado; Filing

September 26, 1983.

Take notice that on August 8, 1983, the Public Service Company of Colorado (Company) tendered for filing a proposed change in its Power Purchase Agreement (Agreement) with the Town of Julesburg, Colorado (Julesburg). The Company states that the proposed change is a Supplement to Company's Agreement with Julesburg, dated September 5, 1978, on file with the Commission under Company's FERC rate schedule No. 20.

The Company states that the proposed Supplement is to allow for the sale of pump-back energy to Julesburg with delivery being made to the Western Area Power Administration (WAPA).

Copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26669 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-751-000]

Utah Power & Light Co.; Filing

September 26, 1983.

Take notice that on September 16, 1983, Utah Power & Light Company (Utah) tendered for filing a new service agreement providing for sales under Service Schedule UTAH-1B of Volume 2 of Utah's FERC Electric Tariff, under which Utah sells and delivers non-firm energy to electric utilities. The new service agreement is with the City of Farmington, New Mexico.

Utah requests an effective date of August 11, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the City of Farmington, and also on the regulatory commissions of Utah and New Mexico.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26670 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-749-000]

Virginia Electric and Power Co.; Filing

September 26, 1983.

Take notice that on September 16, 1983, Virginia Electric and Power Company (VEPCO) tendered for filing a Facilities Purchase Agreement (Agreement) dated August 9, 1983 between VEPCO and the City of Harrisonburg, Virginia, acting by and through the Harrisonburg Electric (HEC). The Agreement would modify the Agreement for the Purchase of Electricity for Resale between VEPCO and HEC.

VEPCO requests an effective date of November 18, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26671 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL ENERGY REGULATORY COMMISSION

[Project Nos. 2861-007, et al.]

Hydroelectric Applications (Robert W. Shaw and Pontook Hydro Partners, Ltd., et al.), Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection.:

1a. Type of Application: Transfer of License.

b. Project No.: 2861-007.

c. Date Filed: August 23, 1983.

d. Applicant: Robert W. Shaw and Pontook Hydro Partners, Ltd.

e. Name of Project: Pontook.

f. Location: Androscoggin River, Pontook Reservoir, near the town of Dummer, Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 791(a)-825(r).

h. Contact Person: William J. Madden, Jr., Debevoise and Liberman, 1200 Seventeenth Street, N.W., Washington, D.C. 20036.

i. Comment Date: October 28, 1983.

j. Description of the Proposed Transfer: The Applicants propose to transfer the license from Robert W. Shaw (Licensee) to Pontook Hydro Partners, Ltd. (Transferee). The Applicants state that the sole reason for the requested transfer is to facilitate the financing of the construction of the Pontook Project. The Pontook Project, as licensed, would consist of an existing deteriorated dam (to be rehabilitated), a reservoir, power canal, and powerhouse containing two turbine-generators with a total rated capacity of 8,575 kW.

Transferee has proposed to operate the project in accordance with the existing license as amended.

Transferee is a Limited Partnership organized under the laws of the State of New Hampshire.

k. This notice also consists of the following standard paragraphs: B and C.

2a. Type of Application: License (5 MW or Less).

b. Project No.: 4376-001.

c. Date Filed: July 11, 1983.

d. Applicant: High Country Resources.

e. Name of Project: Rocky Creek.

f. Location: On Rocky Creek near the town of Mablemount in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §791(a)-825(r).

h. Contact Person: Mr. William L. Devine, President, W.L.D. Glacier Energy Company, P.O. Box 68, Maple Falls, Washington 98266.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high diversion structure at elevation 1,750 feet; (2) a 36-inch-diameter, 7,500-foot-long pipeline; (3) a 36-inch-diameter, 4,600-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 5,000 kW, operating under a 1,225-foot head; (5) a 150-foot-long tailrace channel; (6) a 250-foot-long, 34.5-kV transmission line connecting the powerhouse with the existing Puget Power Company's line south of the project; and (7) appurtenant facilities.

k. Purpose of Project: The estimated 21.9 million kWh of project energy would be sold to a local utility.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

3a. Type of Application: Major License (Under 5 MW).

b. Project No.: 4472–002.
c. Date Filed: August 1, 1983.
d. Applicant: Niagara Mohawk Power Corporation.
e. Name of Project: Saranac.
f. Location: On the Saranac River in the Towns of Franklin, Blackbrook and St. Armand, Franklin, Clinton and Essex Counties, New York.
g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).
h. Contact Person: John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202.
i. Comment Date: November 18, 1983.
j. Description of Project: The existing project consists of two developments:

A. The Franklin Falls Development comprising: (1) a 148-foot-long 45-foot maximum height concrete overflow-type dam having crest elevation 1,463.2 feet msl surmounted by 2-foot flashboards; (2) an integral 28-foot-long gated intake structure at the dam's right (south) side; (3) a reservoir having a surface area of 485 acres and a gross storage capacity of 5,580 acre-feet at pool elevation 1,465.2 feet msl; (4) a 10.5-foot-diameter 300-foot-long steel pipeline; (5) a surge tank; (6) two short 10-foot-diameter penstocks; (7) a powerhouse containing two generating units having a total rated capacity of 2,265-kW operated under a 53.5-foot head and at a flow of 650 cfs; (8) a 2.3/46-kV substation; (9) a tailrace; and (10) appurtenant facilities.

B. The Union Falls Development comprising: (1) a 151-foot-long 24-foot-high dam having a 147-foot-long spillway section with crest elevation 1,408.5 feet msl surmounted by 1-foot flashboards; (2) an integral 36-foot-long gated intake structure at the dam's left (north) side; (3) a reservoir having a surface area of 1,630 acres and a gross storage capacity of 8,900 acre-feet at pool elevation 1,409.5 feet msl; (4) a 11-foot-diameter 1,433-foot-long steel pipeline; (5) surge tank ruins; (6) a powerhouse containing two inoperative generating units; (7) a substation; (8) a tailrace; and (9) appurtenant facilities.

Applicant proposes to redevelop the Union Falls Development and would: (1) construct a new surge tank; (2) install two short 7-foot-diameter penstocks; and (3) modify the powerhouse and install two generating units having a total rated capacity of 2,600-kW operated under a 59.4-foot head and at a flow of 700 cfs. Applicant estimates the redevelopment would cost $5,121,000. The redeveloped projects would have a total rated capacity of 4,850–kW.

This application was filed during the term of Applicant's preliminary permit for project No. 4472.

k. Purpose of Project: project energy at the Franklin Falls Development is used by Applicant to serve it customers within it franchise area. Applicant estimates the annual generation averages 9.600,000 kWh.

Project energy at the Union Falls Development would be used by Applicant to serve its customers within its franchise area. Applicant estimates the annual generation would average 12,600,000 kwh.

This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

4a. Type of Application: Exemption (Conduit Facilities).
b. Project No.: 5128–001.
c. Date Filed: August 1, 1983.
d. Applicant: Central California Irrigation District.
e. Name of Project: San Luis By-Pass Water Power.
f. Location: On the Applicant's irrigation canal system near the town of Los Banos, in Merced County, California
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Mike Porter, Chief Engineer-Manager, Central California Irrigation District, 1335 West I Street, Los Banos, California 93635.
i. Comment Date: October 31, 1983.
j. Description of Project: The proposed project would be located on the San Luis By-pass between the Outside Canal and the Main Canal of the Applicant's canal system and would consist of: (1) headworks within the Outside Canal; (2) a 6-foot-diameter, 80-foot-long penstock with a by-pass bifurcation at midpoint; (3) a powerhouse containing a single generating unit with a rated capacity of 494 kW operating under a 27-foot head; and (4) appurtenant facilities.
k. Purpose fo Project: The estimated 2.3 million kWh of project energy would be sold to Pacific Gas and Electric Company.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

5a. Type of Application: Exemption (Conduit Facilities).
b. Project No.: 5129–001.
c. Date Filed: August 1, 1983.
d. Applicant: Central California Irrigation District.
e. Name of Project: Wolfsen By-Pass Water Power.
f. Location: On the Applicant's irrigation canal system near the town of Los Banos, in Merced County, California.
g. Filed Pursuants to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Mike Porter, Chief Engineer-Manager, Central California Irrigation District, 1335 West I Street, Los Banos, California 93635.
i. Comment Date: October 27, 1983.
j. Description of Project: The proposed project would be located on the Applicant's Wolfsen By-Pass Canal and would consist of: (1) headworks within the canal; (2) a 7-foot-diameter, 140-foot-long penstock with a by-pass bifurcation at midpoint; (3) a powerhouse containing a single generating unit with a rated capacity of 705 kW operating under a 23-foot-head; and (4) appurtenant facilities.
k. Purpose of Project: The estimated 3.9 million kWh of project energy would be sold to Pacific Gas and Electric Company.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C. and D3b.

6a. Type of Application: License Application (5 MW or Less).
b. Project No: 6759–002.
c. Date Filed: June 30, 1983.
d. Applicant: Aquenergy Systems, Inc.
e. Name of Project: Apalache Hydroelectric Project.
f. Location: Spartanburg County, South Carolina.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Ralph H. Walker, Jr., Pesident, Aquenergy Systems, Inc., P.O. Box 8991, Greenville, South Carolina 29604.
i. Comment Date: October 31, 1983.
j. Description of Project: The proposed project consists of: (1) an existing lake with a surface area of approximately 128 acreas at power pool elevation of 818 feet m.s.l.; (2) an existing stone masonry dam that is approximately 468 feet long and 30 feet high; (3) proposed 1.5-foot high flashboards; (4) a proposed powerhouse containing 1 generating unit rated at 400 kW; (5) a proposed penstock approximately 28 feet long and varying from 7 feet to 9 feet in diameter; (6) proposed transmission lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,400,000 kWh.
k. Purpose of Project: Power generated at the project will be sold to either the Duke Power Company or a local industry.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7a. Type of Application: Minor License.
b. Project No: 7252–000.
c. Date Filed: April 29, 1983.
d. Applicant: City of Santa Clara, California.
e. Name of Project: High Line Canal Hydroelectric.

f. Location: Adjacent to the bypass chute connecting the High Line Canal to the South Canal in the Stony Creek Basin, on U.S. Bureau of Reclamation land in Glenn County, California.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Barry R. Flynn, Director of Electric Utility, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California 95050.

i. Comment Date: November 21, 1983.

j. Competing Application: Project No. 6981, Date Filed: 1/3/83 Notice issued February 24, 1983.

k. Description of Project: The proposed project would utilize an existing irrigation canal and would consist of: (1) a gated intake structure at elevation 370 feet; (2) two underground 48-inch-diameter, 110-foot-long concrete penstocks; (3) a 10-foot-wide, 20-foot-long powerhouse containing two generators with a total rated capacity of 350 kW and an average annual output of 1.5 GWh; (4) an underground concrete lined tailrace to the existing South Canal at elevation 341 feet; (5) a 12–kV, 150-foot-long transmission line connecting to Pacific Gas and Electric Company lines; and (6) a 130-foot-long access road to the powerhouse and a small parking area. The total project construction cost as of July 1983 is estimated to be $675,900.

l. Purpose of Project: The project would utilize run-of-the canal flows to generate electric power.

m. This notice also consists of the following standard paragraphs: A4, B, C and D1.

8a. Type of Application: Preliminary Permit.

b. Project No.: 7316–000.

c. Date Filed: May 27, 1983.

d. Applicant: Utah Municipal Power Agency.

e. Name of Project: Thistle Lake.

f. Location: Spanish Fork River in Utah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald R. Allen, Esq., Duncan, Allen and Mitchell, 1575 Eye Street NW., Washington, D.C. 20005.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would be located at Thistle Lake, which was created by a mud slide that occurred in April 1983. Ownership of the structure and impounded body of water is not clearly defined. It is anticipated that the structure will be stabilized and that the lake will become permanent. The proposed project would include: (1) the existing 192-foot-high, 1000-foot-long dam; (2) an existing 910 acre lake with a storage capacity of 62,000 acre-feet; (3) a proposed inlet structure; (4) a proposed 1,750-foot-long penstock; (5) a proposed powerhouse containing two generators with a total capacity of 3.9 MW; (6) a proposed 9.5-mile-long, 46-kV transmission line; and (7) appurtenant facilities. The estimated average annual generation would be 6,753 MWH.

k. Purpose of Project: The Applicant will utilize all project power within its own member municipal electrical systems.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit.*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $150,000.

n. *Purpose of Preliminary Permit.*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

9a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 7371–000.

c. Date Filed: June 15, 1983.

d. Applicant: Dayton K. and Frances S. Butler.

e. Name of Project: Little Butte Creek Hydro.

f. Location: On Little Butte Creek in Butte County, California.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408 (16 U.S.C. 2705 and 2708 *as amended*).

h. Comment Date: October 31, 1983.

i. Contact Person: Dayton K. and Frances S. Butler, P.O. Box 929, Paradise, California 95969.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high diversion structure at elevation 1,000 feet; (2) a 36-inch-diameter, 3,200-foot-long penstock; (3) a powerhouse at elevation 895 feet containing a single generating unit with a rated capacity of 500 kW; (4) an 800-foot-long transmission line connecting the project to an existing Pacific Gas and Electric Company line. The average annual energy generation is estimated to be 1,345,000 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

10a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No: 7400–000.

c. Date Filed: June 23, 1983.

d. Applicant: Chris S. Difani.

e. Name of Project: Shasta River.

f. Location: On the Shasta River, near Yreka in Siskiyou County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Chris S. Difani, 4021 Old Shasta River Road, Yreka, California 96097.

i. Comment Date: October 31, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing 110-foot-long concrete and rock diversion dam with a 4-foot-high, 7.5-foot-long overflow section; (2) 1400 feet of the existing diversion ditch; (3) a 42-inch-diameter, 18-foot-long steel penstock; (4) a concrete powerhouse containing generator with a rated capacity of 100 kW and an average annual output of 600,000 KWh; and (5) a 2.4–kV, 1200-foot-long transmission line connecting to existing power lines.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

11a. Type of Application: Preliminary Permit.

b. Project No: 7450–000.

c. Date Filed: July 18, 1983.

d. Applicant: City of Fredericksburg.

e. Name of Project: Decorah Lower Dam Water Power Project.

f. Location: Winneshiek County, Iowa, Upper Iowa River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Thomas M. Hayden, Shive-Hattery Engineers, P.O. Box 4438, Davenport, Iowa 52808.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing 275-foot-long, 27.5-foot-high concrete dam; (2) a 38 acre reservoir behind the dam with a storage capacity of 270 acre-feet; (3) a proposed powerhouse, 100-foot-long intake channel, and 100-foot-long tailrace to be construced in the enbankment on the left side of the dam; (4) the proposed installation of one turbine/generator unit for a total installed capacity of 670 kW with an annual energy production of 2.9 GWh;

(5) a proposed transmission line less than one mile in length; and (6) appurtenant facilities.

k. Purpose of Project: It is anticipated that the Applicant, which presently purchases all of its power from Interstate Power Company, will use all of the power produced.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $15,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

a. Type of Application: Preliminary Permit.

b. Project No.: 7451–000.

c. Date Filed: July 18, 1983.

d. Applicant: City of Fredericksburg.

e. Name of Project: Nashua Water Power.

f. Location: Chickasaw County, Iowa, Cedar River.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas M. Hayden, Shive—Hattery Engineers, P.O. Box 4438, Davenport, Iowa 52808.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) an existing 258-foot-long, 16-feet-high concrete dam; (2) an existing 700 acre reservoir with a storage capacity of 7,000 acre-feet; (3) the renovation of the existing powerhouse at the right end of the dam; (4) the proposed installation of one turbine/generator unit for a total installed capacity of 680 kW with an annual energy production of 3.0 GWh; (5) the use of existing power lines at the site; and (6) appurtenant facilities.

k. Purpose of Project: it is anticipated that the Applicant, which presently purchases all of its power from Interstate Power Company, will use all of the power produced.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $15,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

13a. Type of Application: Preliminary Permit.

b. Project No: 7453–000.

c. Date Filed: July 18, 1983.

d. Applicant: Richard R. Gresham.

e. Name of Project: Micro Mite #1 Water Power Project.

f. Location: On Sullivan Creek near the town of Metalline Falls, in Pend O'Reille County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Richard R. Gresham, 3420 East Pinehill Drive, Coeur d'Alene, Idaho 83814.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high, 16-foot-long concrete diversion dam; (2) a 700-foot-long diversion canal; (3) a 1600-foot-long tunnel excavated in the bedrock; (4) 700 feet of existing 60-inch-diameter penstock; (5) a powerhouse with a single 1400-kW generating unit; (6) a tailrace to discharge water back into Sullivan Creek; and (7) a 1100-foot-long underground transmission cable. Total estimated annual energy production will be 10,000,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $13,010. No roads would be constructed nor will any destructive testing take place during the study.

k. Purpose of Project: Power will be sold to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

14a. Type of Application: Preliminary Permit.

b. Project No.: 7467–000.

c. Date Filed: July 27, 1983.

d. Applicant: Southern California Edison Company.

e. Name of Project: Salmon Creek Hydroelectric Project.

f. Location: On Salmon Creek, tributary of the Kern River, in the Sequoia National Forest, Tulare County, near the town of Kernville, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C., 791(a)–825(r).

h. Contact Person: John R. Bury, Vice President and General Counsel, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 45-foot-high, 230-foot-long concrete dam; (2) an 87-acre reservoir with a storage capacity of 1,800-acre-feet at normal reservoir elevation of 7,345 feet; (3) a 6-foot-high concrete diversion structure 3 miles downstream from the dam; (4) an 8-foot-wide, 30-foot-long sand trap; (5) a 16-inch diameter, 8,800-foot-long penstock; (6) a powerhouse with a single generating unit with a total capacity of 2,250 kW; (7) a tailrace to discharge water back into Salmon Creek; and (8) 1,200 feet of transmission line. The average annual energy generation is estimated to be 10,000,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $327,100. Field activities will be limited to observation and sample collection; there will be no drilling, excavation or road construction.

k. Purpose of Project: Power will be used by the Applicant.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

15a. Type of Application: Preliminary Permit.

b. Project No.: 7480–000.

c. Date Filed: August 1, 1983.

d. Applicant: Great Northern Hydro Corp.

e. Name of Project: Antwerp Hydro Station.

f. Location: On the Indian River in the Village of Antwerp, Jefferson County, New York.

g. Filed Pursuant to: 16 U.S.C., 791(a)–825(r).

h. Contact Person: Paul G. Carr, 1103 Myrtle Ave., Watertown, New York 13601.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would utilize existing facilities consisting of: (1) a 12-foot-high and 100-foot-long stone rubble-concrete faced dam; (2) a reservoir having a surface area of 34 acres and a storage capacity of 290 acre-feet at spillway crest elevation 495 feet msl; (3) an intake structure; (4) a forebay; (5) a 7-foot-diameter 17-foot-long steel penstock; (6) a powerhouse; and (7) a tailrace.

Applicant proposes to rehabilitate the existing facilities and would: (1) rebuild the powerhouse; (2) install generating unit(s) having a total rated capacity of 220-kW operated under a 12.3-foot-head and at a flow of 250 cfs; (3) construct a 275-foot-long 4.2 kV transmission line; and (4) install or construct miscellaneous appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 1,542 MWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform studies and would prepare an application for an FERC license or exemption. Applicant estimates the cost of the work under the permit would be $12,000.

16a. Type of Application: Preliminary Permit.

b. Project No: 7488–000.

c. Date Filed: August 1, 1983.

d. Applicant: Spottsville Associates.

e. Name of Project: Spottsville Hydro Project.

f. Location: On the Green River in Henderson County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Rector, Esquire, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would utilize facilities at U.S. Army Corps of Engineers' Green River Lock and Dam No. 1, and would consist of: (1) a new penstock; (2) a proposed powerhouse with a total installed capacity of 5 MW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 33 GWH. All power generated would be sold to Kentucky Utilities Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $125,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

17a. Type of Application: Preliminary Permit.

b. Project No: 7491–000.

c. Date Filed: August 1, 1983.

d. Applicant: K&W Company.

e. Name of Project: Italian Creek Water Power Project.

f. Location: On Italian Creek, tributary of the Kalama River, near the town of Kalama, in Cowlitz County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: David M. Ward, 546 Old Stella Road, P.O. Box 2095, Longview, Washington 98632.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 5-foot-high sand bag diversion dam; (2) an 8-foot-high surge tower; (3) a 500-foot-long pipeline; (4) a powerhouse containing several generating units with a total capacity of 1.5 MW; (5) a 25-foot-long rock run discharging water back into Italian Creek; (6) a 150 feet of underground transmission line; and (7) 250 feet of overhead transmission line. The average annual energy production is estimated to be 2,000,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $2500. No roads would be constructed during the study.

k. Purpose of Project: Project power will be sold to the Cowlitz PUD, Longview, Washington.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

18. a. Type of Application: Preliminary Permit.

b. Project No: 7512–000.

c. Date Filed: August 8, 1983.

d. Applicant: Granite Associates.

e. Name of Project: Granite Power.

f. Location: On Granite Creek, a tributary of the Snoqualmie River in King County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Thomas B. Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 4-foot-high, 25-foot-long, reinforced concrete diversion structure at election 2000 feet; (2) a 28-inch-diameter, 2000-foot-long low pressure pipe; (3) a 24-inch-diameter, 3500-foot-long penstock; (4) a powerhouse at elevation 1000 feet containing a generator with a rated capacity of 1.3 MW and an average annual output of 8.1 GWh; and (5) a 12-kV, 3-mile-long transmission line connecting to Puget Sound Power and Light Company lines.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of these activities is $125,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

19. a. Type of Application: Preliminary Permit.

b. Project No: 7515–000.
c. Date Filed: August 8, 1983.
d. Applicant: Florida Associates.
e. Name of Project: Lemon Hydro Project.
f. Location: On the Florida River in La Plata County, Colorado.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.
i. Comment Date: November 21, 1983.
j. Description of Project: The proposed project would utilize facilities at Bureau of Reclamation's Lemon Dam and Reservoir currently operated by the Florida Water Consevancy District, and would consist of: (1) a new penstock; (2) a proposed powerhouse with a total installed capacity of 1.8 MW; (3) new transmission lines; and (4) appurtenant facilities. Applicant estimated that the average annual energy generation would be 6 GWH. All power generated would be sold to a local utility.
k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above acitivities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $100,000.
m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.
20a. Type of Application: Preliminary Permit.
b. Project No.: 7517–000.
c. Date Filed: August 8, 1983.
d. Applicant: Oak Knoll Associates.
e. Name of Project: Oak Knoll.
f. Location: On McKinney Creek, near Oak Knoll, in Siskiyou County, California.
g. Filed Pursuant to: Federal Power Act, 15 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Tom Forbes, Florida Associates, P.O. Box 421, Mercer Island, Washington 98040.
i. Comment Date: November 21, 1983.
j. Description of Project: The proposed run-of-river project would consist of: (1) a 6-foot-high, 90-foot-long diversion structure at elevation 2,500 feet; (2) a 48-inch-diameter, 7,000-foot-long pipeline; (3) a 36-inch-diameter, 1,100-foot-long penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 3.5 MW and an average annual generation of 14.0 GWh; and (5) 1.3 miles of 12.0-kV transmission line. Project power would be sold to the Bonneville Power Administration. The project would be located within the boundaries of the Klamath National Forest.
A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $125,000.
k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
21a. Type of Application: Minor Constructed License.
b Project No.: 7518–000.
c. Date Filed: August 8, 1983.
d. Applicant: Niagara Mohawk Power Corporation.
e. Name of Project: Hogansburg.
f. Location: On the St. Regis River, in the Town of Bombay, Franklin County, New York.
g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).
h. Contact Person: John W. Keib, Esq., 300 Erie Boulevard West, Syracuse, New York 13202.
i. Comment Date: November 21, 1983.
j. Description of Project: The existing run-of-river project consists of: (1) a 247-foot-long, 11.5-foot-high concrete-gravity dam having spillway crest elevation 165.2 feet msl; (2) a 34-foot-long, 22-foot-high intake structure along the east (right) bank; (3) a reservoir having a surface area of 18.6 acres and negligible storage capacity; (4) a powerhouse at the dam's right abutment containing a generating unit having a rated capacity of 485-kW operated under an 11-foot head and at a flow of 710 cfs; (5) a 600-foot-long tailrace; and (6) appurtenant facilities.
k. Purpose of Project: Project energy is used by Applicant to serve its customers within its franchise area. Applicant estimates the annual generation averages 3,743,000 kWh.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.
22a. Type of Application: Preliminary Permit.
b. Project No.: 7522–000.
c. Date Filed: August 11, 1983.
d. Applicant: Cairo/Wickliffee Associates.
e. Name of Project: Cairo/Wickliffee Hydro Project.
f. Location: On the Ohio River in Ballard County, Kentucky.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Joel Recter, Esquire, 4832 Colony Circle, Salt Lake City, Utah 84117.
i. Comment Date: November 21, 1983.
j. Description of Project: The proposed project would utilize facilities at U.S. Army Corps of Engineers' Ohio River Lock and Dam No. 53 and would consist of: (1) a new penstock; (2) a proposed powerhouse with a total installed capacity of 25 MW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 145 GWH. All power generated would be sold to a local utility.
k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $125,000.
m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.
23a. Type of Application: Preliminary Permit.
b. Project No.: 7529–000.
c. Date Filed: August 16, 1983.
d. Applicant: Missouri Hydro Associates.
e. Name of Project: Wappapello Power Project.

f. Location: On Saint Francis River in Wayne County, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William S. Fowler, Mitex, Inc., 91 Newbury Street, Third Floor, Boston, MA 02116.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Wappapello Dam and Reservoir, would be operated in run-of-river mode, and would consist of: (1) a new penstock connecting to the existing outlet works near the right dam abutment; (2) a new powerhouse containing two turbine-generator units rated at 2,600 kW each for a total rated capacity of 5,200 kW; (3) a tailrace returning flow to the river just downstream of the outlet works stilling basin; (4) a new transmission line, approximately 0.75 mile long, connecting to an existing 69 kV line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 20,000,000 kWh. Project energy would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 24-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $60,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

24a. Type of Application: Preliminary Permit.

b. Project No.: 7535–000.

c. Date Filed: August 18, 1983.

d. Applicant: Trans Mountain Hydro Corp.

e. Name of Project: Lower Georgetown Reservoir.

f. Location: On Clear Creek in Clear Creek County, Colorado.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Rd., Golden, Colorado 80401.

i. Comment Date: November 18, 1983.

j. Description of Project: The proposed project would utilize land administered by the Bureau of Land Management, and would consist of: (1) an existing 20-foot-high dam; (2) an existing reservoir having a surface area of 50 acres and a normal surface elevation of 8450 feet m.s.l.; (3) a new 1,500-foot-long penstock; (4) a new powerhouse containing 5 generating units having a total rated capacity of 545 kW; (5) 500 feet of new transmission line to be interconnected with an existing 14.4 kV distribution line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2.2 MWH.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. *Proposed Scope of Studies under Permit*—Applicant has requested a 24-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $80,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application

described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit aplications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the

Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 23, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26641 Filed 9-28-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of July 18 through July 22, 1983

During the week of July 18 through July 22, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

American Bell, Inc., July 18, 1983, HFA-0164

American Bell, Inc. filed an Appeal from a denial by the Acting Manager of the DOE Nevada Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE held that the proposal submitted by another firm in response to a Request for Proposal issued by the DOE was exempt from mandatory release in its entirety pursuant to FOIA Exemption 4 until the contract has been awarded. The DOE also found that American Bell's request for documents concerning the DOE's evaluation of the proposal was sufficiently specific to permit the identification and location of the documents and directed the Acting Manager to search for documents responsive to this portion of the request and to issue a new determination Accordingly, the American Bell Appeal was granted in part.

Remedial Orders

MGPC, Inc., July 22, 1983, DRO-0177

MGPC, Inc. objected to a Proposed Remedial Order which the Region VIII Office of Enforcement of the Economic Regulatory Administration issued to the firm on January 26, 1979. In the Proposed Remedial Order, the Office of Enforcement found that during the period August 19, 1973 through February 28, 1975, MGPC, Inc. sold natural gas liquids and natural gas liquid products at prices exceeding the firm's maximum allowable selling prices under the Mandatory Petroleum Price Regulations. In considering MGPC, Inc.'s objections, the DOE determined that the Proposed Remedial Order should be remanded for certain recomputations regarding the firm's increased product costs. The important issues discussed in the Decision and Order include (i) whether a butane-natural gasoline mix sold by MGPC, Inc. was a "natural gas liquid" or a "natural gas liquid product" under the price regulations, (ii) whether lease meters or inlet meters should be utilized for purposes of measuring natural gas shrinkage, and (iii) whether the "equal application rule" was validly applied.

Ramco Oil Company, Inc., July 21, 1983, DRO-0173

Ramco Oil Company, Inc. objected to a Proposed Remedial Order (PRO) which was issued to the firm by the Economic Regulatory Administration (ERA). In the PRO, the ERA primarily alleged that Ramco had charged prices for motor gasoline and No. 2-D diesel fuel which exceeded its maximum lawful selling prices calculated pursuant to 10 CFR 212.93. After considering Ramco's objections, the Office of Hearings and Appeals determined that the PRO should be issued as a final Remedial Order with certain modifications to the interest and remedial provisions. The principal issue which OHA discussed in the decision concerned the validity of the price control scheme affecting resellers of petroleum products.

Requests for Modification and/or Rescission

Bassett Oil and Equipment Company, Inc., July 22, 1983, HRR-0044

Bassett Oil and Equipment Company, Inc. filed an Application for Rescission of an April 3, 1980 Order requiring the firm to maintain a letter of credit as security for potential overcharge liability pending its Appeal of a Remedial Order (RO) which was issued to Bassett on September 19, 1978. The Office of Hearings and Appeals (OHA) had previously dismissed Bassett's Appeal of the September 19, 1978 RO. That action was taken after Bassett informed OHA that it had settled the enforcement proceeding underlying the RO and executed a consent order with the Economic Regulatory

Administration. Although Bassett's Appeal was dismissed, the April 3, 1980 Order remained in effect. After considering Bassett's request, OHA found that the rationale for having Bassett maintain the letter of credit no longer existed since the dispute involving the RO had been settled through the consent order. Accordingly, Bassett's Application for Rescission of the April 3, 1980 Order was granted.

Motions for Discovery

Giant Industries, Inc./Graves Oil Company, July 20, 1983, BRD-0141, BRJ-0141

Giant Industries, Inc./Texaco, Inc., July 20, 1983, BRD-0142, BRJ-0142

Giant Industries, Inc. filed two Motions for Discovery and Protective Order in connection with its Statement of Objections to a Proposed Remedial Order (PRO) that the Economic Regulatory Administration issued to the firm on June 25, 1980. In its Motions for Discovery, Giant requested information relating to its suppliers' basis for certification of crude oil sold to Giant and its suppliers' crude oil pricing. In considering the Motions, the DOE determined that the discovery sought by the firm was not relevant because the issues raised by the PRO focus on whether Giant's crude oil reports were consistent with the certifications which it obtained and whether the firm reported as old crude oil receipts of crude oil for which it did not obtain certifications. Accordingly, the Motions for Discovery and Protective Order were denied.

Universal, Inc., July 20, 1983, BRH-0105, BRD-0105

Universal, Inc. filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with an enforcement proceeding against the firm involving alleged overcharges in the sale of propane. In the discovery motion, Universal sought information relating to: (1) The agency's application of the definition of "sale" or "transaction" to alleged sham transactions between Universal, a supplier and its reseller subsidiary; (2) the legal and factual criteria for complying with the new item rule, 10 CFR 212.111, and the DOE's application of the rule to sales of stenched and unstenched propane; and, (3) the proper application of the new market rule. In the Motion for Evidentiary Hearing, Universal sought to present testimony and documentary evidence in support of proposed alternative findings regarding the "transaction" issues involved in the enforcement proceedings.

The Office of Hearings and Appeals (OHA) first determined that discovery regarding the new market rule was unwarranted because the meaning of the rule was not presently a disputed factual issue in the enforcement proceeding. In rejecting Universal's other discovery requests, OHA stated that Universal had not shown the requisite need for obtaining the agency's contemporaneous construction of the regulatory terms involved, since their meaning was unambiguous. In ruling on the firm's evidentiary hearing motion, OHA denied Universal's motion insofar as it sought to present evidence relating to the meaning of the new item rule. OHA granted the firm's requests to present expert testimony in support of its contention that stenched and unstenched propane are different products, finding that the information that the firm wishes to provide would be of substantial use in deciding the case. OHA also granted the firm's request to present as witnesses two persons with first-hand knowledge of the sales arrangements that Universal claims were sham transactions, stating that the DOE's conclusions may depend on intent and credibility determinations.

Exxon Company, U.S.A., July 22, 1983, HER-0062, Mobile Oil Corporation, July 22, 1983, HED-0137

In connection with the proceedings that the Office of Hearings and Appeals (OHA) initiated to review the level of entitlements exception relief that Little America Refining Company (Larco) received for its fiscal years 1979 and 1980, two intervenors, Exxon Company, U.S.A. and Mobile Oil Corporation, requested discovery of financial data related to the Sinclair Oil Corporation a subsidiary of Larco, for the period 1968 through 1972. The intervenors also requested reconsideration of a Decision and Order in which the OHA had previously denied the same request. *Exxon Company, U.S.A.*, 10 DOE ¶ 84,028 (1983). In the present Decision and Order, the OHA noted that the purpose of the intervenors' request was to evaluate the appropriateness of Larco's historical *Delta* indices. The OHA stated that the request for this purpose was untimely because Larco's historical *Delta* indices were established in 1977, and were used in all the exception proceedings involving Larco since that time. The OHA also determined that the requested data was not relevant to Larco's historical performance because during the period 1968 and 1972, the Sinclair refining facilities were owned and operated by Atlantic Richfield Company. The OHA therefore denied the discovery request presented by Exxon and Mobile. Since the OHA found no error in its previous Decision and Order related to the intervenors' discovery request, the agency also denied the Motion for Reconsideration filed by Exxon and Mobile.

Motion for Evidentiary Hearing

Atlantic Richfield Company, July 18, 1983, HRH-0015, HRZ-0155

The Atlantic Richfield Company (Arco) filed a Motion for Evidentiary Hearing and a Motion for Leave to File Additional Evidence in connection with its objections to a Proposed Remedial Order that was issued to the firm by the Office of Special Counsel for Compliance (OSC) on May 1, 1979. In its Motion for Evidentiary Hearing, Arco requested that an evidentiary hearing be convened with respect to what it characterized as five unresolved issues in the proceeding. In considering Arco's motion, the DOE agreed with the firm that an evidentiary hearing should be convened with respect to the following arguments raised by the firm: (i) that the first purchaser of all crude oil produced by Arco's producing division during the audit period was Arco's product division; (ii) that Sun Oil Company recouped any overcharges that may have occurred on Arco's Kelsey and Allred leases; (iii) that the firm's internal reports more accurately reflected the number of producing wells on the Stebbins Assignment than the official reports Arco filed with the Texas Railroad Commission; and (iv) that the well testing procedures the firm used on its KCL "G" North and Leutholtz "A" leases were accurate. The DOE determined that convening an evidentiary hearing with respect to these issues would be useful to resolve questions concerning ambigious or incomplete financial information that Arco submitted in support of its assertions on issues (i) and (ii) and to resolve questions concerning the credibility of Arco employees who submitted affidavits in support of the firm's position on issues (iii) and (iv). Arco's request to convene an evidentiary hearing concerning the state recognition of reservoirs contained within the St. Mary's Parish Land was denied, however, because the request concerned an issue that was legal rather than factual in nature.

In its Motion for Leave to File Additional Evidence, Arco requested that it be granted leave to file additional evidence in support of its allegations that Sun Oil Company recouped all overcharges on the Kelsey and Allred leases. In considering the Motion for Leave, the DOE observed that the motion had been filed nearly 21 months after the date on which Arco had been required to file all evidence supporting its factual assertions in the proceeding. The DOE determined that Arco had not adequately explained why the evidence submitted in conjunction with the Motion for Leave could not have been submitted in a timely manner. The DOE further determined that because the evidence Arco had submitted in conjunction with the Motion for Leave was neither clear nor particularly comprehensible, granting the motion would be likely to prejudice OSC and delay substantially the orderly progress of the enforcement proceeding. Accordingly, the Motion for Leave was denied.

Interlocutory Orders

Dalco Petroleum Corp., July 22, 1983, HRZ-0157

Dalco Petroleum Corporation filed a Motion for Summary Dismissal of a Proposed Remedial Order that the Economic Regulatory Administration had issued to Dalco, W. Darrell Zang and Louis Porter. In its Motion, Dalco claimed that it merely owns the stock of the corporations that actually engaged in the transactions which are the subject of the PRO. The firm asserted that the shareholders of a corporation that has violated the DOE regulations cannot be held liable for overcharges resulting from the improper corporate conduct. The firm therefore claimed that the PRO should be dismissed with respect to Dalco. The DOE denied Dalco's Motion. The DOE found that the complex structure of the corporations responsible for the allegedly improper transactions, and the reorganization and/or dissolution of those corporations, created considerable doubt as to which party may be ultimately responsible for the overcharges alleged in the PRO. The DOE also noted that even if Dalco was simply a parent of the

other corporations, it could still be held liable for the obligations of its subsidiaries if the subsidiaries were mere instrumentalities of Dalco. The DOE therefore determined that Dalco was properly a party to this proceeding.

Office of Special Counsel, July 21, 1983, HRZ-0154

The Office of Special Counsel filed a motion in which it requested that the Office of Hearings and Appeals compel Texaco Inc. to cure certain inadequacies in the firm's responses to OSC interrogatories. Texaco had agreed to answer the interrogatories under a stipulation between it and OSC. The Office of Hearings and Appeals found that Texaco's response to one interrogatory was inadequate and directed the firm to file an amended response.

Supplemental Orders

Plateau, Inc., July 20, 1983, BYX-0193

Plateau, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought exception relief from its entitlement purchase obligations incurred for its 1981 fiscal year. In considering the request, the DOE found that exception relief was necessary to alleviate the adverse impact of the entitlements purchase obligations on Plateau's financial posture. Accordingly, exception relief was granted.

Southland Oil Company, July 20, 1983, BYX-0199

Southland Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought exception relief from its entitlements obligations incurred for January 1981. In considering the request, the DOE found that exception relief was necessary to alleviate the adverse impact of the entitlements obligations incurred by Southland. Accordingly, exception relief was granted.

Refund Applications

Panhandle Eastern Pipeline Company/ Western Petroleum Company, July 20, 1983, RF15-3

Western Petroleum Company, a motor gasoline reseller, sought a portion of the Panhandle Eastern Pipeline Company consent order fund based upon purchases of Panhandle motor gasoline which exceeded the small claim threshold figure of 50,000 gallons per month. After analyzing detailed information concerning its business operations, the DOE concluded that Western was injured by the alleged overcharges, and should receive a refund based upon the volume of its Panhandle motor gasoline purchases for which it made a showing of injury. Accordingly, the Application for Refund was granted in part.

Pennzoil Company/Commonwealth of Pennsylvania, July 22, 1983, RF10-0044

The DOE issued a Decision and Order concerning procedures for distribution of funds obtained as a result of a Consent Order it entered into with Pennzoil Company. The DOE noted that all refund claims based on purchases of refined Pennzoil products had been considered, but that it had not yet completed its consideration of refund claims based on crude oil purchases from Pennzoil. The DOE segregated $750,000, or 25 percent of the total Pennzoil funds, to be used to satisfy meritorious refund claims of Pennzoil crude oil purchasers. The DOE determined that a second stage refund proceeding should be immediately implemented with the funds remaining in the Pennzoil pool. The DOE therefore requested all state energy offices and other interested parties to submit a methodology for dividing these remaining Pennzoil funds among the states.

Standard Oil Company (Indiana)/Amidon's Amoco et al., July 18, 1983, RF21-5462 et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by firms that were primarily wholesalers of Amoco motor gasoline but which also operated as retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in the *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that the volumes of retail sales for each of the three claimants were previously included in the claimant's total wholesale volumes for which refunds had already been granted. However, under the presumption method set forth in the *Office of Special Counsel* decision, a wholesaler is only entitled to receive a refund equal to 34 percent of the volumetric refund amount while a retailer is entitled to receive a refund equal to 40 percent of the volumetric refund amount. The DOE therefore concluded that each of the three applicants should receive an additional refund of six percent of the volumetric refund amount for that portion of its wholesale volumes sold at the retail level. The refunds granted in this proceeding total $443.

Standard Oil Company (Indiana)/Charles R. Amos et al., July 22, 1983, RF21-2115 et al.

The DOE issued a Decision and Order concerning 16 Applications for Refund filed by firms who are both retailers of Amoco motor gasoline and resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 16 applicants should receive a refund based upon the total volume of their Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $8,670.

Standard Oil Company (Indiana)/Degeeter Oil Company et al., July 22, 1983, RF21-1819 et al.

The DOE issued a Decision and Order concerning 70 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 70 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $80,482.

Standard Oil Company (Indiana)/Don's Standard Service et al., July 18, 1983, RF21-3788 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by three firms that were retailers of Amoco motor gasoline and consumers of Amoco middle distillates. These firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the three applicants should receive a refund based upon the total volume of their Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $3,850.

Standard Oil Company (Indiana)/Durochor's Standard Service, July 21, 1983, RF21-3785 et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by Durochor's Standard Service (Durochor), a retailer of Amoco motor gasoline, as well as a reseller and consumer of Amoco middle distillates. Durochor elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that Durochor should receive a refund based upon the total volume of its Amoco motor gasoline and middle distillate pruchases. The refunds granted in this proceeding total $490.

Standard Oil Company (Indiana)/Heintz Oil Co., July 18, 1983, RF21-6448 et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by Heintz Oil Company (Heintz), a retailer, wholesaler, and consumer of Amoco motor gasoline. Heintz elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded Heintz should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $1,730.

Standard Oil Company (Indiana)/Northeast Petroleum Industries et al., July 2, 1983, RF21-5915 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the six applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $171,135.

Standard Oil Company (Indiana)/Sharpe Home Oil Company, et al., July 22, 1983, RF21-3769 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the five applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $185,436.

Standard Oil Company (Indiana)/State of Indiana, July 18, 1983, RF21-11899, RF21-11900

The DOE issued a Decision and Order concerning an Applications for Refund filed by the State of Indiana with respect to its purchases of Amoco middle distillates and motor gasoline. The State elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the applications, the DOE concluded that the State should receive a refund based upon the total volume of its Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $68,967.

Dismissals

The following submissions were dismissed:

Name	Case No.
Anderson Clayton Foods	RF21-8876
City Of Bayport	RF21-8580
City of Crookston	RF21-8629
City of Morgan	RF21-8480
Cletus Doll	RF21-10185
Cool Fuel, Inc	BRO-0076, BRD-0076
Department of the Interior	HEE-0067
Dyersville Die Cast	RF21-8403
Gonsoulin Energy Corp	HRO-0148
Harry J. Marmorstein	RF21-8837
Jene Schey	RF21-8543
Mattye L. Bunton	RF21-8848
Murphy Realty & Appraisal	RF21-8687
Nelson and Associates, Inc	HRO-0092
Newsday	HFA-0152
Petro-Thermo Corp	HRS-0037
R. L. McPherson Amoco	RF21-3797
Shirley Carter	RF21-8512
Walter F. Stanke	RF21-8533
The following Amoco Refund Applications were dismissed on the grounds that the applicant had already received a refund directly from Amoco:	
American Bread Co	RF21-8653
University of Minnesota	RF21-8644

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

September 16, 1983.

[FR Doc. 83-26568 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of August 15 Through August 19, 1983

During the week of August 15 through August 19, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 20, 1983.

Lone Star Oil & Chemical Co., San Antonio, Texas, HRO-0185, Crude Oil

On August 18, 1983, Lone Star Oil and Chemical Company, c/o Green & Kaufman, 900 Alamo National Building, San Antonio, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on July 15, 1983. In the PRO the Dallas District found that during the period June 1978 through January 1980, Lone Star charged prices for resales of crude oil in excess of the actual purchase price without providing any additional service or other function in violation of 10 CFR 212.186, 210.62(c), and 205.202. According to the PRO the Lone Star violation resulted in $140,146.24 of overcharges. The PRO alternately found that during the period June 1978 through January 1980, Lone Star charged prices in excess of its permissible average markup in violation of 10 CFR 212.183(a). According to the PRO, this violation resulted in $18,179.56 of overcharges.

Petroex Energy Corp., Newport Beach, California, HRO-0186, Crude Oil

On August 19, 1983, Petroex Energy Corp., 260 Newport Center Drive Suite 450, Newport Beach, California filed a Notice of Objection to a Proposed Remedial Order which the Tulsa Office of Special Counsel of the Economic Regulatory Administration issued to the firm on June 3, 1983. In the PRO the Tulsa Office found that during the period January 1978 through July 1980, the firm's price markup on resales of crude oil exceeded its permissible average markup. According to the PRO the Petroex violation resulted in $147,995.36 of overcharges.

[FR Doc. 83-26567 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 15 through August 19, 1983

During the week of August 15 through August 19, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Bricklin & Gendler, August 16, 1983, HFA-0176

Bricklin & Gendler and Professor William H. Rodgers, Jr. filed an Appeal from a partial denial by the Freedom of Information Officer for the Bonneville Power Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). The Appellants had requested access to documents pertaining to meetings at which possibilities for resolving financial problems of the Washington Public Power Supply System (WPPSS) nuclear power plant projects 4 and 5 were addressed. In considering the Appeal, the DOE found that computer reports were properly withheld pursuant to Exemption 4 since release could cause substantial injury to the firm involved and could impair the government's ability to obtain such information in the future. The DOE further determined that certain factual information initially withheld pursuant to Exemption 5 should be released. In addition, the DOE found that the search for responsive documents was adequate. Finally, the DOE found that a waiver of search and copying fees was appropriate because there is a current public interest in the subject matter of the documents and the parties demonstrated that the information will be effectively disseminated. Accordingly, the Appeal was granted in part.

Fried, Frank, Harris, Shriver & Kampelman, August 17, 1983, HFA-0168

The law firm of Fried, Frank, Harris, Shriver & Kampelman filed an Appeal from a partial denial by the Director of the Office of the Executive Secretariat of the DOE of a

request for information which the firm had submitted under the Freedom of Information Act (the FOIA). The Appellant had requested documents considered by the DOE in promulgating the final rule entitled "Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste," 10 CFR Part 961. In considering the Appeal, the DOE upheld the Director's decision to withhold certain documents pursuant to Exemption 5 of the FOIA. However, the DOE, identified certain segregable factual material set forth within these documents and ordered that the Director release this material to the appellant.

Alan Riding, August 16, 1983, HFA-0158

Alan Riding filed an Appeal from a decision by the Chief of the Freedom of Information and Privacy Acts Branch of the DOE. The Chief's decision denied Riding's request for a waiver of fees in connection with a request which Mr. Riding had submitted under the Feedom of Information Act, seeking disclosure of material pertaning to oil and gas negotiations between the American and Mexican governments. In considering the Appeal, the DOE found that there was a significant public interest in the subject matter of the request and that Mr. Riding would effectively communicate the material to the public. However, because Mr. Riding has a personal interest in the material since it is to be used in a commercially published book, and because much of the information requested is likely to be exempt from mandatory disclosure, the DOE found that a full waiver of fees was not warranted. Accordingly, Mr. Riding's Appeal was granted in part and a 50% reduction in the fees was approved.

Request for Modification and/or Rescission

Atlantic Richfield Company, August 16, 1983, HRR-0067

The Atlantic Richfield Company (Arco) filed a Motion for Reconsideration and Clarification in which it requested that the Office of Hearings and Appeals modify certain portions of its July 18, 1983 order in *Atlantic Richfield Co.*, 11 DOE ¶ 84,013 (1983). Arco filed the motion in connection with its objections to a Proposed Remedial Order that the Office of Special Counsel for Compliance issued to the firm on May 1, 1979. In its motion, Arco first requested that OHA reconsider the portion of its July 18, 1983 order denying the firm leave to file additional evidence in support of its assertion that Sun Oil Company had recouped any overcharges it had incurred from purchasing crude oil produced from Arco's Kelsey and Allred leases. OHA denied this request because Arco had not presented in its motion any compelling reasons why reconsideration of this ruling was warranted. Arco next requested that OHA reconsider its decision denying the firm's request to present the testimony of an unidentified Sun employee at an evidentiary hearing concerning the recoupment issue. In its motion Arco for the first time specifically identified the Sun employee whose testimony it desired to present. OHA granted this request for reconsideration because it determined that the witness would be able to provide relevant testimony concerning disputed factual issues in the proceeding. OHA additionally granted a number of Arco requests for clarification of the portions of the July 18, 1983 order setting forth the procedures under which the evidentiary hearing to be convened pursuant to that order will be conducted.

Refund Applications

The Charter Company/Gulf Oil Corporation, August 15, 1983, RF23-4

The Office of Hearings and Appeals granted an Application for Refund filed by Gulf Oil Corporation for a portion of The Charter Company consent order fund. After analyzing Gulf's claim OHA found that Gulf qualified for a refund under the procedures established for small claims in *Office of Special Counsel*, 10 DOE ¶ 85,039 (1982). The refund application was therefore granted.

Palo Pinto Oil & Gas/State of Nebraska, RQ5-4; Palo Pinto Oil & Gas/State of Nevada, August 18, 1983, RQ5-8

The States of Nebraska and Nevada filed applications for second stage refunds from a fund made available by Palo Pinto Oil and Gas. Nebraska proposed to use its share of the funds to develop a brochure explaining the benefits of van pooling. Nevada indicated that it would use its share of the funds to print a pamphlet showing the location of each "park and ride" parking lot in the state. The DOE found that these projects would reduce air pollution and conserve energy, and concluded that motorists who bore the burden of the Palo Pinto overcharges would be benefited by the planned use of the refunds. Accordingly, the DOE granted Nevada's request for refund of $266.90 and Nebraska's refund request for $587.19. At Nevada's request, the DOE also diverted 2.5 percent of that state's refund to the Controller of the State of California in consideration of his participation in the Palo Pinto refund proceeding.

Palo Pinto Oil and Gas/State of Oregon, RQ5-3; Palo Pinto Oil and Gas/State of Florida, August 18, 1983, RQ5-6.

The States of Florida and Oregon filed applications for second stage refunds from a fund made available by Palo Pinto Oil and Gas. Florida proposed to add its refund share to refunds which might become available to it in other proceedings. The DOE determined that although this was a reasonable approach, a transfer of funds to Florida would not be authorized until a specific project for use of the funds was approved by the DOE. Oregon proposed to use its share of the Palo Pinto funds to publicize a low interest loan program available to assist homeowners heating with wood, oil, kerosene, propane and butane to weatherize their homes. The DOE found that such a plan was not sufficiently broad to provide benefits to the larger class of individuals who actually bore the burden of Palo Pinto overcharges, and suggested that Oregon reformulate its plan to provide benefits to a broader cross section of its residents. Consequently, the Florida and Oregon applications were dismissed without prejudice to refiling at a later date.

Standard Oil Company (Indiana)/Alston Avenue Amoco et al., August 15, 1983, RF21-9667 et al.

The DOE issued a Decision and Order concerning 309 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 309 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $195,764.

Standard Oil Company (Indiana)/Burke, Inc. et al., August 15, 1983, RF21-1767 et al.

The DOE issued a Decision and Order concerning 37 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 37 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $41,329.

Standard Oil Co. (Indiana)/Cicero-Peterson Service, Inc., August 16, 1983, RF21-12010

On July 12, 1983, the OHA issued a Decision and Order approving applications for refund for 145 retailers of Amoco motor gasoline. *Standard Oil Co. (Indiana)/Sam's Amoco Service*, 11 DOE ¶ 85,068 (1983). Among the applicants for whom a refund was approved was Cicero-Peterson Service, Inc., which was to receive a check for $3,111. Subsequently, the OHA was informed that Cicero-Peterson had filed a second application. The owner of Cicero-Peterson claimed that the first application had not been filed by him or by anyone authorized to act on his behalf. The OHA found this statement not to be credible because the two applications contained numerous similarities. The OHA noted that this statement could subject Cicero-Peterson's owner to criminal liability, pursuant to the provisions of 18 U.S.C. 1001, for providing false information to the federal government. In addition, the OHA stated that it had the authority to apply equitable sanctions in this case, such as summary denial of both applications or reduction of the refund amount. Nevertheless, the OHA determined that some mitigating circumstances existed in this case and therefore concluded that the firm's refund applications would not be summarily denied. However, since the credibility of the information which had been provided in the firm's refund applications had been called into question by its behavior, the OHA determined that its application should be separated for consideration from the group of applicants with which it had applied and that Cicero-Peterson should have to explain its actions and provide substantiation for the refund volumes which it claimed. Consequently, the OHA dismissed Cicero-Peterson's first application and ordered the

firm to submit additional materials within 30 days of the date of the Decision and Order or have its second application dismissed.

Standard Oil Company (Indiana)/Degeeter Oil Company et al., August 17, 1983, RF21-1820 et al.

The DOE issued a Decision and Order concerning 33 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 33 applicants should receive a refund based upon the total volume of its Amoco middle distillate purchases. The refunds granted in this proceeding total $52,211.

Standard Oil Company (Indiana)/Glick Oil Company, August 16, 1983, RF21-345

On January 18, 1983, Glick Oil Company (Glick) submitted an Application for Refund pursuant to the Amoco special refund proceeding. In its application, Glick requested a refund based upon purchases of 1,965,500 gallons of Amoco motor gasoline made at the wholesale level. The figures submitted by Glide appeared to be estimates rather than actual purchase volumes. In order to verify the accuracy of these figures, the OHA, on February 16, 1983, requested records documenting the firm's purchases of Amoco motor gasoline during the period January through December 1979. On March 15, 1983, Glick responded to our letter. The invoices submitted by Glick, however, documented purchases of only 218,604 gallons, 48,396 gallons less than 267,000 gallons indicated in its original application. In order to ascertain the full extent of this discrepancy, we requested records documenting Glick's purchases of Amoco motor gasoline during the entire consent order period. Glick has refused to respond to this inquiry. Our review of Glick's application indicates that the records the firm has submitted in support of its refund claim are both incomplete and inaccurate. On the basis of this review, we have determined that Glick's Application for Refund should be denied and that Glick's overstating of its 1979 purchases of Amoco motor gasoline and its subsequent refusal to respond to our inquiry concerning this misrepresentation should be referred to the Office of Enforcement for investigation and appropriate action.

Standard Oil Company (Indiana)/State of Nevada (Nevada), August 16, 1983, RF21-3698; RF21-12149; RF21-12150

The DOE issued a Decision and Order concerning one Application for Refund filed by the State of Nevada, a consumer of Amoco motor gasoline, middle distillates, lubricating oils, and grease. This state elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering this application, the DOE concluded that the 1 applicant should receive a refund based upon the total volume of its eligible Amoco motor gasoline, middle distillate, lubracting oils and grease purchases. The refund granted in this proceeding totals $47.

Dismissals

The following submissions were dismissed:

Name	Case No.
Adams Trucking Co	RF21-10888
Al & W. Sales Co., Inc	RF21-11330
American Bell, Inc	RF21-10849
Beatrice Dorsey, Inc	RF21-11295
Bennett Brothers, Inc	RF21-11023
Burton Hgts. Moving & Transfer	RF21-3801
Charles E. Reed	RF21-10810, RF21-10811
Chicago Tire & Supply Co	RF21-10621
City of Hoffman	RF21-10941
City of Ottertail	RF21-11168
City of Ulen	RF21-11174
City of Worthington	RF21-10829
Clinton Farm	RF21-10674, RF21-10675
David M. Dybas	RF21-11179
John H. Devlin	RF21-11481
Donald A. Akers	RF21-10393
Edward Dein	RF21-10525
Fred Giese	RF21-11049
G. C. Markoutsas	RF21-10754
Grace Petroleum Corp	RF21-10326
Independent School District No. 4	RF21-10591
Independent School District No. 15	RF21-8659
Independent School District No. 376	RF21-10563
James E. Shepherd	RF21-10692
Melvin Porter	RF21-10110, RF21-10111
NRG Oil Company	HRO-0134
Orelius Daniels	RF21-10242
Shimek, Ben	BRO-1417 thru BRO-1422
Virgil E. Jones	RF21-10790, RF21-10791
Waseca I.S. D. No. 829	RF21-11066
42nd Street Standard	RF21-10492
The following Amoco Refund Applications were dismissed on the grounds that the applicant had already received a refund directly from Amoco:	
Consolidated Rail Corp	RF21-11788
Harmony Area Schools	RF21-10805
Independent School District No. 241	RF21-11176
Minneapolis Community Development Agency.	RF21-10231
Tiedt Trucking Co	RF21-10358
Wadena Public Schools	RF21-11159

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 21, 1983.

[FR Doc. 83-26569 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Period of August 15 through September 9, 1983

During the period of August 15 through September 9, 1983, the proposed decisions and orders summarized below were issued by the Office of hearings and Appeals of the Department of Energy with regard to applications for exception and applications for refund.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 21, 1983.

Pennzoil Company/Gulf Oil Corporation, Houston, Texas, RF10-60, CRUDE OIL

Pennzoil Company/Standard Oil Company (Indiana), Chicago, Illinois, RF10-61, CRUDE OIL

Gulf Oil Corporation (Gulf) and Standard Oil Company (Indiana) (Amoco) filed Applications for Refund pursuant to the provisions of 10 CFR 205.283. The refund requests, if granted, would permit Gulf and Amoco to receive refunds with respect to their purchases of crude oil directly from Pennzoil during the period March 1973 through December 1980. On September 8, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the refund requests be denied.

Department of the Interior, Washington, D.C., HEE-0063; HEE-0070; CRUDE OIL

The Department of the Interior filed two Applications for Exception from the provisions of 10 CFR 212.72, 212.131. The exception requests, if granted, would retroactively relieve DOI of certain certification requirements applicable to first sales of crude oil, including the requirement that certifications be provided no later than two months after the month in which the crude oil was produced and sold. On September 8, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be granted.

[FR Doc. 83-26570 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of August 22 through August 26, 1983

During the week of August 22 through August 26, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 20, 1983.

Landsea Holding Company, Whittier, California, HRO-0188, Crude Oil

On August 26, 1983, Landsea Holding Company, 12920 Whittier Blvd., Whittier, California filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on July 20, 1983. In the PRO the San Francisco District found that during the period January 1978 through June 1980, Landsea Holding Co. violated 10 CFR 212.183 by selling crude oil at an average monthly markup in excess of its permissible average markup. According to the PRO the average markup violation resulted in $5,608,095.87 of overcharges.

V-1 Oil Company and Sam H. Bennion, Idaho Falls, Idaho, HRO-0187, Propane

On August 24, 1983, V-1 Oil Company and Sam H. Bennion, 1800 N. Holmes Ave., Idaho Falls, Idaho 83401 filed a Notice of Objection to a Proposed Remedial Order which the San Francisco District Office of Enforcement issued to the firm on July 29, 1983. In the PRO the San Francisco District found that during the period October 1, 1973 through March 31, 1974, V-1 Oil Company and Sam H. Bennion violated the price rule applicable to propane set forth in 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subpart F. According to the PRO the pricing violation resulted in $145,646.91 of overcharges.

[FR Doc. 83-26568 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of September 2 Through September 9, 1983

During the Week of September 2 through September 9, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

September 21, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 2 through Sept. 9, 1983]

Date	Name and location of applicant	Case No.	Type of submission
May 27, 1983	Economic Regulatory Administration/Exxon Company, U.S.A., Washington, D.C.	HRZ-0162	Interlocutory Order. If granted: The May 9, 1980 Proposed Remedial Order issued to Exxon Company, U.S.A. (Case No. BRO-1271) would be bifurcated separating the liability issue from the issue of remedy.
June 3, 1983	Exxon Company, U.S.A., Washington, D.C	HRZ-0163	Interlocutory Order. If granted: The May 9, 1980 Proposed Remedial Order issued to Exxon Company, U.S.A. (Case No. BRO-1271) would be dismissed.
June 21, 1983	Hydrocarbon Trading and Transport Company, Inc., Washington, D.C.	HRZ-0164	Interlocutory Order. If granted: The May 9, 1980 Proposed Remedial Order issued to Exxon Company, U.S.A. (Case No. BRO-1271) would be dismissed.
Aug. 29, 1983	Pel-Star Energy, Inc., Washington, D.C	HRZ-0165	Interlocutory Order. If granted: The June 13, 1983 Proposed Remedial Order issued to Pel-Star Energy, Inc. (Case No. HRO-0175) would be dismissed.
Sept. 6, 1983	GB Consultants, Inc., Washington, D.C	HFA-0179	Appeal of an Information Request Denial. If granted: The September 6, 1983 Freedom of Information Request Denial issued by the Office of Energy Research would be rescinded, and GB Consultants, Inc. would receive access to a list of the names and addresses of the firms that have submitted proposals to the SBIR program under Solicitation DOE 83-1.
Sept. 6, 1983	R. W. Tyson Producing Company, Inc., Jackson, Mississippi.	HRD-0166 HRH-0166	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by R. W. Tyson Producing Company, Inc. in response to the Proposed Remedial Order issued to the firm (Case No. HRO-0166).
Sept. 7, 1983	Economic Regulatory Administration/Thomas J. DeLang et al., Washington, D.C.	HRW-0023	Remedial Order Finalization. If granted: The Proposed Remedial Order issued to Thomas J. DeLang et al. on August 15, 1979 would be issued as a final Remedial Order.
Sept. 7, 1983	Richard C. Auchterlonie, Chicago, Illinois	HFA-0180	Appeal of an Information Request Denial. If granted: The August 1, 1983 Freedom of Information Request Denial issued by the Office of Inertial Fusion would be rescinded, and Richard C. Auchterlonie would receive access to certain DOE information.
Sept. 8, 1983	Economic Regulatory Administration/San Joaquin Oil Company and San Joaquin Refining Company, Bakersfield, California.	HRZ-0166	Interlocutory Order. If granted: Certain findings will be deemed to be admitted in the June 4, 1982 Proposed Remedial Order issued to San Joaquin Refining Company, Inc. and San Joaquin Oil Company in the pending objection proceeding (Case No. HRO-0071).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Sept. 2 through Sept. 9, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 8, 1983	Gulf Oil Corporation, Houston, Texas	HRD-0162 HRH-0162	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Gulf Oil Corporation to the Proposed Remedial Order issued to the firm (Case No. HRO-0160).
Sept. 8, 1983	Gulf Oil Corporation, Houston, Texas	HRH-0168 HRD-0168	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Gulf Oil Corporation to the Proposed Remedial Order issued to the firm (Case No. HRO-0168).
Sept. 8, 1983	The Washington Post, Washington, D.C	HFA-0181	Appeal of an Information Request Denial. If granted: The August 5, 1983 Freedom of Information Request denial issued by the DOE Nevada Operations Office and the Office of Safeguards and Security would be rescinded and the Washington Post would receive access to DOE documents relating to the Intergovernmental Group on Unauthorized "Disclosure" of Classified Information.
Sept. 9, 1983	Louis N. McAllister, Columbus, Ohio	HFA-0182	Appeal of an Information Request Denial. If granted: The August 31, 1983 Freedom of Information Request Denial issued by the DOE Oak Ridge Operations Office would be rescinded, and Louis N. McAllister would receive access to medical records regarding radiation exposure.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 2 through Sept. 9, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Sept. 8, 1983	Palo Pinto/West Virginia	RQ5-18.
Sept. 6, 1983 through Sept. 9, 1983	Amoco Refund Applications	RF21-12181 through RF21-12183.

[FR Doc. 83-26565 Filed 9-28-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-344; PH FRL 2442-5]

Certain Companies; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), (Attn: Product Manager (PM) named in the petition), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, Registration Division, (Attn: PM named in the petition), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-344] and the petition number. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The PM cited in the petition at the telephone and/or office location given above.

SUPPLEMENTARY INFORMATION: EPA given notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP3F2871.* Boma Enterprises Inc., 600 Railway St., Williamsport, PA 17701. Proposes amendment 40 CFR 180.1017 by establishing an exemption from the requirement of a tolerance for the residues of the insecticide diatomaceous earth when used in accordance with good agricultural practice in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, and to animals. (PM-15, George LaRocca, 703-557-2400).

2. *PP 3F2946.* American Hoechst Corp., Agricultural Division, Rte 202-206, North Somerville, NJ 08876. Proposes amending 40 CFR 180.385 by establishing tolerances for the combined residues of the herbicide dichlofop-methyl (methyl 2-[4-(2,4-dichlorophenoxy)phenoxy] propanoate) and its metabolites 2-[4-(2,4-dichlorophenoxy)phenoxy] propanoic acid and 2-[4-(2,4-dichloro-5-hydroxyphenoxy)phenoxy] propanoic acid, each expressed as dichlofop methyl, in or on the commodities dry bean seed, dry pea seed, flax seed and straw, and lentil seed at 0.1 part per million (ppm). The proposed analytical method for determining residues is gas chromatography using electron capture detection. (PM-23, Richard Mountfort, 703-557-1830).

3. *FAP 3H5411.* Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. Proposes amending 21 CFR 561.98 by establishing a regulation permitting residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the commodities milling fractions (except flour) of wheat at 2.0 ppm (of which no more than 1.0 ppm is chlorpyrifos). (PM-12, Jay Ellenberger CM #2, Rm. 205, 703-557-2386).

4. *PP 3F2947.* Dow Chemical Co. Proposes amending 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the commodities wheat forage at 3.0 ppm (of which no more than 2.5 ppm is chlorpyrifos), wheat grain at 0.6 ppm (of which no more than 0.3 ppm is chlorpyrifos),and wheat straw at 6.0 ppm (of which no more than 4 ppm is chlorpyrifos). The proposed analytical method for determining residues is gas chromatography using a flame

photometric detector. (PM-12, Jay Ellenberger, CM#2, Rm. 205, 557-2386).

(Sec. 408(d)(2) 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: September 20, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-26612 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180628; PH-FRL 2442-7]

Pesticides; Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the U.S. Department of Agriculture and the States listed below for the control of various pests. Also listed are crisis exemptions initiated by seven States and one quarantine exemption granted to the U.S. Department of Agriculture.

DATES: See each specific, crisis, and quarantine exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific, crisis, and quarantine exemption for the name of the contact person. The following information applies to all contact people:

By mail:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7400).

SUPPLEMENTARY INFORMATION: EPA HAS GRANTED SPECIFIC EXEMPTIONS TO THE:

1. California Department of Food and Agriculture for the use of imazalil on blackeye beans to control black root rot; July 21, 1983 to August 1, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

2. California Department of Food and Agriculture for the use of glyphosate on kiwi to control Johnson grass, Bermuda grass, and field bindweed; July 21, 1983 to April 26, 1984. California had initiated a crisis exemption for this use. (Libby Welch)

3. California Department of Food and Agriculture for the use of methiocarb on grapes to control snails; August 1, 1983 to April 25, 1984. California had initiated a crisis exemption for this use. (Libby Welch)

4. Florida Department of Agriculture and Consumer Services for the use of imazalil on post-harvest citrus to control *Penicillium digitatum* (green mold); July 1, 1983 to June 30, 1984. (Gene Asbury)

5. Hawaii Department of Agriculture for the use of fenvalerate on Chinese and mustard cabbage to control diamondback moths; July 29, 1983 to June 1, 1984, Hawaii had initiated a crisis exemption for this use. (Jim Tompkins)

6. Maryland Department of Agriculture for the use of triadimefon on cucurbits to control powdery mildew; July 21, 1983 to October 20, 1983. (Gene Asbury)

7. Michigan Department of Agriculture for the use of cyromazine in poultry houses to control flies; July 21, 1983 to October 1, 1983. Michigan had initiated a crisis exemption for this use. This specific exemption was temporarily revoked on August 19, 1983. (Jim Tompkins)

8. New York Department of Environmental Conservation for the use of vinclozolin on snap beans to control grey mold; July 14, 1984 to December 31, 1983. (Jim Tompkins)

9. New York Department of Environmental Conservation for the use of triadimefon on cucurbits to control powdery mildew; July 21, 1983 to October 15, 1983. (Jim Tompkins)

10. North Carolina Department of Agriculture for the use of vinclozolin on peanuts to control *Sclerotinia* blight; July 21, 1983 to October 31, 1983. (Pat Critchlow)

11. North Carolina Department of Agriculture for the use of 2,6-dichloro-4-nitroaniline on peanuts to control *Sclerotinia* blight; July 21, 1983 to October 31, 1983. (Pat Critchlow)

12. Oregon Department of Agriculture for the use of methiocarb on strawberries to control slugs; August 1, 1983 to May 15, 1984. (Jim Tompkins)

13. Oregon Department of Agriculture for the use of methiocarb on cauliflower to control slugs; August 4, 1983 to November 1, 1983. (Libby Welch)

14. Texas Department of Agriculture for the use of triadimefon on sugar beets to control powdery mildew; July 23, 1983 to September 30, 1983. (Gene Asbury)

15. Texas Department of Agriculture for the use of fenvalerate on sorghum to control sorghum midges; July 13, 1983 to September 15, 1983. (Jack E. Housenger)

16. Virginia Department of Agriculture and Consumer Services for the use of vinclozolin on peanuts to control *Sclerotinia* blight; July 21, 1983 to October 31, 1983. (Pat Critchlow)

17. Virginia Department of Agriculture and Consumer Services for the use of 2,6-dichloro-4-nitroaniline on peanuts to control *Sclerotinia* blight; July 21, 1983 to October 31, 1983. (Pat Critchlow)

18. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of iprodione on lettuce to control lettuce drop and bottom rot; July 23, 1983 to November 1, 1983. Wisconsin had initiated a crisis exemption for this use. (Gene Asbury)

19. U.S. Department of Agriculture for the use of 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one on asparagus to eradicate witchweed in Sampson County, North Carolina; July 25, 1983 to August 31, 1983. (Jack E. Housenger)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on July 11, 1983, for the use of asulam on alfalfa to control yellow foxtails. Since it was anticipated that this program would be needed for more than 15 days, California requested a specific exemption to continue it. The need for this program is expected to last until September 1, 1983. (Libby Welch)

2. Louisiana Department of Agriculture on May 25, 1983, for the use of sodium chlorate as a harvest aid on wheat. The program ended on June 9, 1983. (Gene Asbury)

3. Maryland Department of Agriculture on July 12, 1983, for the use of chlorthal-dimethyl on carrots to control dodder. The program ended on July 27, 1983. (Libby Welch)

4. Minnesota Department of Agriculture on July 6, 1983, for the use of cyromazine in poultry houses to control flies. Since it was anticipated that this program would be needed for more than 15 days, Minnesota has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1983. The specific exemption was denied on September 2, 1983 and use under the crisis has been halted. (Jim Tompkins)

5. New Mexico Department of Agriculture on July 15, 1983, for the use of fenvalerate on rangeland to control grasshoppers. The program ended on July 30, 1983. (Libby Welch)

6. Oregon Department of Agriculture on July 11, 1983, for the use of metalaxyl on broccoli and cauliflower to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, Oregon has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1983. (Jim Tompkins)

7. Texas Department of Agriculture on July 12, 1983, for the use of metalaxyl on peanuts to control *Pythium* pot rot. The program ended on August 1, 1983. (Jim Tompkins)

EPA has granted a quarantine exemption to the United States Department of Agriculture for the use of methyl bromide on various food and feed commodities to control miscellaneous pests; July 29, 1983 to July 28, 1984. (Jim Tompkins)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: September 20, 1983.

James M. Conlon,

Director, Office of Pesticide Programs.

[FR Doc. 83-26610 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240037; PH-FRL 2442-8]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 31 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in July 1983. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in four of the registrations listed below, there is no change in use pattern in any of these registrations.

Alabama

EPA SLN No. AL 83 0010. General Cigar and Tobacco Co. Registration is for Oxyfume 20 to be used on cigars, tobacco, and cigar-packaging materials to control molds and yeast. (CUP) July 11, 1983.

EPA SLN No. AL 83 0011. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on soybeans to control soybean loopers, cabbage loopers, corn earworms, green cloverworms, and velvetbean caterpillars. July 11, 1983.

EPA SLN No. AL 83 0012. Shell Chemical Co. Registration is for Vendex 4L Miticide to be used on pecans to control scorch mites. July 28, 1983.

EPA SLN No. AL 83 0013. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. July 21, 1983.

EPA SLN No. AL 83 0014. Shell Chemical Co. Registration is for Vendex 50 WP Miticide to be used on pecans to control scorch mites. July 28, 1983.

Arizona

EPA SLN No. AZ 83 0010. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on established-planting alfalfa for desiccation of London rocket, sowthistle, rescue brome, and wild oats; on preplant or preemergence cotton for treatment (aerial application) to control broadleaf weeds and grasses such as London rocket, sowthistle, volunteer small grains, and wild oats. July 5, 1983.

California

EPA SLN No. CA 83 0048. San Mateo County Department of Agriculture. Registration is for Kerb 50-W to be used on artichokes to control annual bluegrass, foxtail, ryegrass, volunteer grains, wild oats, nettles, cheeseweed, chickweed, henbit, knotweed, wild mustard, nettleleaf goosefoot, and hairy nightshade. July 18, 1983.

EPA SLN No. CA 83 0051. Solano County Department of Agriculture. Registration is for Grasshopper Bait to be used on rangeland to control grasshoppers. July 18, 1983.

EPA SLN No. CA 83 0055. Mobay Chemical Corp. Registration is for Oftanol 5% Granular Insecticide to be used on turf areas to control Japanese beetle larvae. July 27, 1983.

Connecticut

EPA SLN No. 83 0005. ICI Americas, Inc. Registration is for Ambush to be used on sweet corn to control corn earworms, European Corn borers, and fall armyworms, July 11, 1983.

EPA SLN No. 83 0006. Agway, Inc. Registration is for Agway Professional Fairway and Athletic Turf 19-4-9 Fertilizer with Oftanol Insect Killer to be used on fairways and athletic turf to control white grub larva (Japanese beetle, black turf grass ataenius, and chafers). July 25, 1983.

Delaware

EPA SLN No. 83 0007. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control Mexican been beetles and soybean loopers July 14, 1983.

Florida

EPA SLN No. 83 0018. Pennwalt Corp. Registration is for Aquathol Granular Aquatic Herbicide to be used on ponds, lakes, reservoirs, drainage ditches, canals, rivers, and streams to control hydrilla *(Hydrilla verticillata).* June 24, 1983.

EPA SLN No. 83 0019. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on soybeans to control soybeans loopers, cabbage loopers, corn earworms, Mexican bean beetles, and velvetbean caterpillars. July 14, 1983.

Georgia

EPA SLN No. GA 83 0006. ICI Americas, Inc. Registration is for Ambush to be used on sweet corn to control corn earworm, European corn borer, and fall army worm. July 11, 1983.

EPA SLN No. GA 83 0007. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybeans loopers, cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, and velvetbean caterpillars. July 1, 1983.

EPA SLN No. GA 83 0009. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on sweet corn to control corn earworms, European corn borers, and fall armyworms. July 11, 1983.

Hawaii

EPA SLN No. HI 83 0009. Merck and Co., Inc. Registration is for Mertect 340-F to be used on papaya (fresh market) to control peduncle rot, rhizopus rot, stem-end rot, and anthracnose, (CUP) July 6, 1983.

EPA SLN No. HI 83 0010. Union Carbide Agricultural Products. Registration is for Ethrel Growth Regulator to be used on sugarcane and pineapple as a growth regulator for flower (tasse). July 15, 1983.

Idaho

EPA SLN No. ID 83 0020. DOW Chemical U.S.A. Registration is for Tordon 2K Pellets Herbicide to be used for spot treatment on fallow grainland to control bindweed, Canada thistle, tansy ragwort, and rush skeletonweed. July 15, 1983.

EPA SLN No. ID 83 0021. DOW Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on sugar beets grown for seed to control garden symphylans. July 15, 1983.

EPA SLN No. ID 83 0022. DOW Chemical U.S.A. Registration is for

Dursban 4E Insecticide to be used on Douglas fir seedlings at bare root forest nurseries to control cranberry girdler larvae. July 18, 1983.

EPA SLN No. ID 83 0023. American Cyanamid Co. Registration is for Cythion Insecticide to be used for aerial control of mosquitoes. July 15, 1983.

EPA SLN No. ID 83 0024. American Cyanamid Co. Registration is for Malathion ULV Concentrate Insecticide to be used for aerial control of mosquitoes. July 15, 1983.

EPA SLN No. ID 83 0025. The Charles H. Lilly Co. Registration is for Lilly/Miller Chlorban Insect Granules to be used on broccoli, brussels sprouts, cabbage, cauliflower, rhutabaga, Chinese cabbage, turnips, and radishes to control maggots. July 19, 1983.

EPA SLN No. ID 83 0026. Wilbur-Ellis Co. Registration is for Dimethoate 2.67 EC to be used on ornamental shade and nursery trees to control aphids and elm leaf beetles. July 27, 1983.

EPA SLN No. ID 83 0027. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on winter wheat only to suppress volunteer rye and downy brome (cheatgrass). July 28, 1983.

Illinois

EPA SLN No. IL 83 0019. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannated LV Insecticide to be used on red kidney beans to control potato leafhoppers, bean leaf beetles, green cloverworms, and corn rootworm adult beetles. July 5, 1983.

EPA SLN No. IL 83 0020. FMC Corp. Registration is for Pounce 3.2EC Insecticide to be used on sweet corn to control corn earworms, European corn borers, fall armyworms, and corn rootworm adults. July 21, 1983.

EPA SLN No. IL 83 0021. ICI Americas, Inc. Registration is for Ambush to be used on sweet corn to control corn earworms, European corn borers, and fall armyworms. July 25, 1983.

Indiana

EPA SLN No. IN 83 0004. Mobay Chemical Corp. Registration is for Mesurol 50% Hopper-Box Treater to be used on corn to control snails and slugs. July 28, 1983.

Iowa

EPA SLN No. IA 83 0006. FMC Corp. Registration is for Furadan 4 FL to be used on field corn to control European corn borers. July 29, 1983.

Kansas

EPA SLN No. KS 83 0013. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on wheat to control broadleaf weeds and grasses. July 12, 1983.

EPA SLN No. KS 83 0014. PBI Gordon Corp. Registration is for Acme Ultra-Sulv Amine to be used on wheat (fall or spring sown), barley, and rye to control field bindweed (perennial morning), Canada thistle, and musk thistle. July 26, 1983.

EPA SLN No. KS 83 0015. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 Emulsible Concentrate to be used on field corn, sweet corn, and popcorn to control corn earworms, flea beetles, and European corn borers. July 26, 1983.

Louisiana

EPA SLN No. LA 83 0022. Diamond Shamrock Corp. Registration is for Dacamine 4D to be used on stubble crop rice to control broadleaf weeds, red stem, dayflower, ducksalad, northern jointvetch (curly indigo), hemp sesbania, and alligator weeds. July 15, 1983.

EPA SLN No. LA 83 0023. Diamond Shamrock Corp. Registration is for Decamine 360D to be used on stubble crop rice to control red stem, dayflower, ducksalad, northern jointvetch, hemp sesbania, and alligator weeds. July 15, 1983.

EPA SLN No. LA 83 0024. FMC Corp. Registration is for Pounce 3.2EC to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, soybean loopers, and velvetbean caterpillars. July 15, 1983.

EPA SLN No. LA 83 0025. FMC Corp. Registration is for Pounce Plus Methyl Parathion 2.5EC Insecticide to be used on cotton to control cotton bollworms, tobacco budworms, flea-hoppers, tarnished plant bugs, boll weevils, lygus bugs, cabbage loopers, and cotton leafperforators. July 18, 1983.

EPA SLN No. LA 83 0026. ICI Americas, Inc. Registration is for Ambush 2E to be used on soybeans to control soybean loopers. July 15, 1983.

Massachusetts

EPA SLN No. MA 83 0006. Mobay Chemical Corp. Registration is for Oftanol 2 Insecticide to be used on turf grasses to control white grub larvae (Japanese beetle, black turf grass ataenius, green june beetle, oriental beetle), hyperodes weevil, and mole crickets. July 6, 1983.

Michigan

EPA SLN No. MI 83 0012. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Weed Killer to be used on blueberries to control barnyard grass, briars (blackberry, raspberry, wild cherry), goldenrod, hawkweed, quackgrass, sheep sorrel, red sorrel, witch grass, and yellow foxtail. July 6, 1983.

EPA SLN No. MI 83 0013. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 Emulsible Concentrate to be used on peppers to control corn earworms, flea beetles, fall armyworms, beet armyworms, and European corn borers and on eggplant to control Colorado potato beetles and flea beetles. July 13, 1983.

EPA SLN No. MI 83 0014. William A. Mihelich and Son, Inc. Registration is for Mihelich's Turf Fungicide to be used on merion to control wheat rust, mildew, and dollar spot. July 22, 1983.

EPA SLN No. MI 83 0016. Union Carbide Agricultural Products, Inc. Registration is for DS Chloramben Herbicide to be used on snap beans (green and yellow) to control annual grass and annual broadleaf weeds, black nightshade, chickweed, crabgrass, pigweed, and purslane ragweed. July 27, 1983.

Mississippi

EPA SLN No. MS 83 0019. Dow Chemical U.S.A. Registration is for Dursban TC Termiticide Concentrate to be used on buildings having crawl space-type construction, to control termites. July 7, 1983.

EPA SLN No. MS 83 0020. Elanco Products Co. Registration is for Treflan M.T.F. to be used on cottonwood trees grown for pulp, to control johnsongrass. July 8, 1983.

EPA SLN No. MS 83 0021. Pennwalt Corp. Registration is for Topsin M 4F Fungicide to be used on soybeans to control anthracnose, brown leaf spot, frog-eye leaf spot, purple seed stain, and pod and stem blight. (CUP). July 8, 1983.

EPA SLN No. MS 83 0022. Elanco Products Co. Registration is for Treflan E.C. to be used on cottonwood trees grown for pulp, to control johnsongrass. July 8, 1983.

EPA SLN No. MS 83 0023. Elanco Products Co. Registration is for Treflan Pro-5 to be used on cottonwood trees grown for pulp, to control johnsongrass. July 8, 1983.

EPA SLN No. MS 83 0024. Uniroyal Chemical. Registration is for Comite to be used on cotton to control twospotted, Pacific, and strawberry spider mites. July 28, 1983.

EPA SLN No. MS 83 0025. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on cotton to control spider mites. July 28, 1983.

New York

EPA SLN No. NY 83 0004. ICI Americas, Inc. Registration is for

Ambush to be used on sweet corn to control corn earworm, European corn borers, and fall armyworms. July 15, 1983.

EPA SLN No. NY 83 0005. FMC Corp. Registration is for Furadan 15 Granules to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. July 20, 1983.

EPA SLN No. NY 83 0006. FMC Corp. Registration is for Furadan 15 Granules to be used on pure alfalfa to control nematodes, potato leafhoppers, alfalfa blotch leafminer, and clover root curculio. July 20, 1983.

EPA SLN No. NY 83 0007. Prentiss Drug and Chemical Co., Inc. Registration is for Prentox Rotenox 5 EC to be used on potatoes to control Colorado potato beetles. July 26, 1983.

North Carolina

EPA SLN No. NC 83 0021. Mobay Chemical Corp. Registration is for Oftanol 2 Insecticide to be used on turf grasses to control white grub larvae, japanese beetles, turf grass ataenius, green june beetles, oriental beetles, asiatic garden beetles, and morningglories. July 6, 1983.

EPA SLN No. NC 83 0022. Rohm and Haas Co. Registration is for Blazer 2L Herbicide to be used on soybeans to control sicklepod and morningglories. July 15, 1983.

Ohio

EPA SLN No. OH 83 0010. Sherex Chemical Co. Registration is for Arosurf Msf to be used on monomolecular surface film to control mosquito larvae and pupae. July 28, 1983.

Oklahoma

EPA SLN No. OK 83 0018. FMC Corp. Registration is for Pounce 3.2 EC to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. July 20, 1983.

EPA SLN No. OK 83 0019. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 Emulsible Concentrate to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. July 20, 1983.

EPA SLN No. OK 83 0020. Shell Chemical Co. Registration is for Pydrin 4 Insecticide ULV Concentrate to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. July 20, 1983.

EPA SLN No. OK 83 0021. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. July 28, 1983.

Oregon

EPA SLN No. OR 83 0018. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on sugar beets grown for seed, to control garden symphylans. July 13, 1983.

EPA SLN No. OR 83 0034. Dow Chemical Co. Registration is for Tordon 2K Pellets Herbicide to be used on fallow grainland to control broadleaf weeds, blindweed, Canada thistle, tansy ragwort, or rush skeletonweed. July 13, 1983.

EPA SLN No. OR 83 0035. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on cranberries to control cutworms and fireworms. July 13, 1983.

EPA SLN No. OR 83 0036. FMC Corp. Registration is for Furadan 4F to be used on ornamentals as a soil drench to control root weevils. July 13, 1983.

EPA SLN No. OR 83 0037. ICI Americas, Inc. Registration is for Ambush to be used on sweet corn to control corn earworms, European corn borers, and fall armyworms. July 13, 1983.

EPA SLN No. OR 83 0038. ICI Americas, Inc. Registration is for Ectiban to be used on building structures, attics, and eaves to control cluster flies. July 13, 1983.

EPA SLN No. OR 83 0039. Shell Chemical Co. Registration is for Pydrin insecticide 2.4 Emulsible Concentrate to be used on peppers to control corn earworms, flea beetles, fall armyworms, beet armyworms, and European corn borers. July 14, 1983.

EPA SLN No. OR 83 0041. FMC Corp. Registration is for C-O-C-S 50 Wettable to be used on pears to control pseudomonas and anthracnose. (CUP) July 22, 1983.

EPA SLN No. OR 83 0043. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on garlic (for seed production only) for pre-emergence treatment to control annual broadleaf weeds and grasses. July 28, 1983.

EPA SLN No. OR 83 0044. Platee Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on winter wheat only to control volunteer rye and downy brome (cheatgrass). July 28, 1983.

EPA SLN No. OR 83 0045. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on pasture reseeding to control existing sod and undesirable emergd broadleaf weeds and grasses. July 28, 1983.

EPA SLN No. OR 83 0046. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa and clover for desiccation of ryegrass, bluegrass, cheatgrass, dogfennel, chickweed, and tansy mustard. July 28, 1983.

EPA SLN No. OR 83 0047. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on wheat to control pigweeds, mustards, cheat, downy brome, Russian thistle, Kochia, field pennycress, lambsquarters, common chickweed, henbit, volunteer wheat, and wild sunflower. July 28, 1983.

EPA SLN No. OR 83 0048. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on wheat to control pigweeds, mustards, cheat, downy brome, Russian thistle Kochia, field pennsycress, lambsquarters, common chickweed, henbit, volunteer wheat, and wild sunflower. July 28, 1983.

EPA SLN No. OR 83 0049. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on wheat to control pigweeds, mustards, cheat, downy brome, Russian thistle, Kochia, field pennycress, lambsquarters, common chickweed, henbit, volunteer wheat, and wild sunflower. July 28, 1983.

EPA SLN No. OR 83 0050. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescuegrass, and shepherdspurse. July 28, 1983.

EPA SLN No. OR 83 0051. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescuegrass, and shepherdspurse. July 28, 1983.

EPA SLN No. OR 83 0052. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescuegrass, and shepherdspurse. July 28, 1983.

EPA SLN No. OR 83 0053. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on potatoes as an after-planting preemergence treatment.

EPA SLN No. OR 83 0054. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on wheat and wheat fallow to control weeds. July 28, 1983.

Pennsylvania

EPA SLN No. PA 83 0013. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on

dormant alfalfa to control weeds and grass. July 11, 1983.

Rhode Island

EPA SLN No. RI 83 0002. ICI Americas, Inc. Registration is for Ambush to be used on building structures, attics, and eaves to control cluster flies. July 18, 1983.

Tennessee

EPA SLN No. TN 83 0012. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control *Heliothis,* Mexican bean beetles, and soybean loopers. July 21, 1983.

EPA SLN No. TN 83 0013. FMC Corp. Registration is for Pounce 3.2 EC to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, and velvetbean caterpillars. July 21, 1983.

Texas

EPA SLN No. TX 83 0024. Riverside Chemical Co. Registration is for Raider 33 to be used on cotton to control thrips, fleahoppers, leafworms, and spider mites. July 13, 1983.

EPA SLN No. TX 83 0025. Platte Chemical Co. Registration is for Clean Crop Methyl Parathion 4E to be used on cotton to control cotton fleahoppers, thrips, cotton aphids, bollworms (overwintering), stink bugs, tarnish plant bugs, cutworms, bollworms, tobacco budworms, and beet armyworms. July 13, 1983.

EPA SLN No. TX 83 0026. Tide Products, Inc. Registration is for Tide Methyl to be used on cotton to control thrips, fleahoppers, leafworms, and spider mites. July 13, 1983.

EPA SLN No. TX 83 0027. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. July 19, 1983.

EPA SLN No. TX 83 0028. Uniroyal Chemical. Registration is for Comite to be used on cotton to control two-spotted, Pacific, and strawberry spider mites. July 19, 1983.

EPA SLN No. TX 83 0029. FMC Corp. Registration is for Furadan 4FL/Furadan 4F to be used on field corn to control corn rootworms, chinch bugs, and aphids. July 19, 1983.

EPA SLN No. TX 83 0030. Pennwalt Corp. Registration is for Topsin M 4F Fungicide to be used on soybeans to control anthracnose, brown leaf spot, frog-eye leaf spot, purple seed stain, and pod and stem blight. July 19, 1983.

EPA SLN No. TX 83 0031. ICI Americas, Inc. Registration is for Ambush to be used on sweet corn to control corn earworms, European corn borers, and fall armyworms. July 19, 1983.

EPA SLN No. TX 83 0032. FMC Corp. Registration is for Pounce 3.2 EC to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, and velvetbean caterpillars. July 19, 1983.

EPA SLN No. TX 83 0033. Shell Chemical Co. Registration is for Vendex 4L Miticide to be used on pecans to control pecan mites and hickory mites. July 20, 1983.

EPA SLN No. TX 83 0034. Shell Chemical Co. Registration is for Vendex 50 WP Miticide to be used on pecans to control pecan mites and hickory mites. July 20, 1983.

Vermont

EPA SLN No. VT 83 0005. ICI Americas, Inc. Registration is for Ectiban EC to be used on building structures, attics, and eaves to control cluster flies. July 22, 1983.

Washington

EPA SLN No. WA 83 0025. Wilbur-Ellis Co. Registration is for Red-Top Contact Weedkiller to be used on ornamental bulbs (tulips narcissus, bulbous iris) to control broadlead weeds. July 26, 1983.

West Virginia

EPA SLN No. WV 83 0006. Lipha Chemicals, Inc. Registration is for Maki Paraffinized Pellets for the Control of Orchard Mice to be used on orchards to control pine voles and meadow voles. July 12, 1983.

Wisconsin

EPA SLN No. WI 83 0005. Hopkins Agricultural Chemical Co. Registration is for Hopkins Diazinon 14G Granular Insecticide to be used on cranberries to control cranberry girdler (*chrysoteuchia topiaria*). July 6, 1983.

EPA SLN No. WI 83 0006. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on sweet corn to control corn earworms and European corn borers. July 26, 1983.

Wyoming

EPA SLN No. WY 83 0005. Platte Chemical Co. Registration is for Clean Crop Sevin 5 Dust to be used on field rodents to control fleas. July 15, 1983.

EPA SLN No. WY 83 0006. Platte Chemical Co. Registration is for Clean Crop Sevin 5 Dust to be used on field rodents to control fleas. July 15, 1983.

Dated: September 21, 1983.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 83-26609 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240036; PH-FRL 24426]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for 35 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in June 1983. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in 27 of the registrations below, there is no change in use pattern in any of these registrations.

Alabama

EPA SLN No. AL 83 0002. Shell Chemical Co. Registration is for Pydrin Insecticide 4 ULV Concentrate to be used on cotton to control cotton bollworms, tobacco budworms, lygus bugs, cabbage loopers, beet armyworms, boll weevils, and whiteflies. February 22, 1983.

Arizona

EPA SLN No. AZ 83 0011. Witco Chemical Corp. Registration is for GB-1356 to be used in swamps and floodwater areas to control mosquito larvae. June 29, 1983.

Arkansas

EPA SLN No. AR 83 0013. Drexel Chemical Co. Registration is for Drexel Ancrack to be used on soybeans and peanuts to control seedling grasses. (CUP) June 13, 1983.

EPA SLN No. AR 83 0014. Shell Chemical Co. Registration is for Vendex 4L Miticide to be used on pecans to control pecan mites and hickory mites. June 13, 1983.

EPA SLN No. AR 83 0015. Uniroyal Chemical. Registration is for Comite to be used on cotton to control twospotted, Pacific, and strawberry spider mites. June 13, 1983.

EPA SLN No. AR 83 0016. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on soybeans to control red rice. (CUP) June 13, 1983.

EPA SLN No. AR 83 0017. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. June 13, 1983.

EPA SLN No. AR 83 0018. Union Carbide Agricultural Products Co. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on grain sorghum to control smartweed, sunflowers, jimsonweed, wild cucumbers, and cockleburs, and other weeds. (CUP) June 13, 1983.

EPA SLN No. AR 83 0019. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on sorghum to control armyworms, chinch bugs, corn earworms, and webworms. June 13, 1983.

California

EPA SLN No. CA 83 0006. California Dept. of Agriculture. Registration is for Calcium Cyanide A-Dust to be used on bee hives to control American foulbrood disease. May 27, 1983.

EPA SLN No. CA 83 0028. Stanislaus County Agriculture Dept. Registration is for Azodrin 5 to be used on deciduous fruit and nut trees to control thrips and lygus bugs. June 6, 1983.

EPA SLN NO. CA 83 0038. Fresno County Agriculture Dept. Registration is for Ambush Insecticide and Pounce 3.2 EC to be used on almonds to control navel orangeworms. June 13, 1983.

EPA SLN No. CA 83 0040. San Mateo County Agriculture Dept. registration is for Agri-Mycin 17 to be used on cyclamens to control bacterial soft rot. (CUP) June 6, 1983.

EPA SLN No. CA 83 0041. BFC Chemicals, Inc. Registration is for Ficam ULV for ground use to control adult mosquitoes. June 13, 1983.

EPA SLN No. CA 83 0042. California Dept. of Food and Agriculture. Registration is for Pocket Gopher Bait Strychnine Treated Grain (0.50%) to be used on main runways to control gophers. June 23, 1983.

EPA SLN No. CA 83 0043. Tuolumne County Agriculture Dept. Registration is for Grasshopper Bait to be used on the ground to control grasshoppers. June 17, 1983.

EPA SLN No. CA 83 0045. Shell Chemical Co. Registration is for Vaponite 2 Emulsifiable Insecticide to be used on figs to control dried fruit beetles (nitidulids), adult beetles, and fruit flies. June 22, 1983.

EPA SLN No. CA 83 0046. Tulare County Agricultural Commissioner. Registration is for Pocket Gopher Bait Strychnine Treated Grain (0.50%) to be used on main runways to control grasshoppers. June 28, 1983.

EPA SLN No. CA 83 0047. Fresno County Dept. of Agriculture. Registration is for Rodent Bait Chlorophacinone Treated Grain (0.01%) to be used on active burrows or runways to control ground squirrels, deer mice, and house mice. June 28, 1983.

Delaware

EPA SLN No. DE 83 0005. FMC Corp. Registration is for Pounce 3.2 EC to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, and velvetbean caterpilars. June 24, 1983.

EPA SLN No. DE 83 0006. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control weeds. (CUP) June 24, 1983.

Florida

EPA SLN No. FL 83 0017. The Dow Chemical Co. Registration is for Dursban TC Termiticide Concerntrate to be used on soil and structural elements to control termites. June 17, 1983.

Georgia

EPA SLN No. GA 83 0005. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on clothing to control ticks. June 8, 1983.

Hawaii

EPA SLN No. HI 83 0008. The Dow Chemical Co. Registration is for Dursban 6 WT Inspecticide to be used on preconstruction lumber and logs to control infesting insects. June 30, 1983.

Idaho

EPA SLN No. ID 83 0017. Philips Roxane, Inc. Registration is for Anchor Permectrin II 25% WP Long-Lasting Premise Fly Spray and Livestock Insecticide to be used on livestock and poultry and their premises to control flies. June 22, 1983.

EPA SLN No. ID 83 0018. Philips Roxane, Inc. Registration is for Bio-Ceutic Overtime P/L 25% WP Long-Lasting Premise Fly Spray and Livestock Insecticide to be used on livestock and poultry and their premises to control flies. June 22, 1983.

EPA SLN No. ID 83 0019. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Inspecticide/Nematicide to be used on onins to control onion and western flower thrips. June 16, 1983.

Illinois

EPA SLN No. IL 83 0018. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on no-til sunflowers to control emerged annual broadleaf weeds and grasses. (CUP) June 7, 1983.

Indiana

EPA SLN No. IN 83 0002. Rohm and Haas Co. Registration is for Dithane FZ to be used on corn (field, hybrid seed, and popcorn) to control helminthosporium leaf blight. (CUP) June 7, 1983.

EPA SLN No. IN 83 0003. Hopkins Agricultural Chemical Co. Registration is for Hopkins Zinc Phosphide Mouse Bait to be used on no-till corn to control prairie and meadow voles. June 22, 1983.

Kansas

EPA SLN No. KS 83 0012. American Cyanamid Co. Registration is for Cygon 400 Systemic Insecticide to be used on alfalfa (grown for hay and seed), field corn, sorghum (milo), soybeans, wheat, and roadsides to control grasshoppers. June 14, 1983.

Louisiana

EPA SLN No. LA 83 0019. FMC Corp. Registration is for Furadan 4 FL/Furadan 4F to be used on sorghum and corn to control chinch bugs, aphids, and corn rootworms. June 15, 1983.

EPA SLN No. LA 83 0020. Diamond Shamrock Corp. Registration is for Ectrin Insecticide Water Dispersible Liquid to be used on livestock and their premises to control flies, lice, and ticks. June 15, 1983.

EPA SLN No. LA 83 0021. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on soybeans to control red rice. (CUP) June 21, 1983.

Michigan

EPA SLN No. MI 83 0009. ICI Americas, Inc. Registration is for

Ambush to be used on apples to control tentiform leafminers. May 24, 1983.

Minnesota

EPA SLN No. MN 83 0010. McLaughlin Gormley King Co. Registration is for Evercide Permethrin 80% for ground use to control potential disease-bearing adult mosquitoes. June 16, 1983.

EPA SLN No. MN 83 0011. Rohm and Haas Co. Registration is for Dithane Z-78 to be used on radishes to control downy mildew. (CUP) June 23, 1983.

Mississippi

EPA SLN No. MS 83 0012. FMC Corp. Registration is for Pounce Plus Methyl Parathion 2-5EC Insecticide to be used on cotton to control cotton bollworms, tobacco budworms, fleahoppers, tarnished plant bugs, boll weevils, lygus bugs, cabbage loopers, and cotton leafperforators. June 19, 1983.

EPA SLN No. MS 83 0013. Chevron Chemical Co. Registration is for Monitor 4 Spray to be used on cotton to control aphids (early thrips season), fleahoppers, whiteflies, beet armyworms, cabbage loopers, mites, aphids, and thrips (mid to late season). June 20, 1983.

EPA SLN No. MS 83 0014. Penick Corp. Registration is for Scourge Insecticide SBP-1382/Piperonyl Butoxide Insecticide Concentrate 18% + 54% MF Formula II for aerial application to control mosquitoes. June 22, 1983.

EPA SLN No. MS 83 0015. FMC Corp. Registration is for Pounce 3.2EC to be used on soybeans to control cabbage loopers and soybean loopers. June 21, 1983.

EPA SLN No. MS 83 0016. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. June 21, 1983.

EPA SLN No. MS 83 0017. ICI Americas, Inc. Registration is for Ambush to be used on cotton to control cotton bollworms and tobacco budworms. June 21, 1983.

EPA SLN No. MS 83 0018. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4EC to be used on soybeans to control Mexican bean beetles, green cloverworms, velvetbean caterpillars, and potato leafhoppers. June 24, 1983.

Missouri

EPA SLN No. MO 83 0007. Union Carbide Agricultural Products Co. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on corn to control broadleaf weeds, smartweeds, sunflowers, jimsonweeds, wild cucumbers, cockleburs, and other weeds. (CUP) June 16, 1983.

EPA SLN No. MO 0008. Union Carbide Agricultural Products Co. Registration is for ME 4 Bromoxynil Broadleaf Herbicide to used on sorghum to control broadleaf weeds. (CUP) June 16, 1983.

Montana

EPA SLN No. MT 83 0004. Union Carbide Agricultural Products Co., Inc. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on winter wheat to control broadleaf weeds. (CUP) June 20, 1983.

Nebraska

EPA SLN No. NE 83 0006. PBI Gordon. Registration is for Ultra-Sulv Amine to be used on noncrop pastures and rangeland to control weeds. June 2, 1983.

EPA SLN No. NE 83 0007. Union Carbide Agricultural Products Co., Inc. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on corn to control smartweeds, sunflowers, jimsonweeds, wild cucumbers, cockleburs, and other weeds. (CUP) June 2, 1983.

EPA SLN No. NE 83 0008. Chevron Chemical Co. Registration is for Ortho Paraquat Plus on wheat to control annual broadleaf weeds and grasses. (CUP) June 2, 1983.

EPA SLN No. NE 83 0009. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on millet to control carpetweeds, Kochia, lambsquarters, pennycress, and field weeds (fanweeds, frenchweeds, and stinkweeds). June 23, 1983.

Nevada

EPA SLN No. NV 83 0005. Nevada Dept. of Agriculture. Registration is for Methyl Parathion 5.0 Miscible to be used on garlic to control thrips and spider mites. June 2, 1983.

EPA SLN No. NV 83 0006. Nevada Dept. of Agriculture. Registration is for Wettable Sulphur to be used on garlic and onions to control spider mites. (CUP) June 6, 1983.

EPA SLN No. NV 0007. Uniroyal Chemical. Registration is for Ded-Weed Sulv to be used on noncrop pasture and rangeland to control field blindweeds, Canada thistles, and musk thistles. June 13, 1983.

New Hampshire

EPA SLN No. NH 83 0003. Platte Chemical Co. Registration is for Clean Crop Paraquat to be used on alfalfa to control weeds. (CUP) June 1, 1983.

EPA SLN No. NH 83 0004. Hopkins Agricultural Chemical Co. Registration is for Quintar 504F to be used on apples to control apple scab. (CUP) June 1, 1983.

EPA SLN No. NH 83 0005. FMC Corp. Registration is for Furadan 15 GR to be used on pure alfalfa to control nematodes, potato leafhoppers, alfafa blotch leafminers, and clover root curculios. June 27, 1983.

New Jersey

EPA SLN No. NJ 83 0006. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control weeds. June 2, 1983.

EPA SLN No. NJ 83 0007. FMC Corp. Registration is for Captan 50-W-Captan 80 WP to be used on blueberries to control anthracnose fruit rot and Botrytis gray modl. (CUP) June 6, 1983.

EPA SLN No. NJ 83 0008. Mobay Chemical Corp. Registration is for Oftanol 2 Insecticide to be used on turf grasses to control white grub larvae, Hyperode weevils, mole crickets, sod webworm larvae, chinch bugs, billbugs, and flea beetles. June 22, 1983.

EPA SLN No. NJ 83 0009. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on clothing to control ticks. June 24, 1983.

EPA SLN No. NJ 83 0010. FMC Corp. Registration is for Pouce 3.2 EC Insecticide to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, and velvetbean caterpillars. June 29, 1983.

New Mexico

EPA SLN No. NM 83 0011. Union Carbide Agricultural Products Co. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on grain sorghum to control smartweeds, sunflowers, jimsonweeds, wild cucumbers, cockleburs, and other weeds. (CUP) June 7, 1983.

EPA SLN No. NM 83 0012. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. June 17, 1983.

EPA SLN No. NM 83 0013. Shell Chemical Co. Registration is for Pydrin 4 Insecticide ULV Concentrate to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. June 17, 1983.

North Carolina

EPA SLN No. NM 83 0016. Hopkins Agricultural Chemical Co. Registration is for Hopkins Mylone 99G Soil Fumigant to be used on idle cropland to control witchweed. June 15, 1983.

EPA SLN No. NM 83 0017. Hopkins Agricultural Chemical Co. Registration is for Hopkins Mylone 50D to be used on idle cropland to control witchweed. June 15, 1983.

EPA SLN No. NM 83 0018. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on peppers and eggplants to control corn earworms, flea beetles, fall armyworms, beet armyworms, European corn borers, Colorado potato beetles, and flea beetles. June 15, 1983.

EPA SLN No. NC 83 0019. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on soybeans to control soybean loopers, cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, and velvetbean caterpillars. June 24, 1983.

EPA SLN No. NC 83 0020. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybean loopers. June 24, 1983.

North Dakota

EPA SLN No. ND 83 0009. Fairfield American Corp. Registration is for Permanone Tick Repellent to be used on outer surface of clothing to control ticks, chiggers, and mosquitoes. June 27, 1983.

Oklahoma

EPA SLN No. OK 83 0017. Union Carbide Agricultural Products Co. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on grain sorghum to control smartweeds, sunflowers, jimsonweeds, wild cucumbers, cockleburs, and other weeds. June 30, 1983.

Oregon

EPA SLN No. OR 83 0025. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide to be used on onions to control onion and western flower thrips. June 20, 1983.

EPA SLN No. OR 83 0026. FMC Corp. Registration is for Furadan 15 G to be used on cranberries to control black vine weevils. June 21, 1983.

EPA SLN No. OR 83 0027. The Dow Chemical Co. Registration is for Dursban 4E Insecticide to be used on Douglas fir seedlings at bareroot forest nurseries to control cranberry girdler larvae. June 21, 1983.

EPA SLN No. OR 83 0028. PureGro Co. Registration is for PureGro Dinoseb–5 to be used on alfalfa, trefoil, and clover grown for seed only for preharvest desiccation. June 21, 1983.

EPA SLN No. OR 83 0029. Uniroyal Chemical. Registration is for Uniroyal Dinoseb–5 to be used on alfalfa, trefoil, and clover grown for seed only for preharvest desiccation. June 21, 1983.

EPA SLN No. OR 83 0030. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on wheat and barley to control broadleaf weeds, Kochia, wild buckwheat, and Russian thistles. June 24, 1983.

EPA SLN No. OR 83 0031. Uniroyal Chemical. Registration is for Uniroyal Dinoseb–3 to be used on conifer plantations for brush desiccation. June 27, 1983.

EPA SLN No. OR 83 0032. Hopkins Agricultural Chemical Co. Registration is for Hopkins Dimethoate 267 EC to be used on wheat to control aphids, winter grain mites, and brown wheat mites. June 28, 1983.

EPA SLN No. OR 83 0033. Union Carbide Agricultural Products Co., Inc. Registration is for Amiben DS Chloramben Herbicide to be used on cucumbers (fresh, processed, and seed crops) to control annual broadleaf weeds and annual grasses. June 29, 1983.

Puerto Rico

EPA SLN No. PR 83 0002. R. Maloonaso and Co., Inc. Registration is for Bravo 500 to be used in coffee tree nurseries to control Cercospora leaf spot. April 1, 1983.

EPA SLN No. PR 83 0003. Chevron Chemical Co. Registration is for Ortho Monitor 4 Spray to be used on tomatoes (fresh fruit only) to control fruitworms, leaf miners, granulate cutworms, and pinworms. April 1, 1983.

EPA SLN No. PR 83 0004. Chevron Chemical Co. Registration is for Ortho Gramoxone CL to be used on tomatoes and peppers to control broadleaf weeds and grasses. April 1, 1983.

Rhode Island

EPA SLN No. RI 83 0001. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on alfalfa to control weeds. (CUP) June 15, 1983.

South Carolina

EPA SLN No. SC 83 0010. ICI Americas, Inc. Registration is for Ambush to be used on soybeans to control soybeans loopers. June 1, 1983.

EPA SLN No. SC 83 0011. FMC Corp. Registration is for Pounce 3.2 EC Insecticide to be used on soybeans to control soybean loopers, cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, and velvetbean caterpillars. June 7, 1983.

EPA SLN No. SC 83 0012. Hopkins Agricultural Chemical Co. Registration is for Hopkins Mylone 99G to be used on soil to control witchweed. (CUP) June 8, 1983.

EPA SLN No. SC 83 0013. Hopkins Agricultural Chem. Co. Registration is for Hopkins Mylone 50D to be used on idle cropland areas to control witchweed. (CUP) June 8, 1983.

EPA SLN No. SC 83 0014. Em Industries, Inc. Registration is for Funginex 50WP to be used on peaches to control brown rot. (CUP) June 15, 1983.

EPA SLN No. SC 83 0015. Gustafson, Inc. Registration is for Gustafson Lorsban 30 FL to be used on stored planting seed of wheat, barley, oats, and rye to control red flour beetles, rice weevils, sawtoothed grain beetles, Indian meal moths, Angoumois grain moths, and cigarette beetles. June 15, 1983.

South Dakota

EPA SLN No. SD 83 0004. PBI-Gordon. Registration is for Acme Ultra-Sulv Amihe to be used on wheat, barley, and rye to control field bindweed (perennial morning glory), Canada thistles, and musk thistles. June 20, 1983.

Tennessee

EPA SLN No. 83 0011. Uniroyal Chemical. Registration is for Comite to be used on cotton to control twospotted, Pacific, and strawberry spider mites. June 1, 1983.

Texas

EPA SLN No. TX 83 0011. Ciba-Geigy Corp. Registration is for Dual 8E Herbicide to be used on corn, cotton, peanuts, pod crops, potatoes, safflowers, grain sorghum, soybeans, and woody ornamentals to control weeds. June 7, 1983.

EPA SLN No. TX 83 0012. Abbott Laboratories. Registration is for Dipel WP to be used on sunflowers to control larvae of the sunflower moth (*Homeosoma electlum*). June 8, 1983.

EPA SLN No. TX 83 0013. Abbott Laboratories. Registration is for Dipel 4L to be used on sunflowers to control larvae of the sunflower moth (*Homeosoma electlum*). June 8, 1983.

EPA SLN No. TX 83 0014. Union Carbide Agricultural Products Co. Registration is for ME 4 Brominal Bromoxynil Broadleaf Herbicide to be used on grain sorghum to control broadleaf weeds, smartweeds, sunflowers, jimsonweeds, wild cucumbers, cockleburs, and other weeds. (CUP) June 16, 1983.

EPA SLN No. TX 83 0015. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on peppers to control corn earworms, flea beetles, fall armyworms, and beet armyworms. June 16, 1983.

EPA SLN No. TX 83 0016. Ciba-Geigy Corp. Registration is for D.Z.N. Diazinon AG 500 to be used on recreation and similar outdoor areas to control ticks. June 27, 1983.

EPA SLN No. TX 83 0017. Ciba-Geigy Corp. Registration is for D.Z.N. Diazinon 14G to be used on recreation and similar outdoor areas to control ticks. June 27, 1983.

EPA SLN No. TX 83 0018. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. June 27, 1983.

EPA SLN No. TX 83 0019. Shell Chemical Co. Registration is for Pydrin 4 Insecticide ULV Concentrate to be used on field corn to control bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. June 27, 1983.

EPA SLN No. TX 83 0020. Riverside/Terra Corp. Registration is for Riverside Methyl Parathion 4 to be used on cotton to control thrips, fleahoppers, leafworms, spiders, and mites. June 29, 1983.

EPA SLN No. TX 83 0021. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder to be used on range and pasture areas to control fire ants. June 29, 1983.

EPA SLN No. TX 83 0022. Chevron Chemical Co. Registration is for Orthene Tree Ornamental Spray to be used on noncrop areas to control fire ants. June 29, 1983.

EPA SLN No. TX 83 0023. Helena Chemical Co. Registration is for Helena 7.5 LB Methyl Parathion to be used on cotton to control boll weevils. June 30, 1983.

Vermont

EPA SLN No. VT 83 0003. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide to be used on nonbearing apple trees to control collar rot. (CUP) June 10, 1983.

EPA SLN No. VT 83 0004. Vermont Dept. of Agriculture. Registration is for Oxyfume 12 to be used on bee equipment to control foulbrood. (CUP) June 10, 1983.

Virginia

EPA SLN No. VA 83 0016. Chevron Chemical Co. Registration is for Diquat Herbicide=H/A to be used on forest sites to control weeds. June 7, 1983.

EPA SLN No. VA 83 0017. Virginia Dept. of Agriculture and Consumer Services. Registration is for Ethrel Plant Regulator to be used on peanuts for plant regulations. (CUP) June 8, 1983.

Washington

EPA SLN No. WA 83 0023. R and M Exterminators, Inc. Registration is for Field Rodent Bait Containing Strychnine on Milo, 1–10 Formulation, to be used on burrows to control rodents. June 16, 1983.

EPA SLN No. WA 83 0024. R and M Exterminators, Inc. Registration is for Field Rodent Bait Containing Strychnine on Wheat, 1–10 Formulation, to be used on burrows to control rodents. June 16, 1983.

Dated: September 21, 1983.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 83-26611 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50

[OA-FRL-2443-4]

Intergovernmental Review of EPA Programs and Activities; Procedures To Establish Comment Period Start Dates for Programs and Activities Subject to Executive Order 12372

AGENCY: Environmental Protection Agency.

ACTION: Notice of procedures to establish comment period start dates for programs and activities subject to Executive Order 12372.

SUMMARY: On October 1, 1983, the Environmenntal Protection Agency (EPA) will implement a new intergovernmental review process for programs and activities subject to Executive Order 12372 and 40 CFR Part 29. EPA published its regulation and separate lists of financial assistance programs, direct development activities, and state plans subject to the new process in the **Federal Register** on June 24, 1983 (48 FR 29288, 29304 and 29096).

This **Federal Register** notice is EPA's official notification of the start date for comment periods on programs and activities covered by the new process and of the EPA contacts for further information about the proposals under consideration. If any changes to these procedures are necessary, EPA will publish them in a **Federal Register** notice before implementing them.

FOR FURTHER INFORMATION CONTACT: John A. Gwynn, Chief, Grants Policy and Procedures Branch (PM-216), Environmental Protection Agency, Washington DC 20460, (202) 382-5268.

SUPPLEMENTARY INFORMATION: The Order and regulation require EPA to notify a state process or directly affected state, areawide, regional, and local entities of activities proposed for Federal funding in their jurisdictions. The notice must establish the start date for a 30/60 day official comment period and identify an EPA contact for additional information. Because EPA does not have formal program announcements or deadlines, we developed the following procedures to:

1. Establish the start date for comment periods on activities proposed under EPA financial assistance programs and direct development activities, and

2. Identify EPA offices to contact regarding additional information about the proposals under consideration.

Procedures

I. Transition From A-95 Review System to E.O. 12372 System

Any applications still undergoing A-95 review as of October 1, 1983 will continue under that process. Also step 2 + 3 and step 3 construction grant applications that had completed an A-95 review on either the step 1 or step 2 application do not have to undergo review under the new process.

II. Where a State Process Exists and Includes the EPA Program or Activity Under Consideration

A. Construction and Continuing Environmental Programs

The 30/60 day comment period on these applications will begin on the date that the EPA regional office receives written notice from the appropriate state pollution control agency, or delegated entity, that is forward the application to its state process for review. EPA will presume an additional 5 days from the date of application transmittal for receipt and entry into the state process. The written notice and any request for additional information about the application should be directed to the appropriate EPA Regional Office listed in the Appendix to these procedures. The 30 day comment period is limited to applications for noncompeting continuation awards, i.e., Continuing Environmental Programs.

B. Research, Development and Demonstration Projects (R&D)

The 30/60 day comment period for R&D applications subject to the Order (see 48 FR 29304) will begin on the date that EPA receives written notice from the applicant that it submitted required material to its state process. EPA will presume an additional 5 days from the date of application transmittal for receipt and entry into the state process. The written notice and any request for

additional information about the application should be directed to the Grants Administration Division (see Appendix). The 30 day comment period is limited to applications for noncompeting continuation awards, i.e., R&D, including "Special Studies, Surveys, and Investigations."

C. Direct Development Activities

The 60 day comment period for proposed direct development activities will begin on the date that the state process (or delegated entity) receives oral or written notice from the EPA office proposing the direct development activity.

III. Where a State Process Does Not Exist or Include the EPA Program or Activity Under Consideration

A. Construction and Continuing Environmental Programs

The 30/60 day comment period on these applications will begin on the date that EPA receives written notice from the appropriate state pollution control agency that it notified each directly affected state, areawide, regional, and local entity of the application. The 30 day comment period is liminted to applications for noncompeting continuation awards, i.e., Continuing Environmental Programs.

B. Research, Development and Demonstration Projects (R&D)

The 30/60 day comment period for applications subject to the Order (see 48 FR 29304) will begin on the date that state, areawide, regional, and local entities that would be directly affected by the proposal receive written notice from EPA that an application was received. The 30 day comment period is limited to applications for noncompeting continuation awards, i.e., R&D including "Special Studies, Surveys, and Investigations."

C. Direct Development Activities

The 60 day comment period for proposed direct development activities will begin on the date that state, areawide, regional, and local entities that would be directly affected by the proposed activity receive oral or written notice from EPA.

IV. Content of Notices

A. Applicant/State Agency Notice to EPA

The written notice to EPA must provide the "Catalog of Federal Domestic Assistance" number and title for the application, the name of the applicant, and the date that the application was transmitted to the state process.

B. EPA Notice to State Process/Directly Affected State, Areawide, Regional and Local Entities

1. EPA's oral or written notice concerning a proposed direct development activity must identify the EPA office proposing the action, the nature of the activity, who the EPA contact will be for additional information, and the start date for the 60 day comment period.

2. EPA's written notice concerning receipt of an application for review must provide the "Catalog of Federal Domestic Assistance" number and title for the application, the name of the applicant, the start date for the 30/60 day comment period, and identify whether the application is for a noncompeting continuation award.

Dated: September 23, 1983.

John A. Gwynn,

Acting Director, Grants Administration Division.

Appendix.—Headquarters Administered R&D, Incl. "Special Studies, Surveys, and Investigations"

Grants Administration Division (PM-216), Grants Operation Branch, 401 M Street, S.W., Washington, D.C. 20460, (CML: 202 382-5252

Grants Management Branch, EPA, Region I, JFK Federal Bldg., Rm. 2300, Boston, MA 02203 (CML: 617 223-5741)

Grants Administration Branch, EPA, Region II, 26 Federal Plaza, Rm. 937A, New York, NY 10278 (CML: 212 264-9860)

Grants Management Section, EPA, Region III, Office of the Comptroller, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106 (CML: 215 597-3735)

Management Division, EPA, Region IV, Fiscal Service and Grants Administration Section, 345 Courtland St., NE., Atlanta, GA 30365 (CML: 404 881-3402)

Financial Management Branch, EPA, Region V, 230 S. Dearborn Street, Chicago, IL 60604 (CML: 312 353-7555)

Grants Administration Branch, EPA, Region VI, First International Building, 1201 Elm Street, Dallas, TX 75270 (CML: 214 767-2650)

Grants Administration Section, EPA, Region VII, 324 East 11th Street, Kansas City, MO 64106 (CML: 816 374-2921)

Grants and Financial Management Branch, EPA, Region VIII, 1860 Lincoln Street, Denver, CO 80295 (CML: 303 837-3853)

Grants and Permits Administration Section, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105 (CML: 415 974-8010)

Grants Administration Office, EPA, Region X, 1200 Sixth Avenue, Seattle, WA 98101 (CML: 206 442-2899)

[FR Doc. 83-26623 Filed 9-28-83; 8:45 am]

BILLING CODE 6560-50M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-963; File No. 22735-CD-P-83]

General Communication Systems, Inc., Hearing Designation Order

General Communication Systems, Inc.; For a construction permit for an additional one-way frequency to operate on frequency 931.5375 MHz in the Domestic Public Land Mobile Radio Service at Wichita, Kansas (CC Docket No. 83-963; File No. 22735-CD-P-83); *Order Designating Application for Hearing.*

Adopted August 31, 1983.
Released September 21, 1983.

By the Common Carrier Bureau.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the above-captioned application of General Communication Systems, Inc. (General). Our review of the application raises a question concerning whether General has demonstrated a need for an additional frequency for Stations KQZ793, KQZ794 and KAD927. The application has not been protested. We find the applicant to be otherwise legally and technically qualified.

2. General has submitted traffic load studies for its presently authorized one-way facilities on frequencies 158.70 MHz (Station KQZ793), 152.24 MHz (Station KQZ794), and 35.58 MHz (Station KAD927) as required by Section 22.516 of the Commission's rules. On the 158.70 MHz and 152.24 MHz frequencies, the probability of blocking, using the bouncing busy hours, is greater than the required 0.50. According to the amended traffic load study dated August 3, 1983 for the 35.58 MHz frequency, the probability of blocking, using the bouncing busy hour, is 0.3. General did not submit any held orders for service.

3. On January 27, 1983 in a *Further Notice of Proposed Rulemaking* in CC Docket 20870, FCC 83-38, released February 14, 1983, the Commission adopted interim objective need standards governing one-way applications requesting an additional frequency. Pursuant to the rulemaking, a showing demonstrating blocking of 0.50 or worse is required before an additional channel will be granted. This need standard was adopted on an interim basis for applications received after that date. Applications filed after February 14, 1983 which do not meet the interim need standards are returned as defective. Prior to the *Further Notice*, the staff has applied the 0.50 blocking standard in determining whether an applicant had demonstrated a sufficient need for an additional channel. If an

applicant did not meet the standard, its application was designated for hearing. The General proposal does not meet these objective standards of 0.50 blocking as required for the grant of an additional channel because Station KAD927 has a blocking rate of only 0.3. Since the General application was received on January 31,1983, prior to the effective date of the interim need standards, we will designate it for hearing on the issue as to whether General has adequately demonstrated need for an additional frequency.

4. Accordingly, it is ordered, that the application of General Communication Systems, Inc., File No. 22735–CD–P–83, is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether General has demonstrated a need for an additional frequency;

(b) To determine, in light of the evidence adduced pursuant to the need for an additional frequency issue, what disposition of the application would best serve the public interest convenience and necessity.

5. It is further ordered, that the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

6. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to this proceeding.

7. It is further ordered, that the applicant may avail itself of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 30 days of the release date hereof, a written notice stating an intention to appear on the date for a hearing and present evidence on the issues specified in the Memorandum Opinion and Order.

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83–26504 Filed 9–28–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–690–DR]

California; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–690–DR), dated September 22, 1983, and related determinations.

DATED: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0501.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter of September 22, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288) as follows:

I have determined that the damage in certain areas of the State of California, resulting from severe storms and flash flooding beginning on August 15, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Riverside and San Bernardino Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–26514 Filed 9–28–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 150–73.

Title: Trans-Pacific Freight Conference of Japan/Korea.

Parties:

American President Lines, Ltd.
Barber Blue Sea Line
Evergreen Marine Corp., Ltd.
Hapag-Lloyd AG
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
Lykes Bros. Steamship Co., Ltd.
Mitsui O. S. K. Lines, Ltd.
A. P. Moller-Maersk Line
Nippon Yusen Kaisha
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendments would reduce the notice requirement for instituting rate initiative from 30 to 10 days; the Japan and Korea trades could be considered separately when appropriate; and the Oversight Committee could determine, on the basis of statistics it receives, that the Conference share is or soon will be below seventy percent, warranting use of rate initiative. Further, the Oversight Committee would be required to act within 20 days, and would be unable to prohibit a proposal from Conference

consideration. The requirement that at least one of the supporting members needed to institute rate initiative be an Oversight Committee member would also be removed. Certain other changes of a clerical nature are also made.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 9902-16.

Title: Agreement between Compagnie Generale Maritime and Hapag-Lloyd Aktiengesellschaft and Intercontinental Transport (ICT) B.V.

Parties:

Compagnie Generale Maritime
Hapag-Lloyd Aktiengesellschaft
Intercontinental Transport (ICT) B.V.

Synopsis: Agreement No. 9902-16 modifies the basic agreement by providing for: (1) Termination of the joint service and revenue pooling arrangements as among all three parties; (2) the cross-charter of vessel space among the three parties; (3) the continued operation by CGM and ICT of a joint service encompassed by the agreement; (4) limiting the CGM/ICT joint service to the exercise of a single conference vote; and (5) restating the basic agreement through Agreement No. 9902-16.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P. C., 1800 Massachusetts Avenue, Northwest, Washington, D.C. 20036.

Agreement No.: 9968-5.

Title: Inter-American Freight Conference-Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S. A. De Navegacion C. F. I. e I.
A/S Ivarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/A)
Empresa De Navegacao Alianca S. A.
Frota Amazonica S. A.
High Seas Company Limited
Passaat Line N. V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S. A.

Synopsis: Agreement No. 9968-5 amends the basic agreement to agree upon and establish rules relating to the terms and conditions under which freight and charges may be paid and credit may be extended to shipper in default or otherwise failing to comply with the credit rules set forth in a Conference Tariff and the authority to modify or rescind any action taken by the concerned section of the Conference under the authority.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Branco 156, Rio de Janeiro, Brasil.

Agreement No.: 9968-6.

Title: Inter-American Freight Conference-Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S. A. De Navegacion C. F. I. e I.
A/S Ivarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/A)
Frota Amazonica S. A.
High Seas Company Limited
Passaat Line N. V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S. A.

Synopsis: Agreement No. 9968-6 amends the basic agreement by deleting the present paragraphs (l) and (m) of Article 14 and substituting in lieu thereof new paragraphs (l) Expenses—providing for the expenses incurred as a result of the employment of the Neutral Body shall be apportioned among the Member Lines on the basis of 50% of equal shares for all Member Lines and the remainder on the basis of payable tons carried; (m) Tonnage Reports—a report of the total number of payable tons carried by each Member Line must be submitted to the Conference within 90 days after each calendar quarter. If no report is filed, penalties will be charged and applied to reduce Neutral Body costs; (n) a listing of the assessments to be charged for any late payment; and (o) expulsion—a Member Line may be expelled for failing to pay any amount due within 90 days.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Branco 156, Rio de Janeiro, Brasil.

Agreement No.: 9968-7.

Title: Inter-American Freight Conference—Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S. A. De Navegacion C. F. I. e I.
A/S Invarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/S)
Empresa De Navegacao Alianca S.A.
Frota Amazonica N.V.
High Seas Company Limited
Passaat Line N. V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S.A.

Synopsis: Agreement No. 9968-7 amends the basic agreement by (1) amending Article 6(c) to reflect that the Executive Administrator will conduct and preside at all Conference meetings of his section except Principals' Meetings or Principals' Committee Meetings, at the Principals' discretion and (2) amending Article 6(d) to provide that the Principals shall meet as circumstances and conditions warrant and elect one of their members to be Chairman of their meetings which meetings shall consider and recommend for adoption and agreement those matters specificially assigned to it. Recommendations shall be passed to Principals by the Agreement of ⅔ of the members of such Principals' Committee.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Branco 156, Rio de Janeiro, Brazil.

Agreement No.: 9968-8.

Title: Inter-American Freight Conference—Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S. A. De Navegacion C. F. I. e I.
A/S Invarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/S)
Empresa De Navegacao Alianca S.A.
Frota Amazonica S.A.
High Seas Company Limited
Passaat Line N. V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S.A.

Synopsis: Agreement No. 9968-8 amends the basic agreement by amending Article 27 to provide that each member may appoint the Executive Administrator or Assistant Executive

Administrator of the Conference, individually as its Attorney-in-Fact and Representative authorized to sign and file with the governmental authorities having jurisdiction, each duly adopted Amendment to this Agreement.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Branco 156, Rio de Janeiro, Brazil.

Agreement No.: 9968-9.

Title: Inter-American Freight Conference—Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S. A. De Navegacion C. F. I. e I.
A/S Invarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/S)
Empresa De Navegacao Alianca S.A.
Frota Amazonica S.A.
High Seas Company Limited
Passaat Line N. V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S.A.

Synopsis: Agreement No. 9968-9 amends the basic agreement by amending Article 17(a) to provide that as security each Member Line shall deposit with such bank as designated by ⅔ of the Member Lines, the sum of $50,000 in the the form of either cash, government bonds valued at current market value, irrevocable letters of credit in favor of the conference or any combination of the foregoing properties amounting in aggregate to the sum specified above.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Branco 156, Rio de Janeiro, Brazil.

Agreement No.: 9968-10.

Title: Inter-American Freight Conference—Puerto Rico & U.S. Virgin Islands.

Parties:

A. Bottacchi S.A. De Navegacion C.F.I. e I.
A/S Ivarans Rederi
Companhia Maritime Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Delta Steamship Lines, Inc.
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/A)
Empresa De Navegacao Alianca S.A.
Frota Amazonica S.A.
High Seas Company Limited
Passaat Line N.V.
Ship Operators (International) Inc.
Suriname Line
Transportacion Maritima Mexicana S.A.

Synopsis: Agreement No. 9968-10 amends the basic agreement by amending Article 15 to provide that the act of any Agent, Sub-Agent, Subsidiary or Associate or of any Company furnishing stevedoring, lighterage, terminal or other kindred services which violates the Conference Agreement shall be considered and dealt with pursuant to article 14 as a breach of the Agreement and such Party shall be fully responsible for the payment of any liquidated damages and/or fees and/or disbursements of the Neutral Body. No Member Line shall act or permit any of its Agents to act as an Agent for any common carrier in the trade covered by this Agreement that is not a member of the Conference.

Filing Party: Captain Frank R. A. Levier, Inter-American Freight Conference, AV. Rio Bronco 156, Rio de Janeiro, Brasil.

Agreement No.: 10117-8.

Title: U.S. North Atlantic Spain Rate Agreement.

Parties:

Farrell Lines, Inc.
Sea-Land Service, Inc.

Synopsis: Agreement No. 10117-8 is a complete restatement of the basic agreement and further amends the agreement by providing for its termination 60 days after approval of the United States/Italy, France and Spain Freight Conference Agreement No. 10485.

Filing Party: John R. Attanasio, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 10261-13.

Title: U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement.

Parties:

Hellenic Lines, Ltd.
Lykes Bros., Steamship Co., Inc.
Sea-Land Service, Inc.

Synopsis: Agreement No. 10261-13 would amend the basic agreement to relinquish a portion of that Agreement's ratemaking authority covering the trade from South Atlantic ports of the United States to Italy, Spain and Mediterranean ports of France and to restate the entire Agreement.

Filing Party: John R. Attanasio, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

By Order of the Federal Maritime Commission.

Dated: September 26, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-38645 Filed 9-28-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0475]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: 1983 Fee Schedules for the Definitive Securities Safekeeping and Noncash Collection Services.

SUMMARY: The Board has approved new fee structures and prices for the Federal Reserve's definitive securities safekeeping and noncash collection services.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald D. Manypenny, Manager (202/452-3954), or Mark J. Stewart, Senior Operations Analyst (202/452-2223), Division of Federal Reserve Bank Operations; or Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Monetary Control Act of 1980 (Title I of Pub. L. 96-221) (MCA), the Board adopted fee schedules for the Federal Reserve's definitive securities safekeeping and noncash collection services effective October 1, 1983. (46 FR 37972 (July 23, 1981)). These fee schedules were designed to fully recover the costs of providing the services, including a private sector adjustment factor (PSAF) of 16 percent.

The System incurred a shortfall of approximately 25 percent in the recovery of costs plus PSAF for these services during the first half of 1983, based on costs and revenues of approximately $10 million and $7.5 million respectively. By June 1983, the shortfall had been reduced to 13 percent.[1] The shortfall is due to the

[1] This reduction is the result of cost reduction efforts, stabilized safekeeping volume, and increases in noncash volume.

volume losses resulting from pricing these services. Despite rigorous efforts to reduce costs associated with these services, however, some Reserve Banks were unable to reduce costs sufficiently to offset volume losses. This was primarily due to the high fixed costs associated with providing these services, many of which could not be reduced in the short term.

On June 27, 1983, the Board requested comment on proposed revisions to the definitive securities safekeeping and noncash collection fee structures and prices. (48 FR 30454 (July 1, 1983)). Proposed revisions to the definitive securities safekeeping fee schedule included the elimination of the account switch and bond redemption fees and a differentiation in account maintenance fees based on the number of receipts/issues held in an account. Proposed revisions for the noncash collection service included adding an out-of district component to the coupon collection fee and converting the bond collection charge from a per-item to a per-transaction fee. Public comment was also requested on the future role of the Federal Reserve in providing these services.

A total of 31 responses was received on the various elements of the request for comment—eighteen depository institutions, one bank service company, one securities depository institution, one bank trade association, and ten Federal Reserve Banks. Twenty respondents, including ten Reserve Banks, expressed their support of the proposed revisions to the definitive securities safekeeping fee structure. Five respondents expressed opposition to some aspects of the proposal. Twenty-one respondents, including ten Reserve Banks, expressed support for the revisions to the noncash collection fee structure. Two respondents expressed some concern with various aspects of the noncash collection fee schedule. Further, twenty-three respondents, including ten Reserve Banks, believed that there were public benefits to be derived from the Federal Reserve's continuing to offer these services. Four respondents expressed reservations concerning a continuing role for the Federal Reserve in proving these services.

Fee Schedules

Respondents supporting these proposed revisions to the definitive securities fee structures generally stated that the revisions would result in a simplified fee structure. In their opinion, the resulting fee schedules would be fairer and more competitive and would enhance their ability to compare prices. Further, a number of respondents stated that it was important for the Federal Reserve to continue providing these services as a valuable alternative to correspondent institutions. Objections to the proposals focused on fees and fell into two categories:

1. The variance among Federal Reserve Districts in transaction fees.

2. Inability of some districts to recover costs.

1. *Variance in fees.* Four respondents expressed concern over the variations among Reserve Banks in fees for identical components of this service. In view of the comments received concerning these variations, the fee schedules, district cost/revenue information, and objectives of the Reserve Banks were reviewed. The Reserve Banks' basis for setting deposit, withdrawal, and bond collection fees were also reevaluated. This review generally confirmed that the fee schedules were designed to recover the aggregate costs of providing the definitive securities safekeeping and noncash collection services.

Variances in fees among Reserve Banks reflect the differing costs of some Banks in providing the services and the results in some districts of rigorous cost reduction efforts. Further, fees for individual components of the services vary among Reserve Banks because of regional differences in banking practices. For example, in some districts, depository institutions are believed to be particularly sensitive to the level of deposit and withdrawal fees. In these districts, the Reserve Banks attempted to be responsive to the local concerns and have priced these components accordingly. However, in view of the comments, the proposed fees were reevaluated and, in some instances, modified. In the aggregate, the revised fee schedules will provide Reserve Banks the ability to recover costs plus PSAF for these services.

One respondent expressed concern that several Reserve Banks were proposing low securities deposit fees and relatively high withdrawal fees in an attempt to induce deposits which would then be captive because of the high withdrawal fees. In order to preclude this possibility, the deposit and withdrawal fees have been modified so that these fees are equal.

2. *Cost recovery concerns.* Two respondents were concerned that several Reserve Banks had proposed significant reductions in service component fees. They stated that these reductions would not provide for recovery of the costs of providing the services.

The Reserve Banks have made significant progress in reducing costs for these services. Costs for definitive safekeeping were reduced Systemwide by 34.9 percent, or approximately $1 million, between the first quarter 1982 and the second quarter of 1983. Additional cost reduction efforts are being made by all Reserve Banks. Further, cost reduction projections and forecast growth should result in a cost/revenue match (excluding PSAF) by the end of the third quarter of 1984 and revenue sufficient to recover costs (including PSAF) a year later. Volume growth and the rate of cost reduction that currently exist may make it possible to achieve these goals earlier. The Board will closely monitor Reserve Bank cost/revenue performance.

Based on a review of fees charged by correspondent banks it does not appear that the Reserve Banks are charging fees lower than those prevailing in their areas. It should be noted that several respondents indicated that even with price reductions by some Reserve Banks, the Federal Reserve fees would still be higher than those charged by others.

Another concern raised by one respondent was that the definitive securities safekeeping service would be subsidized with revenues from the noncash collections service. The MCA requires that the Federal Reserve recover the costs plus PSAF of providing each major service. Both noncash collection and definitive securities safekeeping are components of the Federal Reserve's overall securities service line. Further, both the definitive securities safekeeping service and noncash collection service are interrelated in that a large portion of bonds and coupons collected by Federal Reserve Banks come from securities held by them in safekeeping. Consequently, the Board believes that current System policy is appropriate and that Reserve Banks continue to be required to fully recover costs plus PSAF of these combined services. Each Reserve Bank is also required to at least recover the direct and support costs of each service.

With regard to the noncash collection fee structure, twenty-one respondents, including ten Reserve Banks, supported the revisions. These proponents generally regarded the revisions as resulting in simpler fee schedules which would permit better price comparisons and accountability. Several concerns were expressed by three respondents, however.

Two respondents expressed some concern over the impact on fees for

postage and insurance of using ITS or other carriers for transporting securities and other noncash items for collection. The ITS network is not used to transport these items. Reserve Banks currently ship these items by registered or insured mail, thus achieving a greater level of security than is possible with alternative transportation methods. Reserve Banks are, however, continuing efforts to reduce shipping costs to the extent possible.

Concern was also expressed by one respondent about the possibility that fee increases for the noncash collection service in money center cities may have an adverse impact on this service since a disproportionate share of noncash volume is cleared through these cities. This concern does not appear warranted at this time, however. Federal Reserve Banks in money center cities are developing service options that will encourage local depositors and other Reserve Banks to fine sort collection items to money center paying agents, thereby reducing the number of items processed for collection at those locations and subject to local coupon collection fees. Fine sorted items would be merged with other collection items sent to money center paying agents. This arrangement is included as part of the current mixed deposit pilot and may be expanded in the near future.

Several respondents raised additional concerns about the proposals. One respondent recommended that implementation of revised fee schedules for these services be delayed until the General Accounting Office (GAO) has completed its review of the PSAF. In view of the magnitude of the cost recovery shortfall, however, the Board does not believe it appropriate to delay repricing of these services. Any adjustments to the PSAF will be considered in the cost/revenue projections for these services and may result in some price adjustments.

Some concern was also expressed regarding the impact of float pricing on fees for these services. The definitive securities safekeeping service does not, however, generate Federal Reserve float. Further, float related to noncash collection should not adversely affect prices. Average daily Federal Reserve float for this service in July 1983 was approximately $14.3 million. This float, however, could decline or be eliminated as a result of operational improvements and changes in availability schedules which are now being pursued by the Reserve Banks. Reserve Banks performance in reducing this float will be monitored closely and float remaining after operational improvements will be included in the cost base.

One respondent stated that the Federal Reserve was using its regulatory authority to gain an unfair competitive advantage. The revisions to the fee schedules do not represent an exercise of any regulatory authority by the Board, however, but are done pursuant to the requirements of the MCA that these services be repriced to recover costs plus PSAF.

Future Role of the Federal Reserve

The Board also requested comment on what role the Federal Reserve should play in the provision of these services.

Twenty respondents, including eight Reserve Banks, stated that the Federal Reserve should continue to maintain a presence in the safekeeping service. Seven respondents stated that the Federal Reserve should provide this service so long as it can compete effectively and recover the costs plus PSAF of providing the service. Respondents favoring a continued Federal Reserve presence in these services stated that the Federal Reserves' services provided small and medium-sized institutions with a valuable alternative of proven quality and worth to services offered by correspondents institutions. Three respondents, including two Reserve Banks, suggested that the Federal Reserve should play an active role in industry efforts to immobilize bearer definitive securities. Six respondents, including four Reserve Banks, suggested that the Federal Reserve develop a municipal securities book-entry system.

Three respondents stated that the Federal Reserve should not continue providing the safekeeping service. Two respondents stated that services offered by correspondent banks and brokerage houses were suitable alternatives to the Federal Reserve's service. In the opinion of one respondent, a priced safekeeping service is not a necessary adjunct to collateral safekeeping.

With regard to the noncash collection service, twenty respondents, including eight Reserve Banks, supported a continued Federal Reserve role in the service. One respondent believed that the Federal Reserve should collect only from remote country endpoints and smaller paying agents since collection efforts from these sources were difficult and time consuming. Four of these respondents stated that the Federal Reserve should continue the services as long as it recovered costs plus PSAF. One respondent noted that several major correspondents had dropped this service and that it was therefore important for the Federal Reserve to continue offering it. Several respondents stated that the Federal Reserve provided a valuable alternative for the service and that Federal Reserve presence is promoting efficiencies in the collection system. Although some respondents stated that the Federal Reserve service was superior to that offered by other providers of the service, a number of enhancements to the service were suggested. One respondent suggested that the Federal Reserve collect coupons from non-autocharge paying agents. Other respondents suggested that the mixed deposit pilot be extended nationwide.

One respondent opposed any presence of the Federal Reserve in priced services.

The Board believes that a continued Federal Reserve presence in these services provides important benefits to the public as well as depository institutions. First, the System provides a safe and efficient means for the collection of noncash items. Federal Reserve participation in this area contributes to the efficiency of the payments mechanism by reducing circuitous routing of noncash items, providing better availability, and reducing overall societal resources devoted to the collection of noncash items. These benefits are similar to those obtained by continued Federal Reserve participation in the check collection system. Continued involvement in securities safekeeping also contributes to the efficiency of the payments mechanism since the organization that safekeeps the securities typically also collects the coupons and the matured securities. Second, the System is able to serve as an impartial alternative supplier of services to financial institutions. The System prices explicitly in a highly imperfect market where the true cost of services is difficult to discern. System presence, with explicit pricing, has resulted in a more competitive marketplace as other providers have responded in kind to System pricing and product initiative. Finally, continued System presence in both services enables the Reserve Banks to offer all depository institutions a wide range of services, thereby simplifying accounting and recordkeeping.

Further, with regard to the suggestions of several respondents that the noncash collection service be improved, Reserve Banks have begun accepting for collection coupons payable by non-autocharge paying agents. To support immobilization of bearer definition securities, several Reserve Banks have

entered into custodial arrangements with depository institutions. It is expected that these custodial arrangements will be offered to any depository institution meeting established eligibility criteria.

After review of the comments received and analysis of issues raised, the Board has determined to approve revised fee schedules for the definitive securities safekeeping and noncash collection services as indicated in the attachment. The revised fee schedules will be effective October 27, 1983.

By order of the Board of Governors of the Federal Reserve System, September 23, 1983.

James McAfee,

Associate Secretary of the Board.

ATTACHMENT.—1983 PRICES

	Definitive safekeeping					Noncash collection			
	Deposits (per transaction)	Withdrawals (per transaction)	Maintenace[1] per receipt		Purchases and sales (per transaction)	Bond collection (per transaction)	Local coupon (per envelope)	Interdistrict coupon (per envelope)	Per $1,000 coupon value
			1-400	400+					
Boston	12.50	12.50	2.80	2.10	15.00	12.50	2.00	2.55	1.00
New York	35.50	35.50	5.35	4.75	23.00	35.50	2.50	2.75	.50
Philadelphia	15.00	15.00	3.00	2.00	19.00	15.00	[3] 2.90	[3] 2.55	1.00
Cleveland	15.00	15.00	2.25	1.75	25.00	15.00	3.00	2.50	.50
Richmond	15.00	15.00	1.50	1.00	20.00	20.00	2.00	2.50	1.00
Atlanta	[2]	[2]	[2]	[2]	N.A.	7.50	1.40	2.55	.75
Chicago	11.00	11.00	3.00	2.75	19.00	11.00	2.50	2.75	.70
Detroit	11.00	11.00	2.00	1.75	19.00	11.00	2.50	2.60	1.00
St. Louis	8.00	8.00	1.25	.90	N.A.	10.00	2.00	2.35	.75
Minneapolis	8.00	8.00	1.40	.75	10.00	8.00	2.50	2.70	.60
Kansas City	15.00	15.00	1.50	1.25	20.00	15.00	[4] 3.20	2.50	1.00
Dallas	10.00	10.00	2.75	2.50	26.50	15.00	2.10	2.55	1.00
San Francisco	N.A.	N.A.	N.A.	N.A.	23.50	35.50	4.00	N.A.	1.00

N.A.—Not applicable

[1] Maintenance is generally priced on a per-receipt basis except in New York, Cleveland, and Minneapolis where it is priced on a per-issue basis.

[2] The Federal Reserve Bank of Atlanta will continue its current prices under an experimental pricing structure. Additional information may be obtained from any Office in the Atlanta District.

[3] The Federal Reserve Bank of Philadelphia also offers a fixed servcie contract option on coupon collection. Additional information may be obtained from the Reserve Bank.

[4] The Federal Reserve Bank of Kansas City offers a municipal coupon collection option. Additional information may be obtained from any Office in the Tenth District.

[FR Doc. 83-26510 Filed 9-28-83; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0482]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Fee Schedule, Float Reduction Plan and Service Enhancements for the Automated Clearing House Service.

SUMMARY: The Board is requesting comments on a proposed fee schedule for Automated Clearing House ("ACH") services offered by Reserve Banks. It is anticipated that the fee schedule would be implemented in December, 1983. In conjunction with the proposed fee schedule, the Board is also requesting comments on certain proposed enhancements to the ACH service.

DATE: Comments must be received by November 7, 1983.

ADDRESS: Comments, which should refer to Docket No. R-0482, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to room B2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at room B1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231) or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board. In 1982, the Board determined to phase out its incentive pricing policy for ACH services. Accordingly, the ACH fee schedule, established on December 30, 1982, provided for recovery of 40 percent of the costs of providing the service. The proposed fee schedule, on which comment is requested, will provide for recovery of 60 percent of commercial ACH costs, including the private sector adjustment factor. It is anticipated that the revised fee schedule will go into effect in December, 1983. As a result of a review of the ACH service, the Federal Reserve is considering certain service enhancements and a restructuring of the fee schedule to assess fees on a more equitable basis.

I. Federal Reserve ACH Services

In assessing the quality of the Federal Reserve's current ACH service levels, potential improvements were identified that may benefit depository institutions that participate in the ACH mechanism. In order to obtain additional information regarding their value, public comment is requested on the following service level changes.

A. Telephone Advice for the Night Cycle

In conjunction with permitting all types of ACH transactions to be deposited at the nighttime deposit deadline,[1] the Reserve Banks also extended their current telephone advice services. This was done to accommodate depository institutions that receive ACH transactions processed at night after the settlement date. At present, the telephone advice services provided by the Reserve Banks are not uniform. To ensure that comparable service levels are offered and to provide depository institutions the option of selecting the type of service that best meets their needs, the Federal Reserve proposes several alternative telephone advice services that may be used individually or in combinations. The alternative service levels that are being proposed include:

[1] See Interim Fee Schedule for Automated Clearing House Night Cycle Deposits, 48 FR 40558, September 8, 1983.

(1) Advice of ACH settlement totals; (2) advice of all debit transactions; (3) advice of debit transactions above a specified dollar amount;[2] (4) advice of all credit transactions; (5) advice of credit transactions above a specified dollar amount;[2] (6) advice of next-day settlement credit transactions only; or (7) a combination of these alternatives selected by the depository institution. In providing telephone advice service, sufficient information about transaction will be given so that depository institutions will be able to post the transactions to their customers' accounts.

The limited telephone advice service offered at present is being provided at no fee. Because increased use of the telephone advice service is expected due to the expanded night cycle, a fee for telephone advice service is proposed. This new telephone advice service would be offered and a fee established at the time the revised ACH fee schedule is implemented.

B. Same-Day Funds Availability

ACH processing schedules now permit originating institutions to deposit debit transactions for next-day settlement and credit transactions for next-day or two-day settlement. Some ACH users have expressed interest in obtaining same-day settlement for ACH transactions. It appears depository institutions in exchanging debit card transactions and may also serve as an alternative for low dollar value wire transfers of funds. Based on information currently available to the Federal Reserve, the volume of potential transactions appears to be relatively low. Because the uses of a same-day ACH service are not entirely clear, the Federal Reserve plans to conduct a thorough analysis of this suggested service offering. Accordingly, the Board requests comments on the following questions:

1. What types of credit or debit transactions are likely to be deposited for same-day settlement?

2. What deposit deadline(s) would be attractive to potential users?

3. Should a same-day ACH service be limited to institutions that have an electronic interface with the Federal Reserve?

4. What fee would be appropriate for a same-day ACH service?

C. Presorted Deposit Option

At present, only one deposit option, an unsorted ACH deposit, is offered to originators of ACH transactions. Conversely, a variety of deposit options is available to depository institutions using the Federal Reserve's check collection services. The benefits of these options include later deposit deadlines, and in some cases, lower Federal Reserve fees. ACH volume is growing rapidly and a number of ACH originators now deposit relatively high volumes of ACH transactions on a daily basis. Because of this increased volume it is proposed that depository institutions be permitted to deposit with their local Reserve office interregional ACH transactions that are sorted by receiving Federal Reserve offices. In addition, originating institutions would be permitted to deliver interregional transactions directly to the Federal Reserve office sefving the receiving depository institution at the Reserve offices' later, local deposit deadline.

D. Value-Dating

The concept of value-dating is offered in a limited sense for ACH credit transactions. An expanded use of value-dating may benefit originators of ACH transactions by permitting them to generate payments more evenly across their processing cycle. However, institutions receiving transactions with settlement dates in the future must develop systems that enable them to post transactions to customer accounts on the settlement date. Many institutions receiving ACH transactions are small and do not possess the capability to store, or warehouse, ACH transactions, and it has been suggested that the Federal Reserve should warehouse ACH transactions. The Federal Reserve plans to evaluate the costs and benefits of providing a warehousing service. To gain a fuller understanding of how depository institutions might use such a service and what the benefits would be, public comment is requested on the following questions.

1. What types of ACH credit or debit transactions would depository institutions choose to warehouse with the Federal Reserve?

2. What volume of transactions, on a daily average basis, would an originators request to be warehoused?

3. How many days in advance of the delivery date would originating institutions wish to deposit ACH transactions?

4. At what fee, on a per transaction basis, would a warehousing service be attractive to depository institutions?

5. Should the originator or the receiver be assessed the fee?

6. If the Federal Reserve decided against providing a warehousing service, would originating institutions be interested in an expansion of the current ACH value-dating concept for credit and debit transactions?

7. How would receiving depository institutions be affected if ACH credit and debit transactions were processed with settlement dates three days or four days following the date of deposit with the Federal Reserve?

E. Interbank Clearing Mechanism

The Federal Reserve is considering the possibility of modifying the ACH so that it might serve as a mechanism to facilitate the interbank clearing and settlement of electronic payments. In order to determine the potential for using the ACH as an interbank clearing and settlement mechanism, comments are requested on the features such a mechanism might incorporate.

1. What timeframes would be acceptable for settlement—the same day, the following day, or another time period?

2. Could current ACH formats be adapted for use in an interbank clearing and settlement mechanism?

3. How would agreements among members of electronic networks need to be changed if the ACH were used as the clearing and settlement mechanism?

4. What type of benefits—both tangible and intangible—would depository institutions realize if the ACH were modified to facilitate the interbank clearing and settlement of electronic payments?

F. Paper ACH Return Items

Because the costs associated with automating ACH return items are relatively high given the current ACH volume levels, few ACH participants generate automated ACH return items. Consequently, private ACH operators have requested the Federal Reserve to handle their paper ACH return items. In addition, the Federal Reserve has considered converting ACH paper return items to automated form at the Federal Reserve office of first deposit. Accordingly, the Board requests comments on the following questions.

1. Should the Federal Reserve convert ACH paper return items to automated form at the Federal Reserve office of first deposit?

2. Should the Federal Reserve handle ACH paper return items as a separate service for ACH participants using the Federal Reserve's ACH services and/or for privately operated ACHs?

3. If ACH paper return items are handled as a separate service, what range of fees would be appropriate?

[2] A specific dollar amount will be determined jointly by representatives of the Federal Reserve and each depository institution.

II. ACH Fee Structure

Since fees were initially implemented for the ACH service on August 1, 1981, ACH fees have been established under an incentive pricing policy. Pursuant to the phase-out of the incentive pricing policy adopted by the Board in April, 1982, the current ACH fees were set to recover 40 percent of the costs incurred in providing commercial ACH services, including the private sector adjustment factor (PSAF). The new ACH fees that will be established later this year will be set to recover 60 percent of the costs of providing commercial ACH services, including the PSAF.

A. Proposed Fee Structure

The proposed ACH fee scheduled, based on the concepts discussed below, are presented in Attachment 1.

The current ACH fees were set on a national level and based on the average costs of processing local and interregional transactions, adjusted to reflect the relative benefits realized by various ACH participants.

A review of the Federal Reserve's ACH cost structure indicated that fixed costs in ACH operations are high relative to total production costs and that costs were less homogeneous accross Federal Reserve Districts than they originally believed to be.

In order to assess ACH fees to users of ACH services so that the fees more accurately reflect the costs of the services used, the Board proposes that: (1) Fixed deposit fees be assessed to originators of ACH transactions; (2) fixed handling fees be assessed to receivers of ACH transactions; and (3) fixed telephone advice fees be assessed to depository instiutions requesting this service.

The Board also proposes that the national fee structure be modified to reflect regional or district cost differences. Under this proposal each Federal Reserve District will set its own deposit handling fee, delivery handling fee, telephone advice fee, and per transaction fee. All other transaction fees, such as, nighttime origination surcharges and interregional surcharges, will be set at the national level.

A review of the benefits-based concept that assesses fees to ACH participants based on the relative benefits they realize through participating in the ACH indicated that the concept continues to have value in promoting ACH volume growth. In addition, it appears that the relative benefits achieved by the various ACH participants are the same as they were when fees were set in 1982.

At the same time, three other benefits-related factors were considered during the recent review. First, under the current fee schedule, the interregional differential is assessed to originators of debit transactions and receivers of credit transactions. Because originating institutions and their customers determine where payments are to be sent, the Board proposes that only originating depository institutions be charged for the added costs involved in processing interregional transactions. Second, the Federal Reserve incurs considerable expense in delivering ACH transactions to the large number of depository institutions served by ground transportation. This broad base of receiving institutions enables originating institutions to provide services to national corporations that could not be offered otherwise. Because originating depository institutions benefit from having the ability to reach a large number of institutions that receive low volumes of ACH transactions, the Board proposes that a surcharge be assessed to originators of ACH transactions destined for low volume receiving institutions.[3] Third, as indicated above it is proposed that depository institutions be permitted to deposit with their local Federal Reserve office ACH transactions that are sorted by receiving Federal Reserve offices or to deliver interregional transactions directly to the Federal Reserve office serving the receiving depository institutions. Because the Federal Reserve will incur lower costs in processing presorted and directly delivered transactions, the Board proposes that institutions originating presorted deposits or that deliver deposits directly to the processing Federal Reserve office be assessed a lower fixed deposit fee and interregional surcharge than institutions depositing mixed deposits.

B. Privately Operated ACHs

The costs of providing services to the New York Automated Clearing House Association (NYACH), currently the only privately operated ACH, are recovered through transaction fees that are based on the same concepts underlying the national ACH fee schedule. Some ACH services used by NYACH are comparable to the services used by depository institutions. The Board proposes that when privately operated ACHs use the same services that are offered to depository institutions, they be assessed the same fees.

[3] A list of depository institutions that receive 500 or more ACH transactions per day is presented in Attachment 2.

The Federal Reserve Bank of New York also provides a combined settlement and local delivery service to NYACH. This service is essentially a fixed cost service that necessitates manual procedures for controlling and routing deliveries, requires ground transportation to effect deliveries, and uses fixed accounting resources. The Board proposes that privately operated ACHs be assessed fixed fees for settlement and local delivery services based on handling, delivery, and settlement costs. If privately operated ACHs request only net settlement services, the Board proposes that they be assessed the Federal Reserve's current fees for the net settlement services.[4]

C. ACH–84

Under a 1981 agreement among the Reserve Banks, the National Automated Clearing House Association House Association (NACHA), and local ACH associations affiliated with NACHA, the Federal Reserve agreed to provide its computer software, known as ACH–76 software, at no charge to NACHA and local ACH associations that operate an ACH. This agreement was based on the fact that the ACH–76 software was jointly designed by the Federal Reserve and NACHA, although it was developed by Federal Reserve personnel.

The Reserve Banks have designed a new ACH software package, known as ACH–84, and are currently in the process of completing its development. The costs associated with this effort and the maintenance of the ACH–76 software are being recovered through the Federal Reserve's transaction fees. As a result, users of the Federal Reserve's ACH services are absorbing the full costs of ACH software development and maintenance because the current ACH software is provided to ACH associations that operate an ACH at no charge. Because the Federal Reserve has been fully responsible for the development of the ACH–84 software and because it is inequitable to assess users of Federal Reserve ACH services costs associated with developing and maintaining software that may be used by ACH associations, the Federal Reserve proposes that ACH associations that operate an ACH be assessed a licensing fee for the ACH–84 software when it is available for

[4] Current Net Settlement Fee Schedule: Net Settlements Originated Off-Line, $5.00; Net Settlement Entries, $1.30; and Telephone Advice of Net Settlement Entries, $2.25.

The Reserve Banks may assess higher fees for net settlement arrangements if special services are requested that result in higher costs.

implementation and that those ACH associations licensing ACH-84 software also be assessed an annual maintenance fee.

D. ACH Float

ACH float is generated whenever reserve or clearing accounts of originators of ACH transactions are credited or debited before the offsetting debit or credit is posted to the receiving depository institution's account. The Monetary Control Act of 1980 requires the Board to price all float resulting from the provision of Federal Reserve priced services. During the first half of 1983, ACH float amount to approximately $50 million on a daily average basis.

The major cause of ACH float has been delayed transmissions of interregional transactions between Federal Reserve offices. The Reserve Banks are in the process of implementing operating improvements that are expected to reduce daily average float resulting from delayed transmissions to approximately $6.9 million by the fourth quarter of 1984. The Board proposes to incorporate the value of projected, fourth quarter, 1984 delayed transmission float in the cost base used to derive the revised ACH fees.

ACH float is also generated because: (1) all ACH paper return items cannot be processed within the Reserve Banks' current availability schedules; and (2) the Reserve Banks cannot post ACH transactions to the accounts of depository institutions that are closed on nonstandard holidays or that are closed during the middle of the week. The Board proposes to eliminate float resulting from these causes by (1) changing the current availability schedule for interregional ACH paper return items from same-day to next-day settlement, and (2) debiting or crediting the reserve or clearing accounts of closed institutions for ACH transactions as though the institutions were open for business.

The above causes of ACH float account for approximately 75 percent of all ACH float. The remaining ACH float is due to Reserve Bank operating procedures, processing or transportation delays, and reserve adjustments. It is proposed that float generated in these ways be reduced by implementing operational improvements and that any residual float that cannot be eliminated be included in the ACH cost base when new ACH fees are set in 1984.

E. Projected Cost, Volume and Structure

Based on preliminary projections, the total cost of providing ACH services, including the private sector adjustment factor (PSAF), for the Federal Reserve is expected to amount to $42.4 million, an increase of eight percent over estimated 1983 expenditures. Total 1984 ACH volume is estimated at 447 million transactions, an increase of nearly 18 percent above estimated 1983 volume levels. These projections are for both commercial and government transactions.

It is estimated that commercial ACH volume should amount to 192 million transactions during 1984. The projected costs attributable to providing commercial ACH services are approximately $16.3 million, including the estimated value of ACH float resulting from delayed interegional transmissions of approximately $690 thousand. The System's revenue target based on its commitment to set new ACH fees so that they recover 60 percent of commercial ACH processing costs, plus the PSAF, is approximately $9.8 million. The proposed ACH fee schedule is expected to generate revenues of $9.9 million.

By order of the Board of Governors of the Federal Reserve System, September 23, 1983.

James McAfee,

Associate Secretary of the Board.

Attachment 1

PROPOSED ACH FEE SCHEDULES

	Deposit fee		Receiver handling fee		Transactions fees		
	Mixed	Presorted	Ground delivery	Electronic delivery	Intra-ACH debits originated (cents)	Inter-ACH debits originated [1](cents)	Credits received (cents)
Boston	$2.00	$1.00	$0.50	$0.25	1.0	1.0	2.0
New York	*	2.50				1.0	[2] 2.0
Philadephia	3.00	1.50	[2] 1.00	0.50	1.5	1.5	3.0
Cleveland	4.00	2.00	2.00	1.00	1.0	1.0	2.0
Richmond	2.00	1.00	0.50	0.25	1.0	1.0	2.0
Atlanta	2.00	1.00	0.50	0.25	1.5	1.5	3.0
Chicago	3.00	1.50	1.50	0.75	1.0	1.0	2.0
St. Louis	2.00	1.00	1.00	0.50	1.5	1.5	3.0
Minneapolis	2.00	1.00	1.50	0.75	1.5	1.5	3.0
Kansas City	2.00	1.00	1.50	0.75	1.5	1.5	3.0
Dallas	2.00	1.00	0.50	0.25	1.0	1.0	2.0
San Francisco	2.00	1.00	1.00	0.50	1.0	1.0	2.0

[1] Institutions originating interregional debit transactions will ba assessed the receiving Federal Reserve District's debit origination fee.
[2] In the New York District the fee for credits received will be assessed for interregional credits received only.

Other fees

Origniator surcharges:	
Interegional Surchagres:	
● Mixed deposits	1.5¢
● Presorted deposits	0.5¢
Low-volume receiver surcharge	2.0¢
Nighttime deposit surcharges:	
● Debits	4.0¢
● Next-day settlement credits	2.0¢
Telephone advices:	
Telephone advices, including 10 transactions [1]	$1.00-$3.00
Each additional transaction	5.0¢
New York settlement and local delivery fees:	
Fixed settlement fee, per settlement	$3.00
Settlement entries, per entry [2]	0.80
Settlement entry and delivery fee, per receiving institution	5.80

[1] Requests for an ACH settlement total would be counted as one transaction.
[2] Settlement entry fees will be charged when the Federal Reserve does not incur handling and delivery costs.

Attachment 2

COMMERCIAL ACH—HIGH VOLUME RECEIVERS

District and name of institutions	Routing No.
Boston (8):	
Bay Bank Middlesex	0113-0235-7
Connecticut Bank & Trust, N.A.	0119-0057-1
Union Trust Company	0111-0010-2
Bay Bank Harvard	0113-0060-5
Connecticut National Bank	0119-0044-5
Bay Bank Norfolk County	0113-0243-8
First National Bank of Boston	0110-0039-0
Boston 5¢ Savings Bank	2110-7017-5

COMMERCIAL ACH—HIGH VOLUME RECEIVERS—Continued

District and name of institutions	Routing No.
Philadelphia (6):	
Girard Bank	0310-0003-7
Philadelphia National Bank	0310-0001-1
Provident National Bank	0310-0005-3
American Bank and Trust	0310-0046-5
Fidelity Bank	0310-0050-3
Hamilton Bank	0313-0154-5
Cleveland (22):	
Ameritrust Company	0410-0068-7
National City Bank	0410-0012-4
First National Bank of Akron	0412-0055-4
Toledo Trust Company	0412-0008-9
Central National Bank	0410-0004-3
BancOhio of Akron	0412-0058-4
Society National Bank	0410-0103-9
Ohio Citizens—Toledo	0412-0014-4
First National Bank of Toledo	0412-0005-0
Huntington National Bank	0410-0015-3
Bank One, N.A.	0422-0030-5
The Fifth Third Bank	0420-0031-4
The Central Trust Company, N.A.	0420-0039-8
The Third National Bank	0422-0029-5
The First National Bank	0422-0027-9
Mellon Bank, N.A.	0430-0026-1
Pittsburgh National Bank	0430-0009-6
Union National Bank	0430-0012-2
Equibank	0430-0113-4
BancOhio National Bank	0440-0001-1
Huntington National Bank	0440-0002-4
Bank One of Columbus	0440-0003-7
Richmond (33):	
Virginia National Bank	0514-0036-1
First & Merchants National Bank	0510-0001-7
United Virginia Bank	0510-0002-0
Bank of Virginia	0510-0677-8
First National Exchange Bank	0514-0054-9
Fidelity American Bank	0514-0073-0

COMMERCIAL ACH—HIGH VOLUME RECEIVERS—Continued

District and name of institutions	Routing No.
First Service Corporation	6560-6009-6
Maryland National Bank	0520-0016-8
Equitable Trust Bank	0520-0089-6
Union Trust of Maryland	0520-0001-6
Suburban Trust Company	0550-0234-1
First National Bank of Maryland	0520-0011-3
Citizens Bank & Trust Company	0550-0296-9
First American Bank	0560-0424-1
First Virginia Bank	0560-0111-8
Riggs National Bank	0540-0003-0
United Virginia Bank	0560-0107-9
Union First National Bank	0540-0004-3
North Carolina National Bank	0530-0019-6
First Union National Bank	0530-0021-9
First Citizens Bank & Trust	0531-0030-0
Wachovia Bank & Trust Company	0531-0049-4
Northwestern Bank	0531-0216-2
State Employees Credit Union	2531-7704-9
Branch Banking & Trust Company	0531-0112-1
Central Carolina Bank & Trust Company	0531-0046-5
Southern National Bank of North Carolina	0531-0197-2
Ohio Valley Data Control	6442-6102-7
Atlanta (16):	
Citizens and Savings Atlanta	0610-0005-2
First National Atlanta	0610-0001-0
Trust Company of Georgia	0610-0010-4
Bank of the South	0610-0007-8
Atlantic National Bank	0630-0002-1
First National Bank of Florida	0631-0026-4
Barnett Computing Company	6630-6020-9
Sun Bank Data Corporation	6631-6021-9
Southwest Data Services, Inc.	6670-6008-5
Southeast Data Corporation	6660-6002-1
Florida Information Management	6631-6007-3
Hollywood Federal Savings & Loan	2670-8364-0
Flagship National	6660-6005-4
Barnett Bank	6670-6018-5
Deposit Guaranty National	0653-0543-6
First National	0653-0027-9
Chicago (13):	
First National Bank	0710-0001-3
Continental Illinois National Bank	0710-0003-9
National Bank	0720-0032-6
Comerica Bank	0720-0009-6
Manufacturers National Bank	0720-0033-9
First of America Bank	0724-0042-1
Merchants National	0739-0001-4
United Central Bank	0730-0017-6
National Bank	0739-0043-8
Norwest Bank	0730-0022-8
American Fletcher National Bank	0740-0001-0
Indiana National Bank	0740-0005-2
Merchants National Bank	0740-0006-5
St. Louis (7):	
Centerre Bank	0810-0005-8
Mercantile Trust Company	0810-0021-0
Commerce Bank—St. Louis	0810-0058-2
First National Bank	0830-0005-6
First Tennessee	0840-0002-6
Union Planters	0840-0008-4
Deposit Guaranty	0653-0543-6
Minneapolis (6):	
Norwest Bank Minneapolis, N.A.	0910-0001-9
First National Bank of Minneapolis	0910-0002-2
F & M Marquette National Bank	0910-0004-8
The First National Bank of St. Paul	0960-0001-4
Midway National Bank	0960-0060-3
Twin City Federal Savings & Loan Association	2910-7000-1
Kansas City (24):	
Mid America Automated Clearing House	9018-0013-4
Fourth National Bank & Trust of Wichita	1011-0004-5
Data Center Inc.	7011-6030-4
First N.A. Bank of Kansas City	1010-0003-7
ADP Computer Services Corp.	7010-6001-9
United Missouri Bank of Kansas City	1010-0069-5
Commercial National Bank	1010-0007-7
First N.A. of Wichita	1011-0002-9
Colorado Computer Service	7020-6001-8
Intra West Bank of Denver	1020-0001-8
United Bank of Denver	1020-0007-6
Affiliated Bank Services	1020-9000-2
First Intra State Services	7020-6007-6
Colorado National	1020-0002-1
Albuquerque National	1070-0032-7
Sun Country Financial Services	7070-6060-2
Central Bank of Denver	1020-0053-9
First N.A. of Albuquerque	1070-0027-5
First N.A. of Oklahoma City	1030-0001-7

COMMERCIAL ACH—HIGH VOLUME RECEIVERS—Continued

District and name of institutions	Routing No.
First N.A. of Omaha	1040-0001-6
Omaha N.A. Bank	1040-0002-9
Norwest Bank of Omaha	1040-0005-8
First N.A. Bank of Lincoln	1040-0003-2
Bank of Bellevue	1049-1380-2
Dallas (2):	
Interfirst Bank Dallas, N.A.	1110-0001-2
Republic Bank, Dallas, N.A.	1110-0062-7
San Francisco (30):	
Crocker National Bank	1210-0017-0
Wells Fargo Bank	1210-0024-8
Bank of America	1210-0035-8
Barclays Bank	1210-0036-1
Central Bank	1211-2067-8
Bay View Federal Savings & Loan	3210-7016-2
Bank of Hawaii	7213-6001-6
Bank of the West	1211-0078-2
Fairchild Electric Federal Credit Union	3211-7367-4
EAC Federal Credit Union	3211-8045-0
American Electric Association Credit Union	3211-8051-5
Decimus	7210-6004-4
Gesco	7210-6006-0
Pacific IBM Employee Credit Union	3211-7683-3
Security Pacific Bank	1220-0004-3
First Interstate Bank, Los Angeles	1220-0021-8
Bank of America	1220-0066-1
Crocker National Bank	1220-0008-5
Sea First National Bank	1222-0049-0
San Diego Trust and Savings	1222-0052-6
First Interstate Bank, Arizona	1221-0001-1
Valley Arizona Bank	1221-0002-4
Arizona Bank	1221-0170-6
First Interstate Bank	1230-0012-3
U.S. National Bank	1230-0022-0
Commercial Bank	1232-0008-8
Seattle First National	1250-0002-4
Rainier National Bank	1250-0003-7
Peoples National Bank	1250-0010-5
First Interstate Bank	1250-0028-6

[FR Doc. 26509 Filed 9-28-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Equal Access to Justice Act; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Notice of request for OMB review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

SUMMARY: The FTC is requesting an extension of the clearance for use of an information collection requirement contained in the Commission's Rules of Practice for adjudicative proceedings, 16 CFR 3.81–3.83, OMB Control No. 3084–0028. 16 CFR 3.81–3.83 implement the Federal Access to Justice Act, 5 U.S.C. 504, and specify the documentation needed to support an application for reimbursement under that Act.

DATES: Comments on these applications must be submitted on or before October 31, 1983.

ADDRESS: Send comments to FTC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20530. Copies of the application may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carl D. Hevener, OMB Liaison Officer, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3373.

John H. Carley,

General Counsel.

[FR Doc. 83-26626 Filed 9-28-83; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period under the Premerger Notification Rules; Wang Laboratories, Inc., et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Transaction Number 83-0666 Wang Laboratories, Inc.'s proposed acquisition of voting securities of Tymshare Incorporated.	Sept. 15, 1983
(2) Transaction Number 83-0686 Crime Control, Inc.'s proposed acquisition of voting securities of the Alarmex Division of National Distillers and Chemical Corporation.	Do.
(3) Transaction Number 83-0657 Hewlett-Packard Company's proposed acquisition of voting securities of Yokogawa-Hewlett-Packard, Ltd., (Yokogawa Hokushin Electric, Corporation, UPE).	Do.
(4) Transaction Number 83-0658 Yokogawa Hokushin Electric Corporation's proposed acquisition of voting securities of Hewlett-Packard Company.	Do.
(5) Transaction Number 83-0692 Richard D. Colburn's proposed acquisition of certain of Keenan Supply Inc.	Do.
(6) Transaction Number 83-0718 NVF Company's proposed acquisition of voting securities of APL Corporation.	Do.
(7) Transaction Number 83-0720 James Gerald Gulliver's proposed acquisition of voting securities Amalgamated Distilled Products APL.	Do.

Transaction	Waiting period terminated effective
(8) Transaction Number 83-0724 KS Holdings, Inc.'s proposed acquisition of voting securities of Kaiser Steel Corporation.	Do.
(9) Transaction Number 83-0736 Bally Manufacturing Corporation's proposed acquisition of assets of Sega Enterprises Inc., (Gulf & Western Industries, Inc., UPE).	Sept. 14, 1983.
(10) Transaction Number 83-0709 McDonnell Douglas Corporation's proposed acquisition of assets of Riteway Rentals, Incorporated.	Sept. 16, 1983.
(11) Transaction Number 83-0604 Proposed formation of a joint venture corporation between General Electric Company and Proven Properties, Inc.	Do.
(12) Transaction Number 83-0727 Proposed formation of a joint venture corporation between State Farm Mutual Automobile Insurance Company and Proven Properties, Inc.	Do.
(13) Transaction Number 83-0728 Proposed formation of a joint venture corporation between Teachers Insurance and Annuity Association of America and Proven Properties, Inc.	Do.
(14) Transaction Number 83-0729 Proposed formation of a joint venture corporation between American General Corporation and Proven Properties, Inc.	Do.
(15) Transaction Number 83-0539 Proposed formation of a joint venture corporation between Pennzoil Company and Proven Properties, Inc.	Do.
(16) Transaction Number 83-0734 Proposed formation of a joint venture corporation between Pennzoil Company and Proven Properties, Inc..	Do.
(17) Transaction Number 83-0726—Royal Insurance plc proposed acquisition of voting securities of American Overseas Holdings, Inc., (Marsh & McLennan Companies, Inc., UPE).	Sept. 21, 1983.
(18) Transaction Number 83-0731—Western Mining Corporation Holding Limited's proposed acquisition of voting securities of Mesa Australia Limited, Company, (Mesa Petroleum Company, UPE).	Do.
(19) Transaction Number 83-0300—Hany M. Salaam proposed acquisition of voting securities of Western Farm Service, Inc., IND/AG Chemicals, Inc., (Royal Dutch Petroleum Company, UPE).	Do.
(20) Transaction Number 83-0708—Trinity Industries, Inc.'s proposed acquisition of voting securities of General Steel Company, (John S. Howell, UPE).	Do.
(21) Transaction Number 83-0696—Trinity Industries, Inc.'s proposed acquisition of voting securities of Aesco Steel, Inc.	Do.
(22) Transaction Number 83-0706—Malrite Communications Group, Inc.'s (Milton Maltz, UPE) proposed acquisition of assets of Metromedia, Inc.	Do.
(23) Transaction Number 83-0723—Victor N. Goulet, (Tamco Industries, Inc.) proposed acquisition of voting securities Imperial Corporation of America.	Sept. 22, 1983.
(24) Transaction Number 83-0735—Kenning Motor Group plc's proposed acquisition of assets of Tiremasters, Inc., Interstate Tire Warehouses, Inc., (Donald G. Cutler and Diane Cutler, UPE).	Do.
(25) Transaction Number 83-0742—Gulf and Western Industries' proposed acquisition of assets of LLC Corporation.	Do.
(26) Transaction Number 83-0743—Alco Standard Corporation's proposed acquisition of voting securities of A—Copy, Inc., (Herbert Chambers, UPE).	Do.
(27) Transaction Number 83-0747—Herbert Chambers' (A—Copy, Inc., proposed acquisition of voting securities of Alco Standard Corporation.	Do.
(28) Transaction Number 83-0750—General Electric Company's proposed acquisition of assets of Tiger International, Inc., from North American Car Corp. and voting securities of Seek Systems, Inc. and Transbulk, Inc.	Do.
(29) 83-0721—Allen & Company Incorporated's proposed acquisition of voting securities of Northwest Energy Company.	Sept. 15, 1983.
(30) 83-0702—MoneyMart Assets, Inc.'s proposed acquisition of assets of Chancellor Cash Fund, Inc..	Do.
(31) 83-0672—Thomas C. Thompson's proposed acquisition of voting securities of Enstar Corporation.	Sept. 20, 1983.
(32) 83-0730—Mr. Charles Robins' proposed acquisition of voting securities of the Anniston Division of Phelps Dodge Corp.	Do.
(33) Transaction Number 83-0751—Allen & Company, Inc.'s proposed acquisition of voting securities of Northwest Energy Company.	Sept. 22, 1983.
(34) Transaction Number 83-0489 Televents Group, Incorporated's proposed acquisition of certain assets of Time, Incorporated.	July 13, 1983.
(35) 83-0682—Koch Industries, Incorporated's proposed acquisition of assets of The Williams Companies.	Sept. 9, 1983.
(36) 83-0687—American Express Company's proposed acquisition of voting securities of Davis, Skaggs and Company, Incorporated.	Do.
(37) 83-0689—Delta Holdings, Incorporated's proposed acquisition of voting securities of Elkhorn Re Insurance Company, (National Distillers and Chemical Corporation, UPE).	Do.
(38) 83-0648—Diasonics, Incorporated's proposed acquisition of voting securities of OEC International, Inc., (Franklin I. and Irene Saemann, UPE).	Sept. 8, 1983.
(39) 83-0681—United States Leasing International, Inc.'s proposed acquisition of voting securities of Hertz Vehicle Management New York Corporation, (RCA Corporation, UPE).	Do.
(40) 83-0688—Michigan General Corporation's proposed acquisition of assets of Diamond International Corporation and Diamond (U.S.A.) Incorporated, (Sir James Goldsmith, UPE).	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-26625 Filed 9-28-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA. The system of records, Travel charge card program GSA/GOVT-3, is being established to provide Government agencies with (1) necessary information on the commercial travel and transportation payment and expense control system which will provide travelers charge cards for official travel and related travel expenses on a worldwide basis, (2) attendant operational and control support, and (3) management information reports for expense control purposes. A new system report is being filed with the President of the Senate, the Speaker of the House, and the Office of Management and Budget. A waiver of the 60-day advance notice requirements of OMB Circular A-108 is being requested from the Office of Management and Budget.

DATES: Any interested party may submit written comments regarding this proposed system. To be considered, comments must be received on or before the 30th day following publication of this notice. The new system of records shall become effective as proposed without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (ORAR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Willian Hiebert, GSA Privacy Act Officer, telephone (202) 566-0673.

Background

The purpose of this system is to provide Government agencies with (1) necessary information on the commercial travel and transportation payment and expense control system which will provide travelers charge cards for official travel and related travel expenses on a worldwide basis, (2) attendant operational and control support, and (3) management information reports for expense control purposes. Under the system, vendors are paid either by the card company and/or with cash or travelers cheques as is appropriate. In most cases, the card issuer will send its bill directly to the employee who is responsible for the payment of his or her debt. Employees will continue to be reimbursed by agency finance offices for their authorized expenditures. Certain agencies or their organizational components may choose to have a limited number of cards issued to specific offices within their organization with the billings for these cards being sent directly to the agency for payment.

The proposed new system of records is as follows:

GSA/GOVT-3

SYSTEM NAME:

Travel Charge Card Program.

SYSTEM LOCATION:

Records on employees are located at the finance office of the local installation of the Department or Agency which employs the individual. Records necessary for the contractor to perform under the contract are located at the contractor's facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Federal employees who use Government assigned charge cards while in travel status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include name, address, social security number, employment information, telephone numbers, information needed for identification verification, travel authorizations and vouchers, charge card applications, charge card receipts, terms and conditions for use of charge cards, and monthly reports from contractor(s) showing charges to individual account numbers, balances, and other types of account analysis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5707 and implementing Federal Travel Regulations, FPMR 101-7.

PURPOSE(S):

The purpose of this system is to provide Government agencies with (1) necessary information on the commercial travel and transportation payment and expense control system which will provide travelers charge cards for official travel and related travel expenses on a worldwide basis, (2) attendant operational and control support, and (3) management information reports for expense control purposes.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. In the event that a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto.

b. A record from this system of records may be disclosed to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

c. A record from this system of records may be disclosed to the contractor to provide the contractor with the necessary information for issuing credit cards.

d. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of any employee to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

f. The information contained in this system of records may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

g. A record from this system may be disclosed to a Federal agency for the accumulation of reporting data and monitoring of the system.

h. The contractor may disclose records in this system of records in the form of listings, reports, and records of all common carrier transactions including refunds and adjustments to General Services Administration (GSA) in order to enable GSA to audit carrier charges to the Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, on lists and forms, and in computer processible storage media.

RETRIEVABILITY:

These records are retrieved by name, Social Security Number, and/or credit card number.

SAFEGUARDS:

When not in use by an authorized person, paper records will be stored in lockable file cabinets or in secured rooms with access limited to those personnel whose official duties require access. Access to computerized records is limited, through use of access codes and entry logs, to those whose official duties require access. There will be restricted access to credit card account numbers.

RETENTION AND DISPOSAL:

Records in this system are to be retained for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Transportation (FT), General Services Administration, Washington, DC 20406.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the Finance Officer at the agency where the individual was employed while performing travel. Individuals must furnish the following information for their records to be located and identified: Full name and department or agency and component at which employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the Finance Officer where employed while performing the travel. Individuals must furnish their full name and department or agency and component with which employed in order for their records to be located and identified.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the department or agency Finance Officer at the activity where employed when travel was performed. Individuals must furnish their full name and the name of the employing agency, including duty station, at which they were employed when travel was performed.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from charge card applications, monthly reports from the contractor, travel authorizations and vouchers, and from data interchanged between agencies.

Dated: September 27, 1983.

William A. Clinkscales,

Associate Administrator for Policy and Management Systems.

[FR Doc. 83-26686 Filed 9-28-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0290]

Petrolite Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Petrolite Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of synthetic petroleum wax as a component of microcapsules for spice-flavoring substances.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3747) has been filed by the Petrolite Corp., Bareco Group, 6910 East 14th St., Tulsa, OK 74112, proposing that § 172.230 *Microcapsules for flavoring substances* (21 CFR 172.230) be amended to provide for the safe use of synthetic petroleum wax as a component of microcapsules for spice-flavoring substances.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 20, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-26488 Filed 9-28-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, November 14, 15, and 16, 1983, in Building 31, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on November 14, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 14, from 10:00 a.m. to adjournment of November 16, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Md. Area Code 301, 496-5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Parogram No. 13.866, Aging Research, National Institutes of Health)

Dated: September 19, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc.83-26522 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

Subcommittee on Animal Resources; Meeting Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, on Noverber 3, 1983 from 1:00 p.m. to recess and on November 4, 1983 from 8:00 a.m. to adjournment in Conference Room 3, Building 31, National Institutes of Health, Bethesda, Md. 20205.

The meeting will be open to the public on November 3 from 1:00 p.m. to approximately 3:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 3 from approximately 3:00 p.m. to recess and on November 4 from 8:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institute of Health, Bethesda, Md. 20205, (301) 496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: September 16, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-26525 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, November 30, December 1-2, 1983, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on November 30, 1983, from 8:00 p.m. to 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463 the meeting will be closed to the public on November 30 from approximately 9:00 p.m. to recess, and from 8:00 p.m. on

December 1 to adjournment on December 2, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Charles G. Hollingsworth, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 558B, phone (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: September 16, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-26527 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on December 1, 1983, in Building 31, Conference Room 9.

This meeting will be open to the public on December 1, 1983, from 8:00 AM to approximately 10:00 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1, 1983, from approximately 10:00 AM to adjournment on December 1, for the review, discussion, and evaluation of individual grant applications. These applications and the disacussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 16, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-26526 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees of the National Institute of Allergy and Infectious Deseases for October 1983.

Portions of these meetings will be open to the public to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. Portions of these meetings will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications and proposals and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concering individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarrented invasion of personal privacy.

Mrs. Nancy Brun, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the committee members.

Substantative program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Executive Secretary: Dr. Nirmal Das, Room 706, Westwood Building, Telephone: (301) 496-7966.

Date of Meeting: October 21, 1983.

Place of Meeting: Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

Open: October 21, 1983, 1:30 p.m.—adjournment.

Closed: October 21, 1983, 9:00 a.m.- 12:00 p.m.

Name of Committee: Microbiology and Infectious Diseases Research Committee.

Executive Secretary: Dr. Susan B. Spring, Room 706, Westwood Building, Telephone: (301) 496-7465.

Date of Meeting: October 13, 1983.

Place of Meeting: Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

Open: October 13, 1983, 1:30 p.m.—5:00 p.m.

Closed: October 13, 1983, 8:30 a.m.—1:30 p.m.

(Catalog of Federal Domestic Assistant Programs Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institute of Health)

Dated: September 16, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-26517 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the first-level review committees of the National Institute of Child Health and Human Development for November 1983.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, Associate Director for Scientific Review, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as paterntable material,

and personal information concerning individuals association with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Md. Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Maternal and Child Health Research Committee.

Executive Secretary: Dr. Jane Showacre, Room 6C03, Landow Building Telephone: 301, 496-1696.

Date of Meeting: November 15-16, 1983.

Place of Meeting: Landow Building, Conference Room A.

Open: November 15, 1983, 9:00 a.m.-10:15 a.m.

Closed: November 15, 1983, 10:30 a.m.-5:00 p.m. November 16, 1983, 9:00 a.m.-adjournment.

Name of Committee: Mental Retardation Research Committee.

Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building Telephone: 301, 496-1696.

Date of Meeting: November 17-18, 1983.

Place of Meeting: Landow Building, Conference Room A.

Open: November 17, 1983, 9:00 a.m.-10:00 a.m.

Closed:

November 17, 1983, 10:00 a.m.-5:00 p.m.

November 18, 1983, 9:00 a.m.-adjournment.

Name of Committee: Population Research Committee.

Executive Secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building Telephone: 301, 496-1696.

Date of Meeting: November 9-10, 1983.

Place of Meeting: Landow Buiding, Conference Room A.

Open: November 9, 1983, 9:00 a.m.-10:30 a.m.

Closed:

November 9, 1983, 10:30 a.m.-5:00 p.m.

November 10, 1983, 9:00 a.m.-adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: September 16, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Foc. 83-26524 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for November 1983.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in Section 552b(c)(4) and 552(b)(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number,and telephone number are listed below each committee.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee.

Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301-496-7125.

Date of Meeting: November 4, 1983.

Place of Meeting: Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

Open: November 4, 1983, 8:30 a.m.—10:30 a.m.

Closed: November 4, 1983, 10:30 a.m.—adjournment.

Name of Committee: Genetic Basis of Disease Review Committee.

Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301-496-7125.

Date of Meeting: November 4, 1983.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

Open: November 14, 1983, 8:30 a.m.—10:30 a.m.

Closed: November 14, 1983, 10:30 a.m.—adjournment.

Name of Committee: Minority Access to Research Careers Review Committee.

Executive Secretary: Dr. Harriet Gordon, Room 949 Westwood Building, Telephone: 301-496-7585.

Date of Meeting: November 7—8, 1983.

Place of Meeting: Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

Open: November 7, 1983, 9:00 a.m.—10:30 a.m.

Closed:

November 7, 1983, 10:30 a.m.— 5:00 p.m.

November 8, 1983, 9:00 a.m.—adjournment.

Name of Committee: Pharmacological Sciences Review Committee.

Executive Secretary: Dr. Anthony Demsey, Room 904 Westwood Building, Telephone: 301-496-4772.

Date of Meeting: November 3—4, 1983.

Place of Meeting: Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

Open: November 3, 1983, 8:30 a.m.—10:30 a.m.

Closed:

November 3, 1983, 10:30 a.m.—5:00 p.m.

November 4, 1983, 9:00 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 13-863, 13-862, 13-880, 13-859, National Institute of General Medical Sciences, National Institutes of Health)

Dated: September 19, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-26523 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, November 6, 1983. The meeting will be held at the Hyatt Regency Hotel, 151 East Wacker Drive, Chicago, Illinois, in conjunction with the Annual Conference of the National Sickle Cell Disease Program. The entire meeting will be open to the public from 1:00 p.m. to 6:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (301) 496-4236, will provide summaries of the meeting and roster of the Committee members.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 20, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-26518 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research, Programs Advisory Committee; Meeting

Pursuant to Pub. L. 92–463 notice is hereby given of the meeting of the National Institute of Dental Research Programs Advisory Committee on November 3, 1983, from 9:00 a.m. to adjournment in Conference Room 4, Building 31A, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. John F. Goggins, Associate Director for Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20205 (telephone 301 496–7723) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Programs No. 13.840-Caries Research, 13.841-Periodontal Diseases Research, 31.842-Craniofacial Anomalies Research, 13.843-Restorative Materials Research, 13.844-Pain Control and Behavioral Studies, 13.878-Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: September 21, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-26520 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research, Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, November 29–30, 1983, in Conference Room 7, Building 31–C, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 9:30 a.m. November 29 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. November 29 to adjournment November 30 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. H. George Hausch, Executive Secretary, HIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205, (telephone 301 496–7658) will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.942—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Dated: September 19, 1983.

Betty J. Beveridge,

NIH Committee Management Officer

[FR Doc. 83-26521 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke, Epilepsy Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, October 31, November 1 and 2, 1983, in Room B119, Federal Building, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public from 9:00 a.m. to 12:00 Noon on October 31, and from 9:00 a.m. to 5:00 p.m. on November 1 and 2, 1983, to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1:00 p.m. to adjournment on October 31, for review of preclinical and clinical ADD compounds. This review and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger J. Porter, Chief, Epilepsy Branch, Convulsive, Developmental, and Neuromuscular Disorders Program, NINCDS (Federal Building, Room 114), National Institutes of Health, Bethesda, MD 20205; telephone 301/496–6691, will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: September 16, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 93-26519 Filed 9-28-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92463), notice is hereby given of the meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants scheduled to be held at the Brooks Air Force Base School of Aerospace Medicine in San Antonio, Texas, Bldg. 150, AMD Conference Room, on October 24 and 25, 1983.

The purpose of the meeting is to review the results of the morbidity phase of the Epidemiology Study of Air Force Ranch Hand Personnel.

The meeting will be open to the public from 1:00 to 4:00 p.m. on October 24, and 8:30 to 12:00 Noon on October 25.

Persons who are planning to attend the meeting are asked to contact Sharon McClung, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, phone number (919) 541–3267 or FTS 629–3267, to determine availability of seating.

The Executive Secretary, Peggy McKinney, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–4182 or FTS 629–4182, may be contacted for general information.

Dated: September 8, 1983.

John A. Moore,

Chairman.

[FR Doc. 83-26643 Filed 9-28-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[516 DM 2-4]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of Proposed Revised Instructions.

SUMMARY: This notice announces proposed revised instructions for implementing the National Environmental Policy Act (NEPA) within the Department of the Interior. These procedures were previously published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: Comments are requested by October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-3891.

SUPPLEMENTARY INFORMATION: This proposed revision would make changes in five sections of the Departmental Manual:

1. It would amend 516DM2.3A(3) which establishes exceptions to the categorical exclusions listed in Chapters 2 (Department-wide) and 6 (Bureaus). The effect of the amendment would reduce the scope of some of the exceptions and lead to fewer unnecessary environmental assessments (EA). It would not reduce the number of environmental impact statements (EIS). We would appreciate the views of the public on this proposed revision and would welcome any suggested improvements in the language as well as any examples of advantages or disadvantages of the proposed changes.

2. It would revise section 1.7 and add sections 1.9, 1.10, and 1.11 in Appendix 1 of 516DM2 which lists Department-wide categorical exclusions. These changes reflect our experience over the past several years and are meant to clarify and identify categories of actions which apply to all elements of the Department.

3. It would add a new section 3.6 to 516DM3 to provide for the adoption of EA's prepared by others. We believe this is a necessary addition and that it is consistent with the recent guidance promulgated by the Council on Environmental Quality (48 FR 34263). We welcome any suggestions for improvements.

4. It would delete Appendix 1 to 516DM4. This appendix provides no substantive guidance in preparing EIS's and requires too much paperwork to keep current in the Departmental Manual. We propose to update and reissue it as a supplemental directive of the Office of Environmental Project Review.

5. It would update Appendix 2 to 516DM4 and redesignate it as Appendix 1. The revision would merely update the present appendix to reflect the current edition of the Catalog of Federal Domestic Assistance.

Dated: September 23, 1983.

William D. Bettenberg,

Deputy Assistant Secretary, Policy, Budget & Administration.

Departmental Manual

Part 516 National Environmental Policy Act of 1969

Amend 2.3A(3) as follows:

(3) The following exceptions apply to individual actions within categorical exclusions. Environmental documents must be prepared for actions which may:

(a) Have significant adverse effects on public health or safety.

(b) Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation, or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.

(c) Have highly controversial environmental effects.

(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

(e) Establish a precedent for future action or represent a decision in principle about future actions with potential significant environmental effects.

(f) Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.

(g) Have adverse effects on properties listed or eligible for listing in the National Register of Historic Places.

(h) Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species.

(i) Threaten to violate a Federal, State, local, or tribal law or requirements imposed for the protection of the environment or which require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.

Amend Appendix 1 to Chapter 2 as follows:

1.7 Routine and continuing government business, including such things as supervision, administration, operations, maintenance, and replacement activities having limited context and intensity; e.g., limited size and magnitude or short-term effects.

1.9 Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations and minor boundary changes and land transactions; or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.

1.1 Policies, directives, regulations, and guilelines of an administrative, financial, legal, technical, or procedural nature; or the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.

1.11 Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

Add 3.6 as follows:

3.6 *Adoption.*

A. An EA prepared for a proposal before the Department by another agency, entity, or person, including an applicant, may be adopted if, upon independent evaluation, it is found to comply with this Chapter and relevant provisions of the CEQ Regulations.

B. When appropriate and efficient, a responsible official may augment such an EA when it is essentially but not entirely in compliance in order to make it so.

C. If such an EA or augmented EA is adopted, the responsible official must prepare his/her own FONSI or NOI which also acknowledges the origin of the EA and takes full responsibility for its scope and content.

Delete Appendix 1 to Chapter 4. Appendix is merely a list of statutes and other executive directives which contain other environmental review and consultation requirements. As such, it contains no substantive guidance and requires periodic updating. The Department purposes to remove it from 516 DM4 and, after updating, promulgate it as a supplementary directive of the Office of Environmental Project Review.

Redesignate Appendix 2 to Chapter 4 as Appendix 1 and amend as follows:

Programs of Grants to States in Which State Agencies Having Statewide Jurisdiction May Prepare EISs

1.1 Fish and Wildlife Service:

A. Anadromous Fish Conservation (#15.600)

B. Fish Restoration (#15.605)

C. Wildlife Restoration (#15.611)

D. Endangered Species Conservation (#15.612)

E. Marine Mammal Grant Program (#15.613)

1.2 Bureau of Land Management:

A. Wildlife Habitat Management Technical Assistance (#15.219)

1.3 National Park Service:

A. Historic Preservation Grants-in-Aid (#15.904)

B. Outdoor Recreation—Acquisition, Development and Planning (#15.916)

1.4 Bureau of Reclamation:

A. National Water Research and Development Program (#15.505).

1.5 Office of Surface Mining:

A. Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (#15.250)

B. Abandoned Mine Land Reclamation (AMLR) Program (#15.252)

1.6 Office of Territorial and International Affairs:

A. Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands (#15.875)

Note.—Citations in parentheses refer to the Catalog of Federal Domestic Assistance, Office of Management and Budget, 1983.

[FR Doc. 83-26850 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Privacy Act of 1974; Revision of Systems of Records Notices

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise three existing systems of records notices. The following notices, describing records maintained by the Bureau of Reclamation, are published in their entirety below:

1. Accounts Receivable—Interior, Reclamation—2 (Previously published at 42 FR 19094 on 4/11/77).

2. Payroll, Attendance, and Leave Records (PAY/PERS)—Interior, Reclamation—24 (Previously published at 47 FR 7336 on 2/18/82).

3. Travel Vouchers—Interior, Reclamation—36 (Previously published at 42 FR 19106 on 4/11/77).

All three notices are being revised to update organization titles, system manager designations, and other characteristics to reflect organization and other administrative changes made since the previous publication of the material in the **Federal Register.** Additionally, all three notices are being revised to add a compatible disclosure to consumer reporting agencies as authorized by 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (Public Law 97-365).

The system notice for "Accounts Receivable" records (LBR-2) is being revised to add a compatible routine disclosure to non-Federal auditors pursuant to written agreements permitting them to conduct financial audits of Bureau activities. LBR-24, "Payroll, Attendance, and Leave Records", is revised to reflect the establishment of a Departmentwide integrated payroll system (PAY/PERS). The notice also clarifies the routine disclosure of pertinent payroll information to the Social Security Administration, insurance carriers, charitable institutions, and Federal and State agencies. A compatible routine disclosure to other Federal agencies is also added to LBR-24 for the purpose of collecting debts owed the Federal government through administrative or salary offset.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the **Federal Register** will be considered. The system notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: September 23, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/LBR-2

SYSTEM NAME:

Accounts Receivable—Interior, Reclamation-2.

SYSTEM LOCATION:

Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals owing monies to the Bureau. Records in this system pertaining to individuals contain principally proprietary information concerning sole proprietorships, but may also reflect personal information. System also maintains records concerning corporations and other business entities, which may contain personal information. Only those records reflecting personal information are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of account, bills for collection, and records related to amounts owed to the Bureau.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 952; 7 GAO 22, Policy and Procedures Manual for Guidance of Federal Agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to document Bureau accounts receivable. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to non-Federal auditors under contract with the Departments of Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits. In addition, pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

The records are maintained for 6 years and 3 months after close of the fiscal year, unless involved in litigation. Disposal is in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officers. Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

NOTIFICATION PROCEDURE:

Written inquiries regarding the existence of a record(s) should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURE:

Written petitions for amendment should be addressed to the System Manager at the appropriate office listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals having contracts or agreements with the Bureau to repay monies owed the Bureau.

INTERIOR/LBR-24

SYSTEM NAME:

Payroll, Attendance, and Leave Records (PAY/PERS)—Interior, Reclamation-24.

SYSTEM LOCATION:

Division of Management Support, Bureau of Reclamation, Engineering and Research Center, Denver Federal Center, Building 67, P.O. Box 25007, Denver, Colorado 80225. Records contained in this system are part of the Departmental integrated system (PAY/PERS) maintained in a computer operated by the Bureau of Reclamation which is located in Denver, Colorado.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Reclamation employees who have been paid or have had any leave activity during the current calendar year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement, and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the Government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq.; 31 U.S.C. 3512.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USERS:

The primary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosures outside the Department of the Interior may be made: (1) to the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local government agencies, non-governmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes; (3) to the Office of Personnel Management in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred; (5) to the Department of Justice when related to litigation or anticipated litigation; (6) to disclose pertinent information to an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) to a congressional office from the records of an individual in response to an inquiry from that congressional office made at the request of the individual; (8) to a Federal agency which has requested information or to Federal, State, or local agencies where necessary to obtain information relevant or necessary to the hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (10) to the Social Security Administration to report FICA deductions; (11) to labor unions to report union dues deductions; (12) to insurance carriers to report withholdings for health insurance; (13) to charitable institutions to report contributions; (14) to a Federal agency for the purpose of collecting a debt owed the Federal Government through administrative or salary offset; and (15) to non-Federal auditors under contract with the Department of the Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits. In addition, pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3710(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer media, with input and output in manual form.

RETRIEVABILITY:

Indexed by name and identifying number of the employee.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

Retained on site for 3 years after close of related fiscal year and until after GAO audit. Disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officer, Division of Management Support, Bureau of Reclamation, Denver Federal Center, Building 67, P.O. Box 25007, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, Internal Revenue Service.

INTERIOR/LBR-36

SYSTEM NAME:

Travel Vouchers—Interior, Reclamation-36.

SYSTEM LOCATION:

Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower

Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Reclamation employees who have traveled on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment data for official travel performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is for payment of travel and transportation expenses. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual. In addition, pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Records are maintained for 6 years and 3 months after the close of the fiscal year, unless involved in litigation. Disposal is in accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officers, Headquarters Offices, Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

NOTIFICATION PROCEDURE:

Written inquiries regarding the existence of a record(s) should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Written petitions for amendment should be addressed to the appropriate office listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained.

[FR Doc. 83-26693 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Land Management

[AA-16178]

Alaska Native Claims Selection; AHTNA, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to AHTNA, Incorporated for approximately 7,290 acres. The lands involved are within Tps. 3 and 4 S., R. 9 E., Copper River Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Copper Valley Views upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Alaska Department of Natural Resources, Division of Land and Water Management, Retained Lands Unit—Easements, Pouch 7-005, Anchorage, Alaska 99510.

AHTNA, Incorporated, Drawer G, Copper Center, Alaska 99573.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26583 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14846-A, F-14846-B]

Alaska Native Claims Selection; Chalkyitsik Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), will

be issued to Chalkyitsik Native Corporation for approximately 54,519 acres. The lands involved are within the Fairbanks Meridian, Alaska:

T. 21 N., R. 16 E.
T. 21 N., R. 18 E.
T. 21 N., R. 19 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner upon issuance of the decision. For information on obtaining copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from the office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Chalkyitsik Native Corporation, Chalkyitsik, Alaska 99788
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26558 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-6]

Alaska Native Claims Selection; Doyon Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Doyon Limited for approximately 289,730 acres. The lands involved are within the Fairbanks Meridian, Alaska:

T. 22 N., R. 16 E.
T. 19 N., R. 17 E.
T. 21 N., R. 17 E.
T. 23 N., R. 17 E.
T. 20 N., R. 18 E.
T. 22 N., R. 18 E.
T. 19 N., R. 19 E.
T. 23 N., R. 19 E.
T. 20 N., R. 20 E.
T. 22 N., R. 20 E.
T. 19 N., R. 21 E.
T. 21 N., R. 21 E.
T. 23 N., R. 21 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26559 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14854-A]

Alaska Native Claims Selection; Iqfijouaq Co.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Iqfijouaq Company for approximately 104,53 acres. The lands involved are within the Seward Meridian, Alaska.

T. 1 S., R. 75 W.

T. 1 N., R. 72 W.
T. 2 N., R. 72 W.
T. 3 N., R. 72 W.
T. 4 N., R. 72 W.
T. 1 N., R. 73 W.
T. 2 N., R. 73 W.
T. 3 N., R. 73 W.
T. 1 N., R. 74 W.
T. 2 N., R. 74 W.
T. 3 N., R. 74 W.
T. 4 N., R. 74 W.
T. 1 N., R. 75 W.
T. 2 N., R. 75 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA DRUMS upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision of file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Divison of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Iqfijouaq Company, Eek, Alaska 99578.
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26581 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14862-A]

Alaska Native Claims Selection; Kuitsarak Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Kuitsarak Inc., for approximately 103,883 acres. The lands involved are within the Seward Meridian, Alaska:

T. 10 S., R. 72 W.
T. 11 S., R. 72 W.
T. 12 S., R. 72 W.
T. 10 S., R. 73 W.
T. 11 S., R. 73 W.
T. 12 S., R. 73 W.
T. 10 S., R. 74 W.
T. 11 S., R. 74 W.
T. 12 S., R. 74 W.
T. 10 S., R. 75 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in The Tundra Drums upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kuitsarak, Inc., Goodnews Bay, Alaska 99620
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26586 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-19154-6 through F-19154-8]

Alaska Native Claims Selection; NANA Regional Corporation, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., for approximately 60,663 acres. The lands involved are

within the Kateel River Meridian, Alaska:

T. 18 N., R. 6 E.
T. 17 N., R. 7 E.
T. 18 N., R. 8 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknow parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26584 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14877-A through F-14877-D]

Alaska Native Claims Selection; NANA Regional Corporation, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., for approximately 61,944 acres. The lands involved are within the Kateel River Meridian, Alaska:

T. 17 N., R. 9 E.,
T. 18 N., R. 9 E.,
T. 20 N., R. 9 E.,
T. 19 N., R. 10 E.,
T. 20 N., R. 11 E.,

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska—Title Administration,
Division of Technical Services,
Department of Natural Resources,
Pouch 10-7035,
Anchorage, Alaska 99510
NANA Regional Corporation, Inc.,
Successor in Interest to Koovukmeut Incorporated,
P.O. Box 49,
Kotzebue, Alaska 99752

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26588 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14935-A through F-14935-I]

Alaska Native Claims Selection; NANA Regional Corporation, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., for approximately 86,817 acres. The lands involved are within the Kateel River Meridian, Alaska:

T. 17 N., R. 6 E.,
T. 19 N., R. 6 E.,
T. 16 N., R. 7 E.,
T. 18 N., R. 7 E.,

T. 16 N., R. 8 E.,
T. 17 N., R. 8 E.,
T. 19 N., R. 8 E.,
T. 17 N., R. 10 E.,
T. 18 N., R. 10 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not sent the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska—Title Administration,
Department of Natural Resources,
Division of Technical Services,
Pouch 10–7035,
Anchorage, Alaska 99510
NANA Regional Corporation, Inc.,
Successor in Interest to Isingmakmeut Incorporated,
P.O. Box 49,
Kotzebue, Alaska 99752

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26585 Filed 9-28-83; 8:45 am]
BILLING CODE 4310-84-M

[F-19154-3 and F-19154-4]

Alaska Native Claims Selection; NANA Regional Corporation, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., for approximately 41,804 acres. The lands involved are within the Kateel river Meridan, Alaska:

T. 19 N., R. 9 E.
T. 20 N., R. 10 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the TUNDRA TIMES upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska—Title Administration, Division of Technical Services, Department of Natural Resources, Pouch 10–7035, Anchorage, Alaska 99510.

NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26587 Filed 9-28-83; 8:45 am]
BILLING CODE 4310-84-M

[F-14836-A]

Alaska Native Claims Selection; Ukpeagvik Inupiat Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Ukpeagvik Inupiat Corporation for approximately 2.78 acres. The lands involved are within T. 22 N., R. 18 W., Umiat Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS

DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with copy of the notice of appeal are:

National Weather Service, Alaska Regional Headquarters, 701 C Street, Box 23, Anchorage, Alaska 99513.
Ukpeagvik Inupiat Corporation, P.O. Box 427, Barrow, Alaska 99723.
Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723.

Kamilah L. Rasheed,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26560 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-6711-A]

Alaska Native Claims Selection; Uyak Natives, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Uyak Natives, Inc., for approximately 383 acres. The lands involved are within;

U.S. Survey No. 4658, Alaska, embracing Lots 1 and 2, situated on the westerly shore of Uyak Bay at Uyak Village, Kodiak Island, Alaska, outside PLO 1634, and excluding Native allotment AA-7459.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Division of Conveyance Management (960), Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing and appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 31, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Uyak Natives, Inc., Box 1321, Kodiak, Alaska 99615.
Koniag, Inc., Regional Native Corporation, P.O. Box 746, Kodiak, Alaska 99615.
State of Alaska, Title Administration, Division of Technical Services, Alaska Department of Natural Resources, Pouch 10-7035, Anchorage, Alaska 99510.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-26562 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[M 57645]

Montana; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance of public land in Garfield County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to Mike Pierson.

Principal Meridian, Montana

T. 20 N., R. 32 E.,
Sec. 7, SW¼SE¼;
Sec. 10, NW¼SE¼;
Sec. 22, E½E½, SW¼SE¼;
Sec. 23, N½NW¼.

The areas described aggregate 360 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to Mr. Pierson.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-26598 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

Filing of Plat of Survey; New Mexico

September 21, 1983.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on September 20, 1983.

New Mexico Principal Meridian

T. 26 S., R. 22 E.

A retracement of a portion of the New Mexico-Texas State line, the dependent Resurvey of the Fifth Standard Parallel South, through Range 22 East, the West boundary, a portion of the East boundary, a portion of the subdivisional lines, and the subdivision of secs. 12, 13, 14, 20, 27, 28 and 29 of Township 26 South, Range 22 East, New Mexico Principal Meridian, under Group 739, NM, and was accepted September 1, 1983.

Indian Meridian

T. 10 N., R. 20 E.

A dependent resurvey of a portion of the 5th Guide Meridian East, and a portion of the subdivisional lines and the subdivision of sections 13, 23, 24 and 26, Township 10 North, Range 20 East, Indian Meridian, Oklahoma, under Group 34, OK and was accepted September 1, 1983.

This survey was executed to meet certain administrative needs of this Bureau.

Bill J. Warner,

Acting Deputy State Director, Operations.

[FR Doc. 83-26600 Filed 9-28-83; 8:45 am]

BILLING Code 4310-84-M

Idaho; Pocatello Management Framework Plan

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of intent.

SUMMARY: The Burley District of the Bureau of Land Management (BLM) intends to amend the Pocatello Management Framework Plan (MFP) in regard to the public lands known as the Buckskin Tract, which are described below:

Boise Meridian, Idaho

T. 6 S., R. 35 E.
Sec. 29, SW¼NW¼, NW¼SW¼;
Sec. 30, S½SW¼NE¼, SE¼NE¼.
Containing 140 acres.

The amendment would change the land use planning decision, which currently provides for sale of the described lands, to require retention in public ownership under BLM administration unless the lands are found suitable for lease or sale under the Recreation and Public Purposes Act.

DATE: This notice of intent provides for a comment period, which will end thirty days from the date of this notice.

ADDRESS: Because the BLM jurisdiction for the Buckskin Tract is being transferred to the Pocatello Resource Area of the Idaho Falls District, comments regarding this proposed amendment should be sent to: Wallace Evans, BLM Area Manager, Pocatello Resource Area, Federal Building, Room 172, 250 South 4th Avenue, Pocatello, Idaho 83201.

SUPPLEMENTARY INFORMATION: The Buckskin Tract has been the subject of considerable controversy and public interest. It was scheduled for sale in July, 1983. However, action on the sale was postponed for sixty days to receive additional public comment. A public meeting was held on September 15, 1983, at which time numerous comments were presented favoring retention of the tract. As a result the proposed sale has been cancelled, and a land use plan amendment is being initiated. No additional public meetings are scheduled at this time, but all written and oral comments are welcome during the next thirty days. The land use planning documents are available for review at the above address.

FOR FURTHER INFORMATION CONTACT: Wallace Evans at the above address or telephone (208) 236-6860.

Dated: September 22, 1983.

Nick James Cozakos,

Burley District Manager.

[FR Doc. 83-26599 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, November 3, 1983. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

The agenda is as follows: (1) Review of Proposed Allotment Management Plans, (2) Rangeland Planning Proposals, (3) Rangeland Betterment Projects, and (4) General Board Business.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801-586-2401, by October 28, 1983. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 22, 1983.

J. Kent Giles,

Acting District Manager.

[FR Doc. 83-26597 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Phoenix District, Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on November 8, 1983.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Review of the Allotment Management Plan Program.
2. Cooperative Management Agreements.
3. Status of Range Improvements FY 83 and FY 84.
4. Report on the use of Advisory Board funds.
5. Report on the Lands program—sales and exchanges.
6. Use adjustments—Hualapai/Aquarius and Cerbat/Black Mountain Planning Units.
7. Arrangements for future meeting.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 22, 1983.

Deane H. Zeller,

Associate District Manager.

[FR Doc. 83-26596 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Phoenix/Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on Thursday, November 10, 1983.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management, 2929 West Clarendon, Phoenix, Arizona 85017.

The agenda for the meeting will include:

1. Review of the Allotment Management Plan Program.
2. Cooperative Management Agreements.
3. Status of Range Improvements Fiscal Year 1983 and Fiscal Year 1984.
4. Range program Summary—update report for Lower Gila North.
5. Status Report on the Lower Gila South Resource Management Plan.
6. Arrangements for future meeting.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 22, 1983.

Deane H. Zeller,

Associate District Manager.

[FR Doc. 83-26595 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

California Desert District, Darwin Falls/Canyon; Area of Critical Environmental Concern (ACEC) Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Darwin Falls/Canyon ACEC management plan.

SUMMARY: The ACEC was designated to provide for intensive, protective management of wildlife habitat and scenic qualities. This will be accomplished by strict control or elimination of land uses which are incompatible with management objectives. The pristine conditions, precipitous canyon walls, dense riparian vegetation and a permanent stream with waterfalls are key resource components. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8343, 8351, 8363.2 and 8364, 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and Archaeological Resources Protection Act of 1979. The ACEC contains approximately 6,000 acres of BLM-managed public lands in Inyo County. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The results of the ACEC Management Plan included extensive public involvement.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Send inquiries to Area Manager, Ridgecrest Resource Area, 1415A N. Norma, Ridgecrest, California 93555. The ACEC Management Plan and public comments received will be available at the above address from 7:30 a.m. to 4:00 p.m. on regular working days. For further information contact Jeffrey Aardahl at the above address or (619) 446-4526.

SUPPLEMENTARY INFORMATION: The purpose of the regulations in this management plan is to minimize conflicts between visitor use and sensitive wildlife habitat and scenic qualities.

Off-road vehicle use is currently prohibited in part of the Darwin Falls ACEC. To prevent degradation of the entire ACEC, this closure will continue, and vehicle use will be restricted to designated roads within the remainder of the area. Existing rock barriers will be replaced with a heavy, continuous cable supported by 6" diameter steel pipe across each closed area boundary. Camping will be restricted to areas 200 yards from water in the Darwin Falls area.

Feral burros will be eliminated from the Darwin Falls area by fencing. Tamarisk trees will be physically removed and the roots killed with spot application of herbicide (Tordon RTU). Paiute-Shoshone Indians in Lone Pine will be notified. Also, twenty blade willows will be planted in the 250 feet of wash just below the falls.

Artificial nest boxes will be placed in riparian zones to enhance habitat for cavity nesting birds.

Shooting will be prohibited within the vehicle closure area. However, hunting, managed by the California Department of Fish and Game, will be allowed to continue.

The water supply will be protected by limiting water uses. Public water reserves will be withdrawn from public land laws and general mining law. Water rights status will be investigated and, if appropriate, right to additional water will be secured for enhancing the ACEC. Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state and county employees is allowed only when on official duty and when cleared beforehand by the authorized officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plan.

A map showing the restricted areas is available for review at the Ridgecrest Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with these regulations as governed by 43 CFR 8340, 8351, 8363, and 8364 is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months or both.

Dated: September 15, 1983.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 83-26602 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

California; Jawbone-Butterbredt Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of Jawbone-Butterbredt ACEC management plan.

SUMMARY: The management plan is being implemented to protect significant and sensitive wildlife and cultural values from inadvertent damage caused by visitor use. The authorities for the management plan are 43 CFR 8000.0-6, 8340, 8341, 8342, 8343, 8351, 8364, and 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, the Antiquities Act and Archaeological. Resources Protection Act of 1979. The ACEC

contains approximately 153,000 acres of BLM managed public lands in Kern County. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan. The results of the ACEC Management Plan included public involvement.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Send inquiries to Area Manager, Ridgecrest Resource Area, 1415A N. Norma, Ridgecrest, California 93555. The ACEC Management Plan and public comments received will be available at the above address from 7:30 a.m. to 4:00 p.m. on regular working days. For further information contact Jeffrey Aardahl at the above address or (619) 446-4526.

SUPPLEMENTARY INFORMATION: The purpose of the regulations in this management plan is to minimize conflicts between visitor use and sensitive wildlife and cultural values.

To protect these resources, vehicle use within the ACEC will be limited to designated roads and trails, except within the Jawbone Canyon and Dove Springs Open Areas. Designated roads will be marked with off-road vehicle signs. Designated trails with a total width of 40 inches or less will be marked with trail bike route signs.

Camping within Horse, Sage, and Cow Haven Canyons will be limited to designated areas and signed accordingly. The seasonal closure affecting all use at Robber's Roost will remain in effect from February 1 to July 1 annually to provide solitude for nesting raptors at Robber's Roost. The Robber's Roost area will marked accordingly.

Administrative access into closed areas by BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state and county employees is allowed when on official duty and when cleared beforehand by the authorized officer. The public lands within the ACEC will remain open to all other resource uses not in conflict with the objectives of the ACEC Management Plan.

A map showing the restricted areas is available for review at the Ridgecrest Resource Area Office. Copies of the map are available upon request.

Any person who violates or fails to comply with the regulations and restrictions implemented by this Plan may be prosecuted and subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: September 15, 1983.

Gerald E. Hillier,

District Manager, California Desert District.

[FR Doc. 83-25501 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[I-18220]

Idaho; Order Providing for Opening of Public Land

September 22, 1983.

1. The U.S. Forest Service, Department of Agriculture, on October 30, 1981, filed application, Serial No. I-18220, for withdrawal of the following-described lands for location under the mining laws, subject to valid existing rights:

Boise Meridian

Salmon National Forest

T. 23 N., R. 20 E.,
Sec. 12, 13, 14.

Beginning at USLM No. 4, Eureka Mining District, said Monument No. 4, being more particulary located in the unsurveyed NW¼SE¼ Section 24.

From point of beginning, North 4°32÷52" East, 5061.93 feet to Corner No. 1, the true point of beginning, said Corner being identical with Corner No. 1 of Lemhi Gold Placer, as shown on Moose Creek Hydraulic Placer Mineral Survey Plat No. 3057.

Thence North 0°01' West, 4107.7 feet along the west line of Lemhi Gold Placer to a point at the intersection of line 1-2 of Rocky Mountain Placer, MS No. 1867, which point lies North 58°56' West, 58.1 feet from Corner No. 1 of MS No. 1867 and said point being Corner No. 2 of herein-described lands;

Thence North 58°56' West, along line 1-2 of MS No. 1867 for a distance of 817.35 feet to Corner No. 3;

Thence South 0°01' East, 4529.24 feet to Corner No. 4;

Thence South 8°33' East, 1877.1 feet to Corner No. 5;

Thence South 89°49' East, 883 feet to Corner No. 6, said Corner No. 6 being identical with Corner No. 4 of Moose Creek Hydraulic Placer MS 3057;

Thence North 8°33' West, 1877.1 feet along the west line of said Moose Creek Hydraulic Placer to Corner No. 7, said Corner No. 7 being identical with Corner No. 5 of MS No. 3057;

Thence North 89°49' West, 183 feet to Corner No. 1, the True Point of Beginning.

The area described aggregates 107.02 acres in Lemhi County.

2. The lands were segregated from entry and located under the general mining laws for a period of two years from November 16, 1981, when published in the **Federal Register.** The U.S. Forest Service failed to complete their application within this two year period pursuant to 43 CFR 2310.2-1(d). Accordingly, the segregation will expire November 6, 1983.

3. The land described in paragraph 1 will be open to such forms of disposition as may by law be made of national forest lands at 9:00 a.m. on November 16, 1983.

4. Inquiries concerning the lands should be addressed to the Regional Forester, U.S. Forest Service, 324 25th Street, Ogden, Utah 84401.

Vincent S. Strobel,

Chief, Branch of Land Operations.

[FR Doc. 83-26594 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81326A]

Realty Action; Proposed Noncompetitive Sale of Public Lands In Laramie County, Wyoming

September 23, 1983.

The following described lands have been found suitable for disposal and are proposed for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

	Legal description	Acreage
Parcel:		
1	T. 18 N., R. 66 W., 6th P.M., Wyo.; Sec. 18: Lot 3.	41.40
2	T. 17 N., R. 67 W., 6th P.M., Wyo.; Sec. 30: Lot 4.	39.57

The lands are being sold noncompetitively to True Ranches, Inc. The purpose of this sale is to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. All adjoining lands are owned by True Ranches, Inc. These parcels are small isolated tracts which are difficult to manage as part of the public lands. They are unsuitable for management by another federal agency. There are no significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making these lands available for public sale.

Patent for the land, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous locatable minerals,

leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel. However, upon filing of an application under 43 CFR 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

4. The sale would be subject to oil and gas leases W-49759 and W-57652.

Detailed information concerning the proposed sale, including the planning documents, and the land report/environmental assessment, is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301. The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Michael J. Karbs,

Acting District Manager.

[FR Doc. 83-26591 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81327]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Albany and Laramie Counties, Wyoming

September 23, 1983.

The following described lands have been found suitable for disposal and are proposed for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

	Legal description	Acreage
Parcel:		
1	T. 18 N. R. 70 W., 6th P.M., Wyo.; Sec. 8: SE¼NE¼.	40.00
2	T. 18 N., R. 70 W., 6th P.M., Wyo.; Sec. 30: Lots 2, 3, and 4.	123.21

The lands are being sold noncompetitively to Farthing Ranch Co. The purpose of this sale is to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. These parcels are small isolated tracts which are difficult to manage as part of the public lands. They are unsuitable for management by another federal agency. There are no significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making this land available for public sale.

Patent for the land, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliforous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel. However, upon filing of an application under 43 CFR 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

4. The sale of parcel 1 would be subject to oil and gas lease W-75563.

Detailed information concerning the proposed sale, including the planning documents, and the land report/environmental assessment, is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301. The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Michael J. Karbs,

Acting District Manager.

[FR Doc. 83-26592 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-05278]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands; Correction

September 22, 1983.

In FR Doc. 83-21166; filed July 29, 1983, appearing on page 35519 of the issue for August 4, 1983, the following correction should be made:

T. 9 N., R. 7 E.,
Sec. 34, lot 3, SE¼NE¼, NW¼NW¼, SE¼NW¼, NW¼SE¼, E½SE¼, excepting N½NE¼NW¼NW¼, SE¼NE¼NW¼NW¼.

should read:

T. 9 N., R. 7 E.,
Sec. 27, lot 3;
Sec. 34, SE¼NE¼, NW¼NW¼, SE¼NW¼, NW¼SE¼, E½SE¼, excepting N½NE¼NW¼NW¼, SE¼NE¼NW¼NW¼.
T. 9 N., R. 8 E.,
Sec. 33, lots 1, 2, 3, 4, S½SW¼.

should read:

T. 9 N., R. 8 E.,
Sec. 33, lots 1, 2, 3, 4, S½NW¼.

Vincent S. Strobel,

Chief, Branch of Land Operations.

[FR Doc. 83-26593 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[ORE 04957, ORE 011617, ORE 013120]

Oregon; Proposed Continuation of Withdrawals

The Federal Aviation Administration proposes that the existing land withdrawals made by the Secretarial Order of August 4, 1948, and by Public Land Orders No. 2970 of March 18, 1963, and No. 3451 of September 23, 1964, be continued in their entirety for a term of 40 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751: 43 U.S.C. 1714.

The land involved is located adjacent to U.S. Highway 95 approximately 45 miles north of McDermitt, Nevada, and totals 127.50 acres within Section 13 of T. 34 S., R. 39 E., Willamette Meridian, Malheur County, Oregon.

The purpose of the withdrawal is to protect the exising Rome Air Navigation VORTAC Facility. The withdrawals segregate the land from operation of the pubilc land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in

writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawals continuations. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the Preident, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208:

Dated: September 23, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-26603 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 19227]

Oregon; Proposed Continuation of Withdrawal

The Department of the Navy proposes that the existing land withdrawal made by the Executive Order of July 14, 1884, be continued in part for a term of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The land involved is located at the South entrance to Coos Bay approximately six miles west of the City of Coos Bay, Oregon, and totals 41.41 acres within Sections 2 and 3 of T. 26 S., R. 14 W., Willamette Meridian, Coos County, Oregon.

The purpose of the withdrawal is to protect the existing Coos Head Naval Facility. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 22, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-26604 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52397]

Public Lands in Uintah County, Utah; Realty Action, State Exchange

The following described lands have been determined to be suitable for a fee simple exchange with the State of Utah under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The federal lands that have been identified to be suitable for disposal by exchange are:

Salt Lake Meridian, Utah

T13S, R22E,
Sec. 24: SE¼,
Sec. 25: NE¼, S½,
Sec. 26: SE¼,
Sec. 35: E½.
T13S, R23E,
Sec. 19: Lots 1, 2, 3, 4, NW¼NE¼, W½NE¼NE¼, W½SE¼NE¼NE¼, W½SE¼NE¼, W½NE¼SE¼NE¼, SE¼SE¼NE¼, E½W½, SE¼.
Sec. 20: W½W½SW¼, SW¼SW¼ NW¼SW¼,
Sec. 29: NW¼NW¼NW¼, S½NW¼ NW¼, SW¼NW¼,
Sec. 30: All.

Comprising 2398.78 acres.

In exchange for these federal lands, the United States will acquire the fee simple title to the following lands belonging to the State of Utah:

Salt Lake Meridian, Utah

T11S, R24E,
Sec. 16: Lots 1, 2, S½NE¼, N½NW¼, SE¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼, NE¼SE¼.
T12S, R22E,
Sec. 32: All.
T13S, R22E,
Sec. 2: All.

Comprising 1747.79 acres.

The above lands will be subject to an appraisal to determine value. The listed lands may change to reflect equal value following the appraisal.

Upon publication of this notice, the Federal lands are hereby segregated from appropriation under the public land laws, including the minimg laws.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation for the oil and gas on lands currently covered by an oil and gas lease for the duration of the lease.

3. All rights-of-way existing on the subject lands for the duration of the right-of-way grant.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Vernal District, 170 South 500 East, Vernal, Utah 84078.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 83-26605 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52743]

Public Lands in Uintah County, Utah; Realty Action, State Exchange

The following described lands have been determined to be suitable for a fee simple exchange with the State of Utah under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The federal lands that have been identified to be suitable for disposal by exchange are:

Salt Lake Meridian, Utah

T9S, R24E,
Sec. 24: Lots 1, 4, 5, 6, 7, 10, N½SE¼.
Sec. 25: Lots 1–12 inclusive; NW¼SW¼, S½S½.
Sec. 35: SE¼NE¼, E½SE¼, E½SW¼SE¼, SW¼SW¼, SE¼.
T9S, R25E,
Sec. 19: SW¼.
Sec. 30: Lots 1, 2, 3, 4.
Sec. 31: Lots 1, 2, 3, SW¼NE¼, S½.
T10S, R24E,
Sec. 1: All.

Comprising 2331.10 acres.

In exchange for these federal lands, the United States will acquire the fee simple title to the following lands belonging to the State of Utah:

Salt Lake Meridian, Utah

T9S, R23E,
Sec. 13: NW¼NE¼.
T10S, R23E,
Sec. 36: All.
T10S, R24E,
Sec. 16: All.
Sec. 32: All.

And the mineral estate of the following lands belonging to the State of Utah:

Salt Lake Meridian, Utah

T9S, R23E,
Sec. 10: NE¼NE¼.
Sec. 17: NW¼SW¼.

Comprising 2,040 acres.

The above lands will be subject to an appraisal to determine value. The listed lands may change to reflect equal value following the appraisal.

Upon publication of this notice, the Federal lands are hereby segregated from appropriation under the public land laws, including the mining laws.

Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation for the oil and gas on lands currently covered by an oil and gas lease for the duration of the lease.

3. All rights-of-way existing on the subject lands for the duration of the right-of-way grant.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Vernal District, 170 South 500 East, Vernal, Utah 84078.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 83-26606 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Drilling two Exploratory Production Wells; Arco Oil and Gas Company, Big Thicket National Preserve, Texas

Notice is hereby given in accordance with Part 9, § 9.52(b), of Title 36 of the Code of Federal Regulations that the National Park Service has received from ARCO Oil and Gas Company, a Plan of Operations for the purpose of drilling two exploratory production wells in the Neches Bottom and Jack Gore Baygall Units of Big Thicket National Preserve, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Big Thicket National Preserve, 8185 Eastex Freeway, Beaumont, Texas; the Jefferson County Courthouse, in Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the documents are available from the Southwest Regional Office, National Park Service, Post Office Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: September 21, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-26629 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans for up to Two Million Dollars ($2,000,000) to the Government of Belize (Borrower) as part of A.I.D.'s development assistance program. The proceeds of the loans will be used to finance shelter projects for low income families in Belize. The following is the name, address, telex number, and telephone number, and telephone number of the representive of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Belize

Project No. 505-HG-001—$2,000,000. Cirilo Mahung, Manager, Development Finance Corporation, P.O. Box 40, Belmopan, Belize, Central America, Telex: 248 DEFINCO, Telephone: (501) 082350, (501) 082360.

The Borrower is soliciting counsel from U.S. lenders or investment bankers regarding current market conditions in the United States.

The Borrower is soliciting counsel from U.S. lenders or investment bankers regarding current market conditions in the United States. Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. Following its discussions with interested investors, the Borrower will decide upon a procedure for selecting an investor and will inform interested investors of the procedures to be followed.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract to Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section

238(C) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty Program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: September 21, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83-26618 Filed 9-28-83; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Registration; Philadelphia Seed Company

By Notice dated May 20, 1983, and published in the **Federal Register** on May 31, 1983 (48 FR 24223), Philadelphia Seed Company, Division of Stanford Seed Company, Muddy Creek Road, Lancaster County, Denver, Pennsylvania 17517, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in Accordance with Title 21 Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: September 19, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-26561 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-09-M

Importers of Controlled Substances; Registration; Sigma Chemical Co.

By Notice dated May 20, 1983, and published in the **Federal Register** on May 31, 1983, (48 FR 24224), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug:	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Morphine-3-Gluronide (9329)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: September 19, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-26562 Filed 9-28-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1983.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA), 601 D Street, NW., Washington, D.C. 20213. Telephone: 202–376–6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

Pursuant to those regulations, the Assistant Secretary of Labor is publishing below the annual list of labor surplus areas for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on September 19, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984

Eligible labor surplus areas	Civil jurisdictions included
ALABAMA	
Autauga County	Autauga County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Barbour County	Barbour County.
Bibb County	Bibb County.
Birmingham City	Birmingham City in Jefferson County.
Blount County	Blount County.
Bullock County	Bullock County.
Butler County	Butler County.
Calhoun County	Calhoun County.
Cherokee County	Cherokee County.
Chilton County	Chilton County.
Choctaw County	Choctaw County.
Clarke County	Clarke County.
Clay County	Clay County.
Cleburne County	Cleburne County.
Coffee County	Coffee County.
Colbert County	Colbert County.
Conecuh County	Conecuh County.
Covington County	Covington County.
Crenshaw County	Crenshaw County.
Cullman County	Cullman County.
Dale County	Dale County.
Dallas County	Dallas County.
DeKalb County	DeKalb County.
Elmore County	Elmore County.
Escambika County	Escambia County.
Etowah County	Etowah County.
Franklin County	Franklin County.
Geneva County	Geneva County.
Greene County	Greene County.
Hale County	Hale County.
Henry County	Henry County.
Jackson County	Jackson County.
Lamar County	Lamar County.
Lauderdale County	Lauderdale County.
Lawrence County	Lawrence County.
Limestone County	Limestone County.
Lowndes County	Lowndes County.
Macon County	Macon County.
Marengo County	Marengo County.
Marion County	Marion County.
Marshall County	Marshall County.
Mobile City	Mobile City in Mobile County.
Balance of Mobile County.	Mobile County less Mobile City.
Monroe County	Monroe County.
Montgomery County.	Montgomery City in Montgomery County.
Morgan County	Morgan County.
Perry County	Perry County.
Pickens County	Pickens County.
Pike County	Pike County.
Randolph County	Randolph County.
Russell County	Russell County.
Shelby County	Shelby County.
St. Clair County	St. Clair County.
Sumter County	Sumter County.
Talladega County	Talladega County.
Tallapoosa County	Tallapoosa County.
Tuscaloosa County	Tuscaloosa City in Tuscaloosa County.
Balance of Tuscaloosa County.	Tuscaloosa County less Tuscaloosa City.
Walker County	Walker County.
Washington County.	Washington County.
Wilcox County	Wilcox County.
Winston County	Winston County.
ALASKA	
Angoon Division	Angoon Division.
Bethel Division	Bethel Division.
Bristol Bay Borough Div.	Bristol Bay Borough Div.
Fairbanks Division	Fairbanks Division.
Haines Division	Haines Division.
Kenai-Cook Inlet Division.	Kenai-Cook Inlet Division.
Ketchikan Division	Ketchikan Division.
Kobuk Division	Kobuk Division.
Kodiak Division	Kodiak Division.
Kuskokwim Division.	Kuskokwim Division.
Matanuska-Susitna Division.	Matanuska-Susitna Division.
Outer Ketchikan Division.	Outer Kethikan Division.
Prince of Wales Division.	Prince of Wales Division.
Seward Division	Seward Division.
Skagway-Yakutat Division.	Skagway-Yakutat Division.
Southeast Fairbanks Division.	Southeast Fairbanks Division.
Upper Yukon Division.	Upper Yukon Division.
Valdez-Chitina-Whittier.	Valdez-Chitina-Whittier.
Wade Hampton Division.	Wade Hampton Division.
Wrangell-Petersburg Division.	Wrangell-Petersburg Division.
Yukon-Koyukuk Division.	Yukon-Koyukuk Division.
ARIZONA	
Apache County	Apache County.
Cochise County	Cochise County.
Gila County	Gila County.
Graham County	Graham County.
Greenlee County	Greenlee County.
Mohave County	Mohave County.
Navajo County	Navajo County.
Pinal County	Pinal County.
Santa Cruz County	Santa Cruz County.
Yuma/La Pax County.	Yuma/La Pax County.
ARKANSAS	
Bradley County	Bradley County.
Chicot County	Chicot County.
Clay County	Clay County.
Cleburne County	Cleburne County.
Cleveland County	Cleveland County.
Conway County	Conway County.
Crawford County	Crawford County.
Crittenden County	Crittenden County.
Desha County	Desha County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Grant County	Grant County.
Greene County	Greene County.
Hot Spring County	Hot Spring County.
Jackson County	Jackson County.
Lawrence County	Lawrence County.
Lee County	Lee County.
Lincoln County	Lincoln County.
Logan County	Logan County.
Mississippi County	Mississippi County.
Monroe County	Monroe County.
Montgomery County.	Montgomery County.
Nevada County	Nevada County.
Newton County	Newton County.
Quachita County	Quachita County.
Perry County	Perry County.
Phillips County	Phillips County.
Pike County	Pike County.
Pine Bluff City	Pine Bluff City in Jefferson County.
Poinsett County	Poinsett County.
Polk County	Polk County.
Prairie County	Prairie County.
Randolph County	Randolph County.
Scott County	Scott County.
Searcy County	Searcy County.
Balance of Sebastian County.	Sebastian County less Fort Smith City.
Sharp County	Sharp County.
St. Francis County	St. Francis County.
Texarkana City Ark.	Texarkana City Ark. in Miller County.
Van Buren County	Van Buren County.
White County	White County.
Woodruff County	Woodruff County.
CALIFORNIA	
Amador County	Amador County.
Baldwin Park City	Baldwin Park City in Los Angeles County.
Butte County	Butte County.
Calaveras County	Calaveras County.
Colusa County	Colusa County.
Compton City	Compton City in Los Angeles County.
Del Norte County	Del Norte County.
El Dorado County	El Dorado County.
El Monte City	El Monte City in Los Angeles County.
Fairfield City	Fairfield City in Solano County.
Fresno City	Fresno City in Fresno County.
Balance of Fresno County.	Fresno County less Fresno City.
Glenn County	Glenn County.
Humboldt County	Humboldt County.
Imperial County	Imperial County.
Balance of Kern County.	Kern County less Bakersfield City.
Kings County	Kings County.
Lake County	Lake County.
Lassen County	Lassen County.
Madera County	Madera County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Mariposa County	Mariposa County.
Mendocino County	Mendocino County.
Merced County	Merced County.
Modesto City	Modesto City in Stanislaus County.
Mono County	Mono County.
Balance of Monterey County.	Monterey County less Salinas City.
Nevada County	Nevada County.
Oakland City	Oakland City in Alameda County.
Oxnard City	Oxnard City in Ventura County.
Placer County	Placer County.
Plumas County	Plumas County.
Pomona City	Pomona City in Los Angeles County.
Richmond City	Richmond City in Contra Costa County.
Riverside City	Riverside City in Riverside County.
Balance of Riverside County.	Riverside County less Riverside City.
Sacramento City	Sacramento City in Sacramento County.
Salinas City	Salinas City in Monterey County.
San Benito County	San Benito County.
San Bernardino City.	San Bernardino City in San Bernardino County.
Balance of San Joaquin County.	San Joaquin County less Stockton City.
Santa Cruz County	Santa Cruz County.
Shasta County	Shasta County.
Sierra County	Sierra County.
Siskiyou County	Siskiyou County.
Balance of Solano County.	Soland County less Fairfield City, Vallejo City.
Balance of Stanislaus County.	Stanislaus County less Modesto City.
Stockton City	Stockton City in San Joaquin County.
Sutter County	Sutter County.
Tehama County	Tehama County.
Trinity County	Trinity County.
Tulare County	Tulare County.
Tuolumne County	Tuolumne County.
Yolo County	Yolo County.
Yuba County	Yuba County.
COLORADO	
Archuleta County	Archuleta County.
Chaffee County	Chaffee County.
Clear Creek County.	Clear Creek County.
Conejos County	Conejos County.
Costilla County	Costilla County.
Lake County	Lake County.
Las Animas County.	Las Animas County.
Mesa County	Mesa County.
Moffat County	Moffat County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Montrose County	Montrose County.
Ouray County	Ouray County.
Park County	Park County.
Pueblo City	Pueblo City in Pueblo County.
Balance of Pueblo County.	Pueblo County less Pueblo City.
Saguache County	Saguache County.
CONNECTICUT	
Ansonia Town	Ansonia Town.
Bridgeport City	Bridgeport City.
Bristol City	Bristol City.
Killingly Town	Killingly Town.
Plymouth Town	Plymouth Town.
Putnam Town	Putnam Town.
Seymour Town	Seymour Town.
Thomaston Town	Thomaston Town.
Thompson Town	Thompson Town.
Torrington City	Torrington City.
Voluntown Town	Voluntown Town.
Winchester Town	Winchester Town.
DELAWARE	
Wilmington City	Wilmington City in New Castle County.
DISTRICT OF COLUMBIA	
Washington, D.C. City.	District of Columbia.
FLORIDA	
Bay County	Bay County.
Calhoun County	Calhoun County.
Collier County	Collier County.
Glades County	Glades County.
Gulf County	Gulf County.
Hendry County	Hendry County.
Hernando County	Hernando County.
Hialeah City	Hialeah City in Dade County.
Indian River County.	Indian River County.
Lake County	Lake County.
Miami Beach City	Miami Beach City in Dade County.
Miami City	Miami City in Dade County.
Okeechobee County.	Okeechobee County.
Polk County	Polk County.
St. Lucie County	St. Lucie County.
Sumter County	Sumter City.
GEORGIA	
Bartow County	Bartow City.
Brantley County	Brantley County.
Chattooga County	Chattooga County.
Crawford County	Crawford County.
Crisp County	Crisp County.
Elbert County	Elbert County.
Fannin County	Fannin County.
Glascock County	Glascock County.
Haralson County	Haralson County.
Johnson County	Johnson County.
Lincoln County	Lincoln County.
Macon County	Macon County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
McDuffie County	McDuffie County.
Meriwether County	Meriwether County.
Murray County	Murray County.
Polk County	Polk County.
Quitman County	Quitman County.
Stewart County	Stewart County.
Taliaferro County	Taliaferro County.
Turner County	Turner County.
Warren County	Warren County.
IDAHO	
Adams County	Adams County.
Benewah County	Benewah County.
Boise County	Boise County.
Bonner County	Bonner County.
Boundary County	Boundary County.
Clearwater County	Clearwater County.
Gem County	Gem County.
Idaho County	Idaho County.
Kootenai County	Kootenai County.
Lemhi County	Lemhi County.
Lewis County	Lewis County.
Shoshone County	Shoshone County.
Valley County	Valley County.
ILLINOIS	
Adams County	Adams County.
Alexander County	Alexander County.
Aurora City	Aurora City in Du Page County. Kane County.
Bond County	Bond County.
Boone County	Boone County.
Bureau County	Bureau County.
Calhoun County	Calhoun County.
Chicago City	Chicago City in Cook County.
Cicero City	Cicero City in Cook County.
Clark County	Clark County.
Clay County	Clay County.
Clinton County	Clinton County.
Crawford County	Crawford County.
Cumberland County.	Cumberland County.
De Witt County	De Witt County.
Decatur City	Decatur City in Macon County.
East St. Louis City	East St. Louis City in St. Clair County.
Edgar County	Edgar County.
Effingham County	Effingham County.
Fayette County	Fayette County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Gallatin County	Gallatin County.
Greene County	Greene County.
Grundy County	Grundy County.
Hamiltion County	Hamilton County.
Hardin County	Hardin County.
Henderson County	Henderson County.
Henry County	Henry County.
Jefferson County	Jefferson County.
Jersey County	Jersey County.
Johnson County	Johnson County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Joliet City	Joliet City in Will County.
Kankakee County	Kankakee County.
Knox County	Knox County.
La Salle County	La Salle County.
Macoupin County	Macoupin County.
Madison County	Madison County.
Marion County	Marion County.
Mason County	Mason County.
Massac County	Massac County.
Mercer County	Mercer County.
Montgomery County.	Montgomery County.
Ogle County	Ogle County.
Peoria City	Peoria City in Peoria County.
Perry County	Perry County.
Pope County	Pope County.
Pulaski County	Pulaski County.
Putnam County	Putnam County.
Richland County	Richland County.
Rock Island County.	Rock Island County.
Rockford City	Rockford City in Winnebago County.
Saline County	Saline County.
Shelby County	Shelby County.
Balance of St. Clair County.	St. Clair County less East St. Louis City.
Tazewell County	Tazewell County.
Union County	Union County.
Vermilion County	Vermilion County.
Warren County	Warren County.
Wayne County	Wayne County.
White County	White County.
Whiteside County	Whiteside County.
Balance of Will County.	Will County less Joliet City.
Williamson County	Williamson County.
INDIANA	
Adams County	Adams County.
Anderson City	Anderson City in Madison County.
Bartholomew County.	Bartholomew County.
Blackford County	Blackford County.
Cass County	Cass County.
Clark County	Clark County.
Clay County	Clay County.
Clinton County	Clinton County.
Crawford County	Crawford County.
Daviess County	Daviess County.
De Kalb County	De Kalb County.
Dearborn County	Dearborn County.
Balance of Delaware County.	Delaware County less Muncie City.
Evansville City	Evansville City in Vanderburgh County.
Fayette County	Fayette County.
Floyd County	Floyd County.
Fountain County	Fountain County.
Franklin County	Franklin County.
Ft. Wayne City	Ft. Wayne City in Allen County.
Fulton County	Fulton County.
Gary City	Gary City in Lake County.
Grant County	Grant County.
Greene County	Greene County.
Hammond City	Hammond City in Lake County.
Harrison County	Harrison County.
Henry County	Henry County.
Howard County	Howard County.
Huntington County	Huntington County.
Jackson County	Jackson County.
Jay County	Jay County.
Jefferson County	Jefferson County.
Jennings County	Jennings County.
Knox County	Knox County.
La Porte County	La Porte County.
Balance of Lake County.	Lake County less Gary City, Hammond City.
Lawrence County	Lawrence County.
Balance of Madison County.	Madison County less Anderson City
Marshall County	Marshall County.
Martin County	Martin County.
Miami County	Miami County.
Muncie City	Muncie City in Delaware County.
Newton County	Newton County.
Noble County	Noble County.
Ohio County	Ohio County.
Orange County	Orange County.
Owen County	Owen, County.
Parke County	Parke County.
Perry County	Perry County.
Porter County	Porter County.
Randolph County	Randolph County.
Ripley County	Ripley County.
Rush County	Rush County.
Scott County	Scott County.
Shelby County	Shelby County.
South Bend City	South Bend City in St. Joseph County.
Spencer County	Spencer County.
Starke County	Starke County.
Steuben County	Steuben County.
Sullivan County	Suillivan County.
Switzerland County.	Switzerland County.
Terre Haute City	Terre Haute City in Vigo County.
Tipton County	Tipton County.
Union County	Union County.
Vermillion County	Vermillion County.
Wabash County	Wabash County.
Warren County	Warren County.
Washington County.	Washington County.
Wayne County	Wayne County.
White County	White County.
Whitley County	Whitley County.
IOWA	
Appanoose County	Appanoose County.
Benton County	Benton County.
Chickasaw County	Chickasaw County.
Clinton County	Clinton County.
Davenport City	Davenport City in Scott County.
Des Moines County.	Des Moines County.
Dubuque City	Dubuque City in Dubuque County.
Emmet County	Emmet County.
Floyd County	Floyd County.
Jackson County	Jackson County.
Keokuk County	Keokuk County.
Lee County	Lee County.
Monroe County	Monroe County.
Wapello County	Wapello County.
Waterloo City	Waterloo City in Black Hawk County.
KENTUCKY	
Allen County	Allen County.
Bath County	Bath County.
Bell County	Bell County.
Boyd County	Boyd County.
Bracken County	Bracken County.
Breathitt County	Breathitt County.
Bullitt County	Bullitt County.
Butler County	Butler County.
Caldwell County	Caldwell County.
Carlisle County	Carlisle County.
Carter County	Carter County.
Casey County	Casey County
Clay County	Clay County.
Clinton County	Clinton County.
Crittenden County	Crittenden County.
Edmonson County	Edmonson County.
Elliott County	Elliott County.
Estill County	Estill County.
Fleming County	Fleming County.
Floyd County	Floyd County.
Fulton County	Fulton County.
Gallatin County	Gallatin County.
Garrard County	Garrard County.
Graves County	Graves County.
Grayson County	Grayson County.
Greenup County	Greenup County.
Harlan County	Harlan County.
Hart County	Hart County.
Henry County	Henry County.
Hickman County	Hickman County.
Jackson County	Jackson County.
Balance of Jefferson County.	Jefferson County less Louisville City.
Johnson County	Johnson County.
Knott County	Knott County.
Knox County	Knox County.
Lawrence County	Lawrence County.
Lee County	Lee County.
Leslie County	Leslie County.
Letcher County	Letcher County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Livingston County	Livingston County.
Magoffin County	Magoffin County.
Marion County	Marion County.
Marshall County	Marshall County.
Mason County	Mason County.
McCreary County	McCreary County.
Menifee County	Menifee County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Metcalfe County	Metcalfe County.
Monroe County	Monroe County.
Montgomery County.	Montgomery County.
Morgan County	Morgan County.
Muhlenberg County.	Muhlenberg County.
Nelson County	Nelson County.
Owsley County	Owsley County.
Pendleton County	Pendleton County.
Perry County	Perry County.
Pike County	Pike County.
Powell County	Powell County.
Robertson County	Robertson County.
Rowan County	Rowan County.
Russell County	Russell County.
Simpson County	Simpson County.
Spencer County	Spencer County.
Todd County	Todd County.
Washington County.	Washington County.
Wayne County	Wayne County.
Whitley County	Whitley County.
Wolfe County	Wolfe County.
LOUISIANA	
Alexandria City	Alexandria City in Rapides Parish.
Allen Parish	Allen Parish.
Ascension Parish	Ascension Parish.
Assumption Parish	Assumption Parish.
Avoyelles Parish	Avoyelles Parish.
Beauregard Parish	Beauregard Parish.
Bienville Parish	Bienville Parish.
Balance of Bossier Parish.	Bossier Parish less Bossier City, Shreveport City.
Balance of Calcasieu Parish.	Calcasieu Parish less Lake Charles City.
Caldwell Parish	Caldwell Parish.
Concordia Parish	Concordia Parish.
De Soto Parish	De Soto Parish.
East Carroll Parish	East Carroll Parish.
Evangeline Parish	Evangeline Parish.
Franklin Parish	Franklin Parish.
Grant Parish	Grant Parish.
Iberville Parish	Iberville Parish.
Jackson Parish	Jackson Parish.
Jefferson Davis Parish.	Jefferson Davis Parish.
Lake Charles City	Lake Charles City in Calcasieu Parish.
Livingston Parish	Livingston Parish.
Madison Parish	Madison Parish.
Monroe City	Monroe City in Ouachita Parish.
Morehouse Parish	Morehouse Parish.
Natchitoches Parish.	Natchitoches Parish.
Balance of Ouachita Parish.	Ouachita Parish less Monroe City.
Pointe Coupee Parish.	Pointe Coupee Parish.
Balance of Rapides Parish.	Rapides Parish less Alexandria City.
Red River Parish	Red River Parish.
Richland Parish	Richland Parish.
Sabine Parish	Sabine Parish.
St. Bernard Parish	St. Bernard Parish.
St. Helena Parish	St. Helena Parish.
St. James Parish	St. James Parish.
St. John the Baptist Parish.	St. John the Baptist Parish.
St. Landry Parish	St. Landry Parish.
Tangipahoa Parish	Tangipahoa Parish.
Tensas Parish	Tensas Parish.
Union Parish	Union Parish.
Vernon Parish	Vernon Parish.
Washington Parish	Washington Parish.
Webster Parish	Webster Parish.
West Carroll Parish.	West Carroll Parish.
Winn Parish	Winn Parish.
MAINE	
Aroostook County	Aroostook County.
Oxford County	Oxford County.
Somerset County	Somerset County.
Waldo County	Waldo County.
Washington County.	Washington County.
MARYLAND	
Allegany County	Allegany County.
Baltimore City	Baltimore City.
Calvert County	Calvert County.
Caroline County	Caroline County.
Dorchester County	Dorchester County.
Garrett County	Garrett County.
Kent County	Kent County.
Queen Annes County.	Queen Annes County.
Somerset County	Somerset County.
Washington County.	Washington County.
Wicomico County	Wicomico County.
Worcester County	Worcester County.
MASSACHUSETTS	
Ashburnham Town	Ashburnham Town in Worcester County.
Ashby Town	Ashby Town in Middlesex County.
Athol Town	Athol Town in Worcester County.
Ayer Town	Ayer Town in Middlesex County.
Berkley Town	Berkley Town in Bristol County.
Blandford Town	Blandford Town in Hampden County.
Charlemont Town	Charlemont Town in Franklin County.
Chelsea City	Chelsea City in Suffolk County.
Chester Town	Chester Town in Hampden County.
Cummington Town	Cummington Town in Hampshire County.
Eastham Town	Eastham Town in Barnstable County.
Erving Town	Erving Town in Franklin County.
Fall River City	Fall River City in Bristol County.
Falmouth Town	Falmouth Town in Barnstable County.
Fitchburg City	Fitchburg City in Worcester County.
Gloucester City	Gloucester City in Essex County.
Hanson Town	Hanson Town in Plymouth County.
Harwich Town	Harwich Town in Barnstable County.
Hopedale Town	Hopedale Town in Worcester County.
Hull Town	Hull Town in Plymouth County.
Huntington Town	Huntington Town in Hampshire County.
Lawrence City	Lawrence City in Essex County.
Marion Town	Marion Town in Plymouth County.
Middlefield Town	Middlefield Town in Hampshire County.
Milford Town	Milford Town in Worcester County.
Monroe Town	Monroe Town in Franklin County.
New Bedford City	New Bedford City in Bristol County.
Newbury Town	Newbury Town in Essex County.
Oak Bluffs Town	Oak Bluffs Town in Dukes County.
Oakham Town	Oakham Town in Worcester County.
Orange Town	Orange Town in Franklin County.
Oxford Town	Oxford Town in Worcester County.
Phillipston Town	Phillipston Town in Worcester County.
Plainfield Town	Plainfield Town in Hampshire County.
Provincetown Town.	Provincetown Town in Barnstable County.
Rockport Town	Rockport Town in Essex County.
Royalston Town	Royalston Town in Worcester County.
Savoy Town	Savoy Town in Berhshire County.
Shirley Town	Shirley Town in Middlesex County.
Sturbridge Town	Sturbridge Town in Worcester County.
Taunton City	Taunton City in Bristol County.
Tolland Town	Tolland Town in Hampden County.
Truro Town	Truro Town in Barnstable County.
Uxbridge Town	Uxbridge Town in Worcester County.
Wales Town	Wales Town in Hampden County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Ware Town	Ware Town in Hampshire County.
Wareham Town	Wareham Town in Plymouth County.
Warwick Town	Warwick Town in Franklin County.
Wellfleet Town	Wellfleet Town in Barnstable County.
Wendell Town	Wendell Town in Franklin County.
Westport Town	Westport Town in Bristol County.
Worthington Town	Worthington Town in Hampshire County.
MICHIGAN	
Alcona County	Alcona County.
Alger County	Alger County.
Allegan County	Allegan County.
Alpena County	Alpena County.
Antrim County	Antrim County.
Arenac County	Arenac County.
Baraga County	Baraga County.
Barry County	Barry County.
Battle Creek City	Battle Creek City in Calhoun County.
Bay County	Bay County.
Benzie County	Benzie County.
Berrien County	Berrien County.
Branch County	Branch County.
Balance of Calhoun County.	Calhoun County less Battle Creek City.
Cass County	Cass County.
Charlevoix County	Charlevoix County.
Cheboygan County	Cheboygan County.
Chippewa County	Chippewa County.
Clare County	Clare County.
Clinton County	Clinton County.
Clinton Township	Clinton Township in Macomb County.
Crawford County	Crawford County.
Dearborn Heights City.	Dearborn Heights City in Wayne County.
Delta County	Delta County.
Detroit City	Detroit City in Wayne County.
Dickinson County	Dickinson County.
Balance of Eaton County.	Eaton County less Lansing City.
Emmet County	Emmet County.
Farmington Hills City.	Farmington Hills City in Oakland County.
Flint City	Flint City in Genesee County.
Balance of Genesee County.	Genesee County less Flint City.
Gladwin County	Gladwin County.
Gogebic County	Gogebic County.
Grand Rapids City	Grand Rapids City in Kent County.
Grand Traverse County.	Grand Traverse County.
Gratiot County	Gratiot County.
Hillsdale County	Hillsdale County.
Houghton County	Houghton County.
Huron County	Huron County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Ionia County	Ionia County.
Iosco County	Iosco County.
Iron County	Iron County.
Jackson County	Jackson County.
Kalamazoo City	Kalamazoo City in Kalamazoo County.
Kalkaska County	Kalkaska County.
Keweenaw County	Keweenaw County.
Lake County	Lake County.
Lansing City	Lansing City in Eaton County, Ingham County.
Lapeer County	Lapeer County.
Leelanau County	Leelanau County.
Lenawee County	Lenawee County.
Livingston County	Livingston County.
Luce County	Luce County.
Mackinac County	Mackinac County.
Balance of Macomb County.	Macomb County less Clinton Township, Roseville City, St. Clair Shores City, Sterling Heights City, Warren City.
Manistee County	Manistee County.
Marquette County	Marquette County.
Mason County	Mason County.
Mecosta County	Mecosta County.
Menominee County	Menominee County.
Midland County	Midland County.
Missaukee County	Missaukee County.
Monroe County	Monroe County.
Montcalm County	Montcalm County.
Montmorency County.	Montmorency County.
Muskegon County	Muskegon County.
Newaygo County	Newaygo County.
Balance of Oakland County.	Oakland County less Farmington Hills City, Pontiac City, Royal Oak City, Southfield City, Troy City, Waterford Township.
Oceana County	Oceana County.
Ogemaw County	Ogemaw County.
Ontonagon County	Ontonagon County.
Osceola County	Osceola County.
Oscoda County	Oscoda County.
Otsego County	Otsego County.
Pontiac County	Pontiac City in Oakland County.
Presque Isle County.	Presque Isle County.
Roscommon County.	Roscommon County.
Roseville City	Roseville City in Macomb County.
Royal Oak City	Royal Oak City in Oakland County.
Saginaw City	Saginaw City in Saginaw County.
Balance of Saginaw County.	Saginaw County less Saginaw City.
Sanilac County	Sanilac County.
Schoolcraft County	Schoolcraft County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Shiawassee County.	Shiawassee County.
Southfield City	Southfield City in Oakland County.
St. Clair Shores City.	St. Clair Shores City in Macomb County.
St. Clair County	St. Clair County.
St. Joseph County	St. Joseph County.
Sterling Heights City.	Sterling Heights City in Macomb County.
Taylor City	Taylor City in Wayne County.
Tuscola County	Tuscola County.
Van Buren County	Van Buren County.
Warren City	Warren City in Macomb County.
Balance of Washtenaw County.	Washtenaw County less Ann Arbor City.
Waterford Township.	Waterford Township in Oakland County.
Balance of Wayne County.	Wayne County less Dearborn City, Dearborn Heights City, Detriot City, Livonia City, Redford Township, Taylor City, Westland City.
Westland City	Westland City in Wayne County.
Wexford County	Wexford County.
MINNESOTA	
Aitkin County	Aitkin County.
Becker County	Becker County.
Carlton County	Carlton County.
Cass County	Cass County.
Clearwater County	Clearwater County.
Cook County	Cook County.
Duluth City	Duluth City in St. louis County.
Hubbard County	Hubbard County.
Itasca County	Itasca County.
Kanabec County	Kanabec County.
Koochiching County.	Koochiching County.
Lake County	Lake County.
Mahnomen County	Mahnomen County.
Marshall County	Marshall County.
Morrison County	Morrison County.
Pennington County	Pennington County.
Pine County	Pine County.
Red Lake County	Red Lake County.
Roseau County	Roseau County.
Balance of St. Louis County.	St. Louis County less Duluth City.
MISSISSIPPI	
Adams County	Adams County.
Alcorn County	Alcorn County.
Attala County	Attala County.
Benton County	Benton County.
Bolivar County	Bolivar County.
Calhoun County	Calhoun County.
Chickasaw County	Chickasaw County.
Coahoma County	Coahoma County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Copiah County	Copiah County.
Covington County	Covington County.
George County	George County.
Greene County	Greene County.
Grenada County	Grenada County.
Holmes County	Holmes County.
Humphreys County	Humphreys County.
Jackson County	Jackson County.
Jasper County	Jasper County.
Jefferson County	Jefferson County.
Jefferson Davis County.	Jefferson Davis County.
Kemper County	Kemper County.
Lawrence County	Lawrence County.
Leflore County	Leflore County.
Madison County	Madison County.
Marion County	Marion County.
Marshall County	Marshall County.
Monroe County	Monroe County.
Montgomery County.	Montgomery County.
Neshoba County	Neshoba County.
Noxubee County	Noxubee County.
Panola County	Panola County.
Pearl River County	Pearl River County.
Perry County	Perry County.
Pike County	Pike County.
Pontotoc County	Pontotoc County.
Quitman County	Quitman County.
Sharkey County	Sharkey County.
Stone County	Stone County.
Sunflower County	Sunflower County.
Tallahatchie County.	Tallahatchie County.
Tate County	Tate County.
Tishomingo County	Tishomingo County.
Tunica County	Tunica County.
Walthall County	Walthall County.
Warren County	Warren County.
Washington County.	Washington County.
Wayne County	Wayne County.
Webster County	Webster County.
Wilkinson County	Wilkinson County.
Winston County	Winston County.
Yazoo County	Yazoo County.
MISSOURI	
Audrain County	Audrain County.
Bollinger County	Bollinger County.
Buter County	Butler County.
Carter County	Carter County.
Clark County	Clark County.
Daviess County	Daviess County.
Douglas County	Douglas County.
Dunklin County	Dunklin County.
Franklin County	Franklin County.
Howell County	Howell County.
Iron County	Iron County.
Jefferson County	Jefferson County.
Macon County	Macon County.
Madison County	Madison County.
Maries County	Maries County.
Miller County	Miller County.
Mississippi County	Mississippi County.
Moniteau County	Moniteau County.
Morgan County	Morgan County.
New Madrid County.	New Madrid County.
Oregon County	Oregon County.
Pemiscot County	Pemiscot County.
Perry County	Perry County.
Pettis County	Pettis County.
Pike County	Pike County.
Ripley County	Ripley County.
Scott County	Scott County.
Shannon County	Shannon County.
St Joseph City	St. Joesph City in Buchanan County.
St. Louis City	St. Louis City.
St. Francois County.	St. Francois County.
Ste. Genevieve County.	Ste. Genevieve County.
Stoddard County	Stoddard County.
Stone County	Stone County.
Texas County	Texas County.
Warren County	Warren County.
Washington County.	Wasington County.
Wayne County	Wayne County.
Webster County	Webster County.
Wright County	Wright County.
MONTANA	
Deer Lodge County	Deer Lodge County.
Flathead County	Flathead County.
Glacier County	Glacier County.
Granite County	Granite County.
Lincoln County	Lincoln County.
Mineral County	Mineral County.
Ravalli County	Ravalli County.
Sanders County	Sanders County.
Silver Bow County	Silver Bow County.
NEBRASKA	
Box Butte County	Box Butte County.
Lincoln County	Lincoln County.
NEVADA	
Churchill County	Churchill County.
Esmeralda County	Esmeralda County.
Lyon County	Lyon County.
White Pine County	White Pine County.
NEW JERSEY	
Bayonne City	Bayonne City in Hudson County.
Camden City	Camden City in Camden County.
Cape May County	Cape May County.
Balance of Cumberland County.	Cumberland County less Vineland City.
East Orange City	East Orange City in Essex County.
Elizabeth City	Elizabeth City in Union County.
Balance of Hudson County.	Hudson County less Bayonne City, Jersey City, Union City.
Jersey City	Jersey City in Hudson County.
Newark City	Newark City in Essex County.
Passaic City	Passaic City in Passaic County.
Paterson City	Paterson City in Passaic County.
Trenton City	Trenton City in Mercer County.
Union City	Union City in Hudson County.
Vineland City	Vineland City in Cumberland County.
NEW MEXICO	
Balance of Bernalillo County.	Bernalillo County less Albuquerque City.
Catron County	Catron County.
Cibola County	Cibola County.
Colfax County	Colfax County.
Eddy County	Eddy County.
Grant County	Grant County.
Luna County	Luna County.
McKinley County	McKinley County.
Mora County	Mora County.
Rio Arriba County	Rio Arriba County.
San Juan County	San Juan County.
San Miguel County	San Miguel County.
Taos County	Taos County.
Valencia County	Valencia County.
NEW YORK	
Buffalo City	Buffalo City in Erie County.
Cattaraugus County.	Cattaraugus County.
Cayuga County	Cayuga County.
Chemung County	Chemung County.
Clinton County	Clinton County.
Balance of Erie County.	Erie County less Amherst Town, Buffalo City, Cheektowaga Town, Hamburg Town, Tonowanda Town, West Seneca Township.
Essex County	Essex County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Genesee County	Genesee County.
Greene County	Greene County.
Hamburg Town	Hamburg Town in Erie County.
Hamilton County	Hamilton County.
Jefferson County	Jefferson County.
Lewis County	Lewis County.
Balance of Niagara County.	Niagara County less Niagara Falls City.
Niagara Falls City	Niagara Falls City in Niagara County.
Orleans County	Orleans County.
Schuyler County	Schuyler County.
St. Lawrence County.	St. Lawrence County.
Warren County	Warren County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
NORTH CAROLINA	
Ashe County	Ashe County.
Avery County	Avery County.
Bertie County	Bertie County.
Bladen County	Bladen County.
Brunswick County	Brunswick County.
Cherokee County	Cherokee County.
Clay County	Clay County.
Cleveland County	Cleveland County.
Columbus County	Columbus County.
Davie County	Davie County.
Duplin County	Duplin County.
Edgecombe County	Edgecombe County.
Franklin County	Franklin County.
Graham County	Graham County.
Halifax County	Halifax County.
Hoke County	Hoke County.
Iredell County	Iredell County.
Lee County	Lee County.
Lincoln County	Lincoln County.
Martin County	Martin County.
Mitchell County	Mitchell County.
Northampton County	Northampton County.
Person County	Person County.
Richmond County	Richmond County.
Robeson County	Robeson County.
Rockingham County	Rockingham County.
Rutherford County	Rutherford County.
Sampson County	Sampson County.
Scotland County	Scotland County.
Surry County	Surry County.
Swain County	Swain County.
Tyrrell County	Tyrrell County.
Vance County	Vance County.
Warren County	Warren County.
Wilson County	Wilson County.
Yancey County	Yancey County.
NORTH DAKOTA	
Rolette County	Rolette County.
Sioux County	Sioux County.
OHIO	
Adams County	Adams County.
Akron City	Akron City in Summit County.
Allen County	Allen County.
Ashland County	Ashland County.
Ashtabula County	Ashtabula County.
Auglaize County	Auglaize County.
Belmont County	Belmont County.
Brown County	Brown County.
Balance of Butler County.	Butler County less Hamilton City.
Canton City	Canton City in Stark County.
Carroll County	Carroll County.
Champaign County	Champaign County.
Cincinnati City	Cincinnati City in Hamilton County.
Balance of Clark County.	Clark County less Springfield City.
Clermont County	Clermont County.
Cleveland City	Cleveland City in Cuyahoga County.
Columbiana County.	Columbiana County.
Coshocton County	Coshocton County.
Crawford County	Crawford County.
Darke County	Darke County.
Dayton City	Dayton City in Greene County.
Defiance County	Defiance County.
Elyria City	Elyria City in Lorain County.
Erie County	Erie County.
Fayette County	Fayette County.
Fulton County	Fulton County.
Gallia County	Gallia County.
Guernsey County	Guernsey County.
Hamilton City	Hamilton City in Butler County.
Hardin County	Hardin County.
Harrison County	Harrison County.
Henry County	Henry County.
Highland County	Highland County.
Hocking County	Hocking County.
Huron County	Huron County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Knox County	Knox County.
Lake County	Lake County.
Lawrence County	Lawrence Country.
Licking County	Licking County.
Logan County	Logan County.
Lorain City	Lorain City in Lorain County.
Balance of Lorain County.	Lorain County less Elyria City, Lorain City.
Balance of Mahoning Country.	Mahoning County less Youngstown City.
Mansfield City	Mansield City in Richland County.
Marion County	Marion County.
Meigs County	Meigs County.
Mercer County	Mercer County.
Miami County	Miami County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Morrow County	Morrow County.
Muskingum County	Muskingum County.
Noble County	Noble County.
Ottawa County	Ottawa County.
Paulding County	Paulding County.
Perry County	Perry County.
Pike County	Pike County.
Portage County	Portage County.
Preble County	Preble County.
Putnam County	Putnam County.
Balance of Richland County.	Richland County less Mansfield City.
Ross County	Ross County.
Sandusky County	Sandusky County.
Scioto County	Scioto County.
Seneca County	Seneca County.
Shelby County	Shelby County.
Springfield City	Springfield City in Clark County.
Balance of Stark County.	Stark County less Canton City.
Toledo City	Toledo City in Lucas County.
Balance of Trumbull County.	Trumbull County less Warren City.
Tuscarawas County.	Tuscarawas County.
Union County	Union County.
Van Wert County	Van Wert County.
Vinton County	Vinton County.
Warren City	Warren City in Trumbull County.
Warren County	Warren County.
Washington County.	Washington County.
Williams County	Williams County.
Wood County	Wood County.
Wyandot County	Wyandot County.
Youngstown City	Youngstown City in Mahoning County.
OKLAHOMA	
Beckham County	Beckham County.
Choctaw County	Choctaw County.
Coal County	Coal County.
Haskell County	Haskell County.
Hughes County	Hughes County.
Latimer County	Latimer County.
Okmulgee County	Okmulgee County.
Pittsburg County	Pittsburg County.
Pushmataha County.	Pushmataha County.
Balance of Tulsa County.	Tulsa County less Tulsa City.
OREGON	
Baker County	Baker County.
Clatsop County	Clatsop County.
Columbia County	Columbia County.
Coos County	Coos County.
Crook County	Crook County.
Curry County	Curry County.
Deschutes County	Deschutes County.
Douglas County	Douglas County.
Grant County	Grant County.
Harney County	Harney County.
Hood River County	Hood River County.
Jackson County	Jackson County.
Josephine County	Josephine County.
Klamath County	Klamath County.
Lake County	Lake County.
Balance of Lane County.	Lane County less Eugene City.
Lincoln County	Lincoln County.
Linn County	Linn County.
Tillamook County	Tillamook County.
Umatilla County	Umatilla County.
Union County	Union County.
Wallowa County	Wallowa County.
Wasco County	Wasco County.
Wheeler County	Wheeler County.
Yamhill County	Yamhill County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
PENNSYLVANIA	
Balance of Allegheny County.	Allegheny County less Penn Hills Township.
Allentown City	Allentown City in Lehigh County.
Altoona City	Altoona City in Blair County.
Armstrong County	Armstrong County.
Beaver County	Beaver County.
Bedford County	Bedford County.
Bethlehem City	Bethlehem City in Lehigh County, Northampton County.
Balance of Blair County.	Blair County less Altoona City.
Bradford County	Bradford County.
Bristol Township	Bristol Township in Bucks County.
Butler County	Butler County.
Cambria County	Cambria County.
Cameron County	Cameron County.
Carbon County	Carbon County.
Centre County	Centre County.
Clarion County	Clarion County.
Clearfield County	Clearfield County.
Clinton County	Clinton County.
Columbia County	Columbia County.
Crawford County	Crawford County.
Elk County	Elk County.
Erie City	Erie City in Erie County.
Balance of Erie County.	Erie County less Erie City.
Fayette County	Fayette County.
Forest County	Forest County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Greene County	Greene County.
Huntingdon County.	Huntingdon County.
Indiana County	Indiana County.
Jefferson County	Jefferson County.
Juniata County	Juniata County.
Balance of Lackawanna County.	Lackawanna County less Scranton City.
Lawrence County	Lawrence County.
Lebanon County	Lebanon County.
Balance of LeHigh County.	LeHigh County less Allentown City, Bethlehem City.
Balance of Luzerne County.	Luzerne County less Wilkes-Barre City.
Lycoming County	Lycoming County.
McKean County	McKean County.
Mercer County	Mercer County.
Mifflin County	Mifflin County.
Monroe County	Monroe County.
Balance of Northampton County.	Northampton County less Bethlehem City.
Northumberland County.	Northumberland County.
Penn Hills Township.	Penn Hills Township in Allegheny County.
Pittsburgh City	Pittsburgh City in Allegheny County.
Potter County	Potter County.
Reading City	Reading City in Berks County.
Schuylkill County	Schuylkill County.
Somerset County	Somerset County.
Sullivan County	Sullivan County.
Tioga County	Tioga County.
Union County	Union County.
Venango County	Venango County.
Warren County	Warren County.
Washington County.	Washington County.
Westmoreland County.	Westmoreland County.
Wilkes-Barre City	Wilkes-Barre City in Luzerne County.
Wyoming County	Wyoming County.
York County	York County.
PUERTO RICO	
Aguadilla Municipio.	Aguadilla Municipio.
Arecibo Municipio	Arecibo Municipio.
Bayamon Municipio.	Bayamon Municipio.
Caguas Municipio	Caguas Municipio.
Carolina Municipio	Carolina Municipio.
Mayaguez Municipio.	Mayaguez Municipio.
Ponce Municipio	Ponce Municipio.
Balance of Puerto Rico.	Puerto Rico less Aguadilla Municipio, Arecibo Municipio, Bayamon Municipio, Caguas Municipio, Carolina Municipio, Guaynabo Municipio, Mayaguez Municipio, Ponce Municipio, San Juan Municipio, Toa Baja Municipio, Trujillo Alto Municipio.
San Juan Municipio.	San Juan Municipio.
Toa Baja Municipio.	Toa Baja Municipio.
Trujillo Alto Municipio.	Trujillo Alto Municipio.
RHODE ISLAND	
Bristol Town	Bristol Town.
Central Falls City	Central Falls City.
East Providence City.	East Providence City.
Johnston Town	Johnston Town.
New Shoreham Town.	New Shoreham Town.
Pawtucket City	Pawtucket City.
Warren Town	Warren Town.
West Warwick Town.	West Warwick Town.
Woonsocket City	Woonsocket City.
SOUTH CAROLINA	
Abbeville County	Abbeville County.
Aiken County	Aiken County.
Allendale County	Allendale County.
Anderson County	Anderson County.
Bamberg County	Bamberg County.
Barnwell County	Barnwell County.
Cherokee County	Cherokee County.
Chester County	Chester County.
Chesterfield County.	Chesterfield County.
Clarendon County	Clarendon County.
Colleton County	Colleton County.
Darlington County	Darlington County.
Dillon County	Dillon County.
Florence County	Florence County.
Georgetown County.	Georgetown County.
Greenville City	Greenville City in Greenville County.
Greenwood County	Greenwood County.
Hampton County	Hampton County.
Jasper County	Jasper County.
Kershaw County	Kershaw County.
Lancaster County	Lancaster County.
Laurens County	Laurens County.
Lee County	Lee County.
Marion County	Marion County.
Marlboro County	Marlboro County.
McCormick County	McCormick County.
North Charleston City.	North Charleston City in Charleston County.
Oconee County	Oconee County.
Orangeburg County.	Orangeburg County.
Saluda County	Saluda County.
Sumter County	Sumter County.
Union County	Union County.
Williamsburg County.	Williamsburg County.
SOUTH DAKOTA	
Buffalo County	Buffalo County.
Corson County	Corson County.
Dewey County	Dewey County.
Shannon County	Shannon County.
Todd County	Todd County.
TENNESSEE	
Bedford County	Bedford County.
Benton County	Benton County.
Bledsoe County	Bledsoe County.
Bradley County	Bradley County.
Campbell County	Campbell County.
Cannon County	Cannon County.
Carroll County	Carroll County.
Carter County	Carter County.
Chattanooga City	Chattanooga City in Hamilton County.
Chester County	Chester County.
Claiborne County	Claiborne County.
Clarksville City	Clarksville City in Montgomery County.
Clay County	Clay County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Cocke County	Cocke County.
Crockett County	Crockett County.
Cumberland County.	Cumberland County.
De Kalb County	De Kalb County.
Decatur County	Decatur County.
Dickson County	Dickson County.
Dyer County	Dyer County.
Fayette County	Fayette County.
Fentress County	Fentress County.
Franklin County	Franklin County.
Gibson County	Gibson County.
Grainger County	Grainger County.
Greene County	Greene County.
Grundy County	Grundy County.
Hamblen County	Hamblen County.
Hancock County	Hancock County.
Hardeman County	Hardeman County.
Hardin County	Hardin County.
Hawkins County	Hawkins County.
Haywood County	Haywood County.
Henderson County	Henderson County.
Henry County	Henry County.
Hickman County	Hickman County.
Houston County	Houston County.
Humphreys County	Humphreys County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Johnson County	Johnson County.
Lake County	Lake County.
Lauderdale County	Lauderdale County.
Lawrence County	Lawrence County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Loudon County	Loudon County.
Macon County	Macon County.
Marion County	Marion County.
Marshall County	Marshall County.
Maury County	Maury County.
McMinn County	McMinn County.
McNairy County	McNairy County.
Meigs County	Meigs County.
Monroe County	Monroe County.
Balance of Montgomery County.	Montgomery County less Clarksville City.
Morgan County	Morgan County.
Obion County	Obion County.
Overton County	Overton County.
Perry County	Perry County.
Pickett County	Pickett County.
Polk County	Polk County.
Putnam County	Putnam County.
Rhea County	Rhea County.
Roane County	Roane County.
Scott County	Scott County.
Sequatchie County	Sequatchie County.
Sevier County	Sevier County.
Smith County	Smith County.
Stewart County	Stewart County.
Tipton County	Tipton County.
Trousdale County	Trousdale County.
Unicoi County	Unicoi County.
Union County	Union County.
Van Buren County	Van Buren County.
Warren County	Warren County.
Washington County.	Washington County.
Wayne County	Wayne County.
White County	White County.
Wilson County	Wilson County.
TEXAS	
Brownsville City	Brownsville City in Cameron County.
Balance of Cameron County.	Cameron County less Brownsville City.
Cass County	Cass County.
Dimmit County	Dimmit County.
El Paso City	El Paso City in El Paso County.
Balance of El Paso County.	El Paso County less El Paso City.
Balance of Hidalgo County.	Hidalgo County less McAllen City.
Laredo City	Laredo City in Webb County.
Marion County	Marion County.
Matagorda County	Matagorda County.
Maverick County	Maverick County.
McAllen City	McAllen City in Hidalgo County.
Morris County	Morris County.
Newton County	Newton County.
Orange County	Orange County.
Port Arthur City	Port Arthur City in Jefferson County.
San Augustine County.	San Augustine County.
Starr County	Starr County.
Texarkana City Tex.	Texarkana City Tex in Bowie County.
Upshur County	Upshur County.
Val Verde County	Val Verde County.
Willacy County	Willacy County.
Zapata County	Zapata County.
Zavala County	Zavala County.
UTAH	
Carbon County	Carbon County.
Duchesne County	Duchesne County.
Garfield County	Garfield County.
Grand County	Grand County.
Juab County	Juab County.
Ogden City	Ogden City in Weber County.
Sanpete County	Sanpete County.
Uintah County	Uintah County.
Wasatch County	Wasatch County.
VERMONT	
Orleans County	Orleans County.
VIRGINIA	
Alleghany County	Alleghany County.
Bland County	Bland County.
Brunswick County	Brunswick County.
Buchanan County	Buchanan County.
Buckingham County.	Buckingham County.
Buena Vista City	Buena Vista City.
Caroline County	Caroline County.
Carroll County	Carroll County.
Charlotte County	Charlotte County.
Covington City	Covington City.
Craig County	Craig County.
Danville County	Danville County.
Dickenson County	Dickenson County.
Dinwiddie County	Dinwiddie County.
Emporia City	Emporia City.
Essex County	Essex County.
Franklin City	Franklin City.
Franklin County	Franklin County.
Frederick County	Frederick County.
Giles County	Giles County.
Grayson County	Grayson County.
Greensville County	Greensville County.
Halifax County	Halifax County.
Highland County	Highland County.
Hopewell City	Hopewell City.
King and Queen County.	King and Queen County.
Lancaster County	Lancaster County.
Lee County	Lee County.
Lunenburg County	Lunenburg County.
Mecklenburg County.	Mecklenburg County.
Northumberland County.	Northumberland County.
Nottoway County	Nottoway County.
Page County	Page County.
Patrick County	Patrick County.
Pulaski County	Pulaski County.
Richmond County	Richmond County.
Rockbridge County	Rockbridge County.
Russell County	Russell County.
Shenandoah County.	Shenandoah County.
Smyth County	Smyth County.
South Boston City	South Boston City.
Surry County	Surry County.
Sussex County	Sussex County.
Tazewell County	Tazewell County.
Warren County	Warren County.
Waynesboro City	Waynesboro City.
Westmoreland County.	Westmoreland County.
Williamsburg City	Williamsburg City.
Winchester City	Winchester City.
Wise County	Wise County.
Wythe County	Wythe County.
WASHINGTON	
Adams County	Adams County.
Asotin County	Asotin County.
Benton County	Benton County.
Chelan County	Chelan County.
Clallam County	Clallam County.
Clark County	Clark County.
Columbia County	Columbia County.
Cowlitz County	Cowlitz County.
Douglas County	Douglas County.
Everett City	Everett City in Snohomish County.
Ferry County	Ferry County.
Franklin County	Franklin County.
Grant County	Grant County.
Grays Harbor County.	Grays Harbor County.

Labor Surplus Areas Eligible for Federal Procurement Preference From October 1, 1983 Through September 30, 1984—Continued

Eligible labor surplus areas	Civil jurisdictions included
Jefferson County	Jefferson County.
Kittitas County	Kittitas County.
Klickitat County	Klickitat County.
Lewis County	Lewis County.
Mason County	Mason County.
Okanogan County	Okanogan County.
Pacific County	Pacific County.
Pend Oreille County.	Pend Oreille County.
Balance of Pierce County.	Pierce County less Tacoma City.
Skagit County	Skagit County.
Skamania County	Skamania County.
Balance of Snohomish County.	Snohomish County less Everett City.
Spokane City	Spokane City in Spokane County.
Balance of Spokane County.	Spokane County less Spokane City.
Stevens County	Stevens County.
Tacoma City	Tacoma City in Pierce County.
Thurston County	Thurston County.
Wahkiakum County.	Wahkiakum County.
Whatcom County	Whatcom County.
Yakima County	Yakima County.
WEST VIRGINIA	
Barbour County	Barbour County.
Berkeley County	Berkeley County.
Boone County	Boone County.
Braxton County	Braxton County.
Brooke County	Brooke County.
Balance of Cabell County.	Cabell County less Huntington City.
Calhoun County	Calhoun County.
Clay County	Clay County.
Doddridge County	Doddridge County.
Fayette County	Fayette County.
Grant County	Grant County.
Greenbrier County	Greenbrier County.
Hampshire County	Hampshire County.
Hancock County	Hancock County.
Hardy County	Hardy County.
Harrison County	Harrison County.
Huntington City	Huntington City in Cabell County, Wayne County.
Jackson County	Jackson County.
Balance of Kanawha County.	Kanawha County less Charleston City.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Logan County	Logan County.
Marion County	Marion County.
Marshall County	Marshall County.
Mason County	Mason County.
McDowell County	McDowell County.
Mercer County	Mercer County.
Mineral County	Mineral County.
Mingo County	Mingo County.
Monroe County	Monroe County.
Nicholas County	Nicholas County.
Ohio County	Ohio County.
Pendleton County	Pendleton County.
Pleasants County	Pleasants County.
Pocahontas County	Pocahontas County.
Preston County	Preston County.
Putnam County	Putnam County.
Raleigh County	Releigh County.
Randolph County	Randolph County.
Ritchie County	Ritchie County.
Roane County	Roane County.
Summers County	Summers County.
Taylor County	Taylor County.
Tucker County	Tucker County.
Tyler County	Tyler County.
Upshur County	Upshur County.
Balance of Wayne County.	Wayne County less Huntington City.
Webster County	Webster County.
Wetzel County	Wetzel County.
Wirt County	Wirt County.
Wood County	Wood County.
Wyoming County	Wyoming County.
WISCONSIN	
Ashland County	Ashland County.
Bayfield County	Bayfield County.
Balance of Calumet County.	Calument County less Appleton City.
Clark County	Clark County.
Columbia County	Columbia County.
Door County	Door County.
Douglas County	Douglas County.
Florence County	Florence County.
Forest County	Forest County.
Green Lake County	Green Lake County.
Iron County	Iron County.
Jackson County	Jackson County.
Janesville City	Janesville City in Rock County.
Jefferson County	Jefferson County.
Juneau County	Juneau County.
Kenosha City	Kenosha City in Kenosha County.
Kewaunee County	Kewaunee County.
Lincoln County	Lincoln County.
Manitowoc County	Manitowoc County.
Marathon County	Marathon County.
Marquette County	Marquette County.
Menominee County	Menominee County.
Milwaukee City	Milwaukee City in Milwaukee County.
Oconto County	Oconto County.
Price County	Price County.
Racine City	Racine City in Racine County.
Balance of Racine County.	Racine County less Racine City.
Balance of Rock County.	Rock County less Janesville City.
Rusk County	Rusk County.
Sauk County	Sauk County.
Sawyer County	Sawyer County.
Taylor County	Taylor County.
Trempealeau County.	Trempealeau County.
Vilas County	Vilas County.
Washburn County	Washburn County.
Waushara County	Waushara County.
WYOMING	
Carbon County	Carbon County.
Casper City	Casper City in Natrona County.
Lincoln County	Lincoln County.

[FR Doc. 83-26455 Filed 9-28-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-77]

Executive Order 12372, Intergovernmental Review of Federal Programs and Activities, Implementation

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Statement of Programs and Activities Subject to Regulations Implementing Executive Order 12372.

SUMMARY: This notice identifies the NASA programs on which States may elect to have consultation with NASA purusant to Executive Order 12372 and NASA's implementing regulations published in the **Fededal Register** June 24, 1983. Those programs for Fiscal Year 1984 are construction, maintenance, operation and management of NASA facilities and installations, to the extent that they may have the effects on State or local government specified in the Executive Order. States wishing to select any of these for consultation should follow the procedure as described in 14 CFR 1204.1506, 48 FR 29340, June 24, 1983.

ADDRESS: National Aeronautics and Space Administration, Code NXG-2, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Bayne, (202) 755-3647.

James M. Beggs,

Administrator.

[FR Doc. 83-26506 Filed 9-28-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

Date: October 17, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to Research Resources: Music and Performing Arts Collection Panel: Division of Research Programs, for projects beginning after April 1, 1984.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-26644 Filed 9-28-83; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Alabama Power Co.; Granting of Relief From ASME Code

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Alabama Power Company, which revised the inservice inspection program for the Joseph M. Farley Nuclear Plant, Unit No. 2, located in Houston County, Alabama. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of September 22, 1983.

This action provides relief from performing volumetric, surface and visual examinations of the welds on certain class 1, 2 and 3 piping and components and certain hydrostatic pressure tests. Alternate examinations and tests have been proposed and accepted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Alabama Power Company dated July 25, 1980 and January 28, 1983, (2) the letter to Alabama Power Company dated September 22, 1983 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 George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of September 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 83-26619 Filed 9-28-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-201; License No. CSF-1]

New York State Energy Research and Development Authority (Western New York Nuclear Service Center); Request for Action Under 10 CFR 2.206

Notice is hereby given that by letter dated August 24, 1983, the Sierra Club has requested that the Commission take action to amend the New York State Energy Research and Development Authority license for the Western New York Nuclear Service Center or in the alternative, the licenses of the reactor licensees with irradiated fuel in storage at the facility. The Sierra Club bases its request on the proposed plan to ship that spent fuel from the West Valley facility back to the originating utilities. The Sierra Club's letter is being treated as a request for action under 10 CFR 2.206 and has been referred to the Director of the Office of Nuclear Material Safety and Safeguards for consideration. As provided in 10 CFR 2.206, appropriate action will be taken on the request within a reasonable time.

Copies of the request are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 22nd day of September 1983.

For the Nuclear Regulatory Commission.

John G. Davis,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 83-26620 Filed 9-28-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-352-OL, 50-353-OL]

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2); Notice of Opportunity for Limited Appearance Statements

September 23, 1983.

Members of the public are invited to present oral and written limited appearance statements to the Atomic Safety and Licensing Board presiding in this proceeding on the application of the Philadelphia Electric Company for licenses to operate the Limerick Generating Station, Units 1 and 2. The Limerick Generating Station is a two

unit boiling water reactor nuclear power plant. It is now under construction in Limerick Township, Montgomery County, Pennsylvania, along the Schuylkill River, about four miles downriver from Pottstown.

The oral and written public appearance statements may be made by any person who is not a party to this proceeding at either of the two following sessions: October 17, 1983, 7:00 p.m.–10:00 p.m. and October 18, 1983, 7:00 p.m.–10:00 p.m. at Phoenixville Municipal Building, 140 Church Street, Phoenixville, Pennsylvania 19460.

Those who wish to speak may submit their names at the above location as early as one half-hour before the commencement of the public appearance sessions. In order to give as many people as practicable an opportunity to be heard, oral statements will be limited to five minutes but written statements may be any reasonable length. Those who speak may also submit written statements. Written statements may be presented at the public appearance sessions or they may be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Both oral and written statements will be maintained with the official record of this proceeding. A limited appearance statement is not evidence which is directly considered as part of the formal litigation in this proceeding. However, persons making limited appearance statements may give their position on the issues to be decided, and they may propose questions they wish answered by the Applicant and the NRC Staff and by the evidence in the upcoming hearing. The Board will consider these questions to the extent they are within the scope of the proceeding.

It is so ordered.

For the Atomic Safety and Licensing Board.

Lawrence Brenner,

Chairman, Administrative Judge.

Bethesda, Maryland, September 23, 1983.

[FR Doc. 83-26621 Filed 9-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Request for Action Under 10 CFR 2.206

Notice is hereby given that by letter dated September 12, 1983, the Union of Concerned Scientists has requested that the Commission take action to immediately suspend operation of the James A. FitzPatrick Nuclear Power Plant. The relief requested is based upon recently obtained information which questions the adequacy of pipe supports at FitzPatrick. The letter also asked that action be taken to determine whether the FitzPatric Licensee, the Power Authority of the State of New York, violated 10 CFR Part 21 of the Commission's regulations, or made a material false statement to the Commission regarding the pipe support issue. As provided in 10 CFR 2.206, action will be taken on the request within a reasonable time.

Copies of the request are available in the Commission's Public Document Room, located at 1717 H Street, NW., Washington, D.C. 20555 and in the local Public Document Room for the FitzPatrick facility, located at the Penfield Library, State University college at Oswego, Oswego, New York 13126.

Dated: at Bethesda, Maryland, this 23rd day of Setpember 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-26622 Filed 9-28-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266, 50-301; DD-83-13]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Inspection and Enforcement, has denied a petition under 10 CFR 2.206 filed by Mr. Peter Anderson on behalf of Wisconsin Environmental Decade, Inc. (Decade), of Madision, Wisconsin. This petition related to the Point Beach Nuclear Plant, Units 1 and 2. In its petition, Decade requested the issuance of an order to Wisconsin Electric Power Company to show cause why the operating licenses for the Point Beach plants should not be modified, suspended, or revoked because of "the serious deterioration of operator performance at the facility."

The reasons for the denial of Decade's petition are fully described in the "Director's Decision Under 10 CFR 2.206" issued on this date, which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document rooms for the Point Beach facilities at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland this 23rd day of September 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-26623 Filed 9-28-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et al.; Granting of Relief from ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules of Inservice Inspection of Nuclear Power Plant Components," to the Wisconsin Public Service Corporation, the Wisconsin Power and Light Company and the Madison Gas and Electric Company, which revised the inservice inspection program for the Kewaunee Nuclear Power Station, located in Kewaunee, Wisconsin. The ASME Code requirements are incorporated by reference into the Commission's rules and Regulations in 10 CFR Part 50. The relief is effective as of September 16, 1983.

This action provides relief from performing volumeric and visual examinations of a reactor coolant pump. Alternate examination procedures have been proposed and accepted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Wisconsin Public Service Corporation dated March 8, and July 19, 1983, (2) the letter to Wisconsin Public Service Corporation dated September 16, 1983, 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 Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of September 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-26624 Filed 9-28-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Modifying Sugar Quota Allocation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice modifies country-by-country allocations which are currently applicable to sugar import quotas.

EFFECTIVE DATE: September 27, 1983.

FURTHER INFORMATION: Rollinde Prager, (202) 395-3077.

SUPPLEMENTARY INFORMATION:

Presidential Proclamation 4941 of May 5, 1982 (47 FR 19661), modified the quotas on the importation into the United States of sugars, sirups and molasses provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) and allocated the quotas on a country-by-country basis. Under this system, sugar from an individual country enters the United States and is counted against that country's quota on a first-come-first-served basis. If the quota allocation is filled for that quota period, the sugar may be entered into warehouse under bond and later withdrawn from warehouse for consumption in a subsequent quota period. The quota periods are established on an annual basis.

Proclamation 4941 also authorizes the U.S. Trade Representative or his designee and the Secretary of Agriculture, after appropriate consultations, to make certain modifications in the sugar import quota system if such modifications are appropriate to carry out U.S. obligations under the International Sugar Agreement, 1977 (ISA), and if such modifications give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. After appropriate consultations between the Office of the United States Trade Representative and the Departments of State and Agriculture, the Deputy United States Trade Representative has determined that certain modifications in the import quota system are appropriate to give due consideration to these interests. Accordingly, the country-by-country quota allocations are modified by the addition of the nations Congo and Uruguay to the category "Other specified countries and areas" in paragraph (c)(1) of Presidential Proclamation 4941 of May 5, 1982, and deleted from paragraph (c)(2).

This notice is effective the day after the day of filing.

I have determined that the above allocations are appropriate to carry out the obligations of the United States under the International Sugar Agreement, 1977, and that the above allocations give consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Robert E. Lighthizer,

Deputy United States Trade Representative.

[FR Doc. 83-26563 Filed 9-26-83; 2:48 pm]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20223; File Nos. SR-MCC-83-2, SR-MCC-83-5 and SR-MCC-83-6]

Self-regulatory Organizations; Order Approving Proposed Rule Changes of Midwest Clearing Corp.

On July 6, 1983, July 25, 1983, and August 1, 1983, the Midwest Clearing Corporation ("MCC") submitted proposed rule changes [1] to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. The proposed rule changes were filed to conform MCC's Rules and By-laws to the Act and to the Division of Market Regulation's Standards concerning full registration of clearing agencies and would amend MCC's Rules and By-laws in several respects.

The proposed rule changes would: (i) Limit the power to waive or suspend rules and procedures to a 60-day period unless approved by the Board of Directors within that period; (ii) expand the categories of sanctions available to MCC to include all the sanctions enumerated in Section 17A(b)(3)(G) of the Act; (iii) increase the number of days during which a participant may request a review of decisions imposing disciplinary sanctions; (iv) stay sanctions, other than summary suspension, upon a participant's request for a review of disciplinary action; (v) require that directors involved in a review or appeal concerning participant sanctions will be disinterested in the matter; (vi) require MCC promptly to notify its participants and other clearing agencies of any proposed rule changes filed with the Commission; (vii) require MCC to notify affected persons that it has ceased to act for a participant by, among other methods, telephone, cable, or similar medium; and (viii) provide that MCC will furnish to participants, within sixty days after the end of each fiscal year, annual financial statements audited by independent public accounts and will furnish to participants on request, within thirty days after the end of any fiscal quarter, unaudited quarterly financial statements. In addition, the proposed rule changes would amend MCC's By-laws to require the Nominating Committee, in nominating individuals for the Board of Directors, and the sole shareholder, in electing MCC's Board, to do so with a view to providing fair representation on the Board for a cross-section of the community of MCC's participants and would provide participants an opportunity to petition to nominate for the Board individuals other than those selected by the Nominating Committee.

During the course of the full registration review process, these rule changes were specifically considered by the Commission and found to be consistent with the provisions of the Act and the Division's Standards concerning full registration of clearing agencies. For the reasons discussed in the Full Registration Order,[2] the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act.

[1] File No. SR-MCC-83-2, notice of which was given in Securities Exchange Act Release No. 19981 (July 18, 1983), 48 FR 34171 (July 27, 1983); File No. SR-MCC-83-5, Securities Exchange Act Released No. 20022 (July 29, 1983), 48 FR 36234 (August 9, 1983); and File No. SR-MCC-83-6, Securities Exchange Act Release No. 20062 (August 8, 1983), 48 FR 37128 (August 16, 1983).

[2] *See* Securities Exchange Act Release No. 20221 (September 23, 1983).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26679 Filed 9-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20224; File Nos. SR-MSTC-83-10 and SR-MSTC-83-14]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes of Midwest Securities Trust Co.

On July 6, 1983 and August 1, 1983, the Midwest Securities Trust Company ("MSTC") submitted proposed rule changes [1] to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. The proposed rule changes were filed to conform MSTC's Rules to the Act and to the Division of Market Regulation's Standards concerning full registration of clearing agencies and would amend MSTC's Rules in several respects.

The proposed rules changes would: (i) Limit the power to waive or suspend rules and procedures to a 60-day period unless approved by the Board of Directors within that period; (ii) expand the categories of sanctions available to MSTC to include all the sanctions enumerated in Section 17A(b)(3)(G) of the Act; (iii) increase the number of days during which a participant may request a review of decisions imposing disciplinary sanctions; (iv) stay sanctions, other than summary suspension, upon a participant's request for a review of disciplinary action; (v) require that directors involved in a review or appeal concerning participant sanctions will be disinterested in the matter; (vi) require MSTC promptly to notify its participants and other clearing agencies of any proposed rule changes filed with the Commission; (vii) require MSTC to notify affected persons that it has ceased to act for a participant by, among other methods, telephone, cable or similar medium; and (viii) provide that MSTC will furnish to participants, within sixty days after the end of each fiscal year, annual financial statements audited by independent public accountants and will furnish to participants on request, within thirty days after the end of any fiscal quarter, unaudited quarterly financial statements.

During the course of the full registration review process, these rule changes were specifically considered by the Commission and found to be consistent with the provisions of the Act and the Division's Standards concerning full registration of clearing agencies. For the reasons discussed in the Full Registration Order,[2] the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26680 Filed 9-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20225, File No. SR-OCC-83-14]

Self-Regulatory Organizations; The Options Clearing Corp.; Order Approving Proposed Rule Change

On May 26, 1983, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission a proposed rule change that would amend OCC's guidelines for approving foreign and domestic banks as issuers of letters of credit for OCC margin purposes. Notice of the proposed rule change, together with a statement of its terms, was published in Securities Exchange Act Release No. 19913 (June 27, 1983), 48 FR 30506 (July 1, 1983). No comment letters were received.

I. Description

The proposed rule change would add Interpretation and Policy .07 to Rule 604. Under the proposal, OCC will not accept a letter of credit from a financial institution if that institution, its parent or an affiliate has a 20% or greater equity interest in the clearing member for which the letter of credit is issued. Currently, OCC can accept letters of credit from such a financial institution if that institution meets OCC's general criteria respecting letter of credit issuers.[1]

II. OCC's RationalE

OCC states that the proposed rule change responds to the recent trend of U.S. and foreign banks acquiring or increasing their ownership interests in registered broker-dealers. OCC believes that its margin program would be weakened, thus increasing OCC's and its clearing members' financial exposure, if OCC were to accept letters of credit issued by a financial institution on behalf of a closely affiliated clearing member.[2] To assure the financial integrity of its margin program, OCC must be able immediately [3] to draw funds down under letters of credit pledged to OCC by clearing members.[4] If a defaulting clearing member's margin deposits are insufficient because an issuer dishonors a letter of credit,[5] OCC must take extraordinary steps to satisfy or close-out the outstanding liabilities of the defaulting clearing member.[6] To

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[1] File No. SR-MSTC-83-10, notice of which was given in Securities Exchange Act Release No. 19980 (July 18, 1983), 48 FR 34170 (July 27, 1983) and File No. SR-MSTC-83-14, Securities Exchange Act Release No. 20063 (August 8, 1983), 48 FR 37129 (August 16, 1983).

[2] *See* Securities Exchange Act Release No. 20221 (September 23, 1983).

[1] *See* Interpretations and Policies .01 through .06 under OCC Rule 604.

[2] OCC's margin program is OCC's primary safeguard against financial exposure caused by clearing member default. OCC's Stock and Non-Equity Securitites Clearing Funds serve as a secondary financial safeguard against such exposure. As of August 31, 1983, those Clearing Fund deposits amounted to $258.8 million or about 9% of total OCC margin deposits ($2.24 billion).

[3] OCC would rely on the letter of credit immediately after OCC used its close-out procedures set forth in Chapter XI of OCC Rules. *See* note 6 *infra*.

[4] A clearing member's required margin deposit generally is based on the member's net, uncovered short positions. Those positions are the main source of OCC's liability in the event of clearing member insolvency. *See* Chapter VI of OCC's Rules.

[5] If, instead of dishonoring the letter of credit, the issuing institution delays payment on the instrument, OCC could borrow funds from a bank collateralized by clearing members' clearing fund contributions. OCC, however, would likely incur significant financing charges from such borrowing.

[6] In general, OCC summarily suspends any clearing member that defaults on its obligations to OCC. OCC takes custody of any assets pledged to it by the clearing member, including margin deposits and clearing fund contributions, converts them into cash and places the cash in a Liquidating Settlement Account. OCC then uses its expedited procedures under Chapter XI of its Rules to close-out the suspended clearing member's options positions. OCC uses the clearing member's margin deposits to satisfy residual obligations. If the margin deposits are inadequate to cover the clearing member's liabilities (for example, because of dishonor of a letter of credit), OCC must resort to the suspended clearing member's clearing fund contribution. If the member's clearing fund contribution does not satisfy the residual liability, OCC, under Article VIII, § 5(a) and (f) of its By-laws, must charge the loss to its current earnings or must make *pro rata* assessments against the clearing fund contributions of all other clearing members.

avoid such extraordinary action, OCC believes that it should only accept letters of credit for creditworthy clearing members from qualified financial institutions that are ready and able to honor their letters of credit.

OCC believes that it is exposed to unreasonable credit risks when there is a close affiliation between the issuing institution and the clearing member. In OCC's view, a close relationship increases interdependence and may influence the issuer's normal credit judgment causing the bank parent to issue a letter of credit without an adequate, arms-length determination of the affiliated clearing member's creditworthiness. Because OCC depends on careful and cooperative credit assessments by issuers, any incomplete issuer review would frustrate OCC's regulatory expectations. Furthermore, any extension of credit to an affiliated clearing member in a questionable financial position could increase OCC's financial exposure and increase the risk that the issuer would dishonor or delay payment on the letter of credit.

OCC states that the proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, in that it assures the safeguarding of securities and funds in the custody or control of OCC, or for which OCC is responsible, by improving the standards for acceptance of letters of credit.

III. Discussion

The Commission believes that OCC must ensure the financial integrity and reliability of its margin program. To help accomplish this objective, OCC, as a creditor clearing agency, must be able to establish reasonable credit guidelines relating to that program. For the following reasons, the Commission believes that the proposed rule change accomplishes these goals and is consistent with Section 17A of the Act in that it assures the safeguarding of securities and funds in the custody or control of OCC or for which it is responsible.

First, the proposed restriction will avert the need for OCC to make independent credit and issuer-performance assessments for each letter of credit issued by a bank that is closely affiliated with an account party. OCC would find it very difficult to obtain facts indicating less than arms-length dealings, because such facts, by their nature, are not easily available. Thus, OCC could not be assured of its ability to make fully informed independent assessments.

Second, closely-affiliated clearing members and letter of credit issuers should not be affected adversely by the proposed rule change. Each clearing member now and in the future can obtain letters of credit from a diversified group of issuers. Accordingly, eliminating one potential issuer should not reduce significantly the availability of letters of credit to any clearing member. In any event, qualifying banks can issue letters of credit, consistent with OCC's guidelines, for any clearing member in which they do not have a 20 percent or greater equity interest. Finally, the proposed prohibition is uniform. All domestic and foreign bank letters of credit issuers are subject to the same restriction.

IV. Conclusion

Based on the foregoing, 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 clearing agencies and, in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Marker Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26677 Filed 9-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20226; File Nos. SR-Philadep-83-4 and SR-Philadep-83-5]

Self-Regulatory Organization; Order Approving Proposed Rule Changes of the Philadelphia Depository Trust Co.

On May 23, 1983 and June 27, 1983, the Philadelphia Depository Trust Company ("Philadep") submitted proposed rule changes [1] to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. The proposed rule changes were filed to conform Philadep's By-laws and Rules to the Act and to the Division of Market Regulation's Standards concerning full registration of clearing agencies.[2]

The proposed rule changes would amend Philadep's By-laws and Rules in several significant respects. First, the proposed rule changes in File No. SR-Philadep-83-4 would amend Articles V and XI of Philadep's by-laws to provide for notice of rule changes and by-law amendments, respectively, to be sent to all participants and other registered clearing agencies prior to the effective date of those amendments. The proposed rule change also would amend Article VI of Philadep's by-laws to provide for one or more vice presidents, conforming the by-laws to existing practice. Article VI would be amended further to provide the president with the authority to appoint the officers as the president deems necessary for efficient management. In addition, the amendment to Article VI would enable the president to determine the duties, responsibilities, and terms of office of those officers whom he has appointed.

Article XII of Philadep's by-laws, as amended, would authorize Philadep to make its services available to entities that qualify for membership in accordance with its rules and to decline an application for membership, to cease to act for a participant, to condition, limit or terminate a participant's activities or reinstate a disciplined participant, according to Philadep's rules and procedures. In accordance with Philadep's rules, applicants and participants will have the right to appeal from any of those actions. New Philadep by-law Article XIII would authorize the board of directors to enact or repeal rules dealing with disciplinary hearings and participant appeals from decisions imposing sanctions or limiting access to Philadep services.

The proposed rule change would amend several Philadep rules. Amended Philadep Rule 6 would authorize Philadep to participate in tender offers on behalf of its participants. Amended Philadep Rule 15 would require timely distribution to participants of Philadep's financial statements. Amended Philadep Rule 29 would establish Philadep's standard of care to its participants in safeguarding participant securities. Finally, new Philadep Rule 18 would establish an audit committee composed only of non-management directors.

Second, the proposed rule changes in File No. SR-Philadep-83-5 would amend Article III of Philadep's By-laws to provide for a nominating committee and independent nominations for Directors by written petition from participants. Article III would be amended further to provide that Philadep shareholders, in voting for Philadep's directors, must give due consideration to the fair representation of Philadep participants. In addition, the proposed rule change would amend Article IV of Philadep's By-laws to provide for between 15 and

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[1] *See* Securities Exchange Act Release No. 19995 (July 21, 1983), 48 FR 34557 (July 29, 1983) and Securities Exchange Act Release No. 19997 (July 21, 1983), 48 FR 34557 (July 29, 1983).

[2] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

17 directors, a majority of whom will be governors of the parent Exchange and, through one or more dual member directors, a majority of whom will be Philadep participants. Article IV also would be amended to provide for an Audit, Executive, Finance, Marketing, Nominating and Operations Committee. Philadep believes that these amendments are consistent with Section 17A(b)(3)(C) of the Act because these amendments assure Philadep shareholders and participants fair representation in the selection of Philadep's directors and administration of Philadep's affairs.

Furthermore, the proposed rule change would amend Philadep Rule 2, to enable sole proprietors to qualify for membership in Philadep. With respect to this amendment, Philadep believes the proposed rule change is consistent with Section 17A(b)(3)(B) of the Act in that it would permit "any registered broker or dealer," including a sole proprietor, to become a Philadep participant.

During the course of the full registration review process, these rule changes were specifically considered by the Commission and found to be consistent with the provisions of the Act and the Division Standards concerning full registration of clearing agencies.[3] For the reasons discussed in the Full Registration Order, the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Sections 17A(b)(3)(A)–(I) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26676 Filed 9-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20227; File Nos. SR-SCCP-83-5 and SR-SCCP-83-6]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes of the Stock Clearing Corporation of Philadelphia

On May 23, 1983 and June 27, 1983, the Stock Clearing Corporation of Philadelphia ("SCCP") submitted proposed rule changes [1] to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b-4 thereunder. The proposed rule changes were filed to conform SCCP's By-laws and Rules to the Act and to the Division of Market Regulation's Standards concerning full registration of clearing agencies.[2]

The proposed rule changes would amend SCCP's By-laws and Rules in several significant respects. First, the proposed rule changes in File No. SR-SCCP-83-5 would amend Articles V and XI of SCCP's by-laws to require timely notice to all SCCP participants and other registered clearing agencies of any changes to SCCP's rules and by-laws to enable interested persons to submit comments. Amended Article VI would preclude the same person from holding the offices of president and treasurer. Amended Article XII would require SCCP to make its services available to entities that qualify for membership and to permit SCCP in accordance with SCCP's rules, to decline an application for membership, cease to act for, or condition, limit or terminate the privilege of a participant. Applicants and participants would be afforded the right to appeal from any of those actions and SCCP's board of directors, on its own motion, would be authorized to admit or reinstate applicants or participants adversely affected by corporate decisions.

The proposed rule change would also add several new Articles to SCCP's by-laws. New Article VII would enable SCCP to indemnify past and present SCCP officers and directors against liabilities and expenses to the fullest extent of state law. New Article X would require the president and board of directors to present a statement of SCCP's affairs at the annual meeting of shareholders. Article XVI, which establishes the Contingency Reserve Account, would authorize the board of directors to set the amount of the funds in the Account, from time to time. The Account could be used by SCCP to offset financial exposure to SCCP and its participants arising from SCCP's clearance and settlement activities. Finally, new Article XVII would authorize the board to enact or repeal rules dealing with disciplinary actions and sanctions, and to adopt procedures for conducting disciplinary hearings and reviews.

The proposed rule change also makes several substantive changes to SCCP's rules. SCCP Rule 8 would be amended to provide that all deliveries of Philadep-eligible securities must be made via deposits to a Philadep account. SCCP Rule 17 would provide that SCCP must terminate a participant if SCCP determines that the participant does not meet certain specified criteria. New SCCP Rule 19 states that any participant for whom SCCP has ceased to act can be reinstated by a majority vote of the board of directors. SCCP Rule 29 would require SCCP to maintain appropriate insurance coverage and to advise participants and the Commission of any material reduction in the amount of that coverage. New SCCP Rule 30 would authorize SCCP to disclose to participants SCCP's financial statement within certain time frames. New SCCP Rules 31 and 32 would provide, respectively, that SCCP must have an audit committee composed of non-management directors and that SCCP will apply a uniform standard of care in its obligations to participants. SCCP believes that these amendments are consistent with Sections 17A(b)(3)(A)–(I) of the Act.

New SCCP Rule 24, concerning the right of appeal, would strengthen the due process afforded to applicants denied membership in SCCP and to disciplined participants. Section 4 of this Rule would require that an independent committee of the Board hear the appeals and that such committee not include any person responsible for the specific decision from which the appeal is taken. SCCP believes these amendments are consistent with Section 17A(b)(3)(H) of the Act because they will strengthen the fairness of the procedural protections afforded applicants and participant's affected by SCCP proceedings to deny membership and impose disciplinary sanctions or otherwise to limit participants access to SCCP services, respectively.

Second, the proposed rule changes in File No. SR-SCCP-83-6 would amend Article III of SCCP's by-laws to provide for a nominating committee and independent nominations for directors by written petition from participants. Article III would be amended further to provide that SCCP shareholders, in voting for SCCP's directors, must give due consideration to the fair representation of SCCP participants. In addition, the proposed rule change would amend Article IV of SCCP's by-laws to provide for between 15 and 17 directors, a majority of whom will be governors of the Philadelphia Stock Exchange and, through one or more dual member directors, a majority of whom will be SCCP participants. Article IV

[3] *See* Securities Exchange Act Release No. 20221 (September 23, 1983).

[1] See Securities Exchange Act Release No. 19996 (July 21, 1983), 48 FR 34559 (July 29, 1983) and Securities Exchange Act Release No. 19998 (July 21, 1983), 48 FR 34558 (July 29, 1983).

[2] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

also would be amended to establish Audit, Executive, Finance, Marketing, Nominating and Operations Committees of the board of directors. SCCP believes that these amendments are consistent with Section 17A(b)(3)(C) of the Act by assuring fair representation of its shareholders and participants in the selection of its directors and in the administration of its affairs.

Furthermore, the proposed rule change would amend SCCP Rule 2 to enable sole proprietors to qualify for membership in SCCP. SCCP believes this amendment is consistent with Section 17A(b)(3)(B) of the Act because it would permit "any registered broker or dealer," including a sole proprietor, to become a SCCP participant.

During the course of the full registration review process, these rule changes were specifically considered by the Commission and found to be consistent with the provisions of the Act and the Division Standards concerning full registration of clearing agencies.[3] For the reasons discussed in the Full Registration Order, the Commission finds that the proposed rule changes are consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Sections 17A(b)(3)(A)–(I) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26678 Filed 9-28-83; 8:45 am]

BILLING CODE 8010-01-M

[3] *See* Securities Exchange Act Release No. 20221 (September 23, 1983).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-053]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) Notice is hereby given of the initial meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on October 18, 1983, in the 29th Floor Boardroom of the International Trade Market Bldg, New Orleans, LA. The meeting is scheduled to begin at 9:30 a.m. and end at 11:30 a.m. The agenda for the meeting consists of the following items:

1. Introductory Remarks by Committee Sponsor.
2. Organizational and Administrative Business.
3. Establishment of Subcommittees.
4. Presentation of issues for consideration to the Committee.
5. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Person wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander W. A. Monson, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130. Telephone number (504) 589-6901.

Dated: September 26, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 83-26630 Filed 9-28-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-83-22]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 19, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition, Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 22, 1983.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22190	Vieques Air Link, Inc.	14 CFR 135.143(a)	To extend Exemption 3479, which expires 12/31/83, to allow petitioner's commuter air carrier operations to be conducted by pilots in command who are not holders of airline transport pilot certificates, subject to certain limitations.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23743	Interstate Airlines, Inc	14 CFR 121.623 & 121.643	To permit petitioner, a supplemental air carrier, to operate its B-727 aircraft in accordance with the domestic air carrier alternate airport provisions of § 121.619 and fuel requirements of § 121.639.
22770	HCI Helicopters, Inc	14 CFR 43.3(h)	To amend Exemption 3570, issued on 7/2/82, and which permitted pilots of petitioner to remove, check, reinstall, and safety wire magnetic chip detector plugs on Allison 250C series engines. This amendment is to reflect the recent change in the petitioner's title to HCI Helicopters, Inc., in lieu of Helicopter Charter, Inc.
15585	Cathay Pacific Airways	14 CFR Parts 21 & 91	To extend Exemption 2280F, which expires 12/31/83, to allow petitioner to operate three leased U.S.-registered L-1011 aircraft using an FAA-approved minimum equipment list and continuous airworthiness maintenance and inspection program.
23739	Avjet Corp	14 CFR 135.89(b)(3)	To allow petitioner to operate an Israel Aircraft Industries Westwind 1124 jet aircraft up to 41,000 feet MSL without at least one pilot at the controls wearing an oxygen mask.

DISPOSITION OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought dispostion
23500	Herbert F. Ewald	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot under Part 121 operations beyond the date of his 60th birthday. Denied 9/16/83.
23510	Fischer Aviation, Inc. o/b/o William J. Simon	14 CFR 65.91(c)(1)	To permit Mr. Simon to apply for an inspection authorization even though he has not held his mechanic certificate continuously for the past 3 years. Denied 9/13/83.
23580	Crescent Helicopters	14 CFR 65.91	To permit Mr. Ernest Eadelman to apply for an inspection authorization even though petitioner has not held an airframe certificate continuously for the past 3 years. Denied 9/6/83.
23444	Suburban Airlines, Inc	14 CFR 121.623	To permit petitioner to operate certain aircraft without designating an alternate airport for each destination airport when releasing an aircraft's operations under IFR or over-the-top, if for at least 1 hour after scheduled arrival at the destination, the weather reports and/or forecasts indicate a ceiling of at least 2,000 feet abovt the airport and visibility of at least 3 miles. Denied 9/19/83.
23294	Suburban Airlines	14 CFR Portions of Part 121	To permit petitioner to operate certain turbine-powered aircraft with 30 seats or less in scheduled service under Part 121 and to permit operation of these aircraft without the installation of a flight data recorder, a cockpit voice recorder, and ground proximity warning equipment. Partial Grant 9/21/83.
21664	Air Polynesia, Inc	14 CFR 121.371 & 121.378	Renewal of Exemption 3365 to permit petitioner to utilize Air Asia Company Limited, an FAA certificated foreign repair station, No. 653-14P, for overhaul of its McDonnell-Douglas DC-3 and DC-6 aircraft engines, propellers, and accessories, subject to certain conditions and limitations. Granted 9/9/83.
23673	Capitol Air, Inc	14 CFR 121.465-(b)(1)	To permit petitioner to schedule flight dispatcher duty time in excess of 10 hours. Granted 9/8/83.
17324	Gulf Air	14 CFR Parts 21, 61, 63 and 91	Extension of Exemption 2468 to permit petitioner to operate two leased, U.S.-registered L-1011 aircraft using a FAA approved master minimum equipment list and an FAA-approved airworthiness maintenance program. Granted 9/6/83.
NM-4	Canadair Aircraft	14 CFR 25.1305(d)(3)	To permit petitioner to operate the CL600-1A11 and CL600-2A12 aircraft without installation of a powerplant instrument to indicate rotor system unbalance. Granted 8/25/83.
21959	Deere & Company	14 CFR Parts 21 & 91	To permit petitioner to operate a Grumman G-1159 aircraft, three Cessna aircraft, and one Lockheed L-1329 aircraft using a Federal Aviation Administration minimum equipment list. Two year extension Granted 9/15/83.
21844	Airborne Express, Inc	14 CFR 121.623, 121.643, & 121.645	To extend Exemption 3443A to allow petitioner to operate its DC-9 and YS-11 aircraft under the provisions of Sections 121.619 and 121.639 in the conduct of its all-cargo air service, subject to conditions and limitations. Granted 9/15/83.
22097	Tenneco	14 CFR 91.23(a)(3)	To extend Exemption 3397 which permits a minimum of 30-minute fuel reserve for petitioner's instrument helicopter operations rather than the required 45-minute reserve. Granted 9/15/83.
23764	Northrop Corp	14 CFR 61.3(a)	To permit certain U.S. and foreign military pilots to fly as pilots in command of petitioner's F-20 aircraft, N3986B and N4416, when they do not hold a pilot certificate issued under the FAR. Granted 9/16/83.
20549	Boeing Commerical Airplance Co	14 CFR Portitions of Parts 25 & 37	To permit type certification of the Model 747-306 airplane with the location of the flap position indicator in the lower left-hand corner of the pilot's center instrument panel and with the servo altimeter configured with dial markings at 50 ft. increments rather than at 20 ft. Granted 9/7/83.
23189	Pilatus Aircraft Ltd	14 CFR 23.49(b)(1)	To allow the Pilatus Model PC-7 to be certificated in the USA with a maximum weight stalling speed of 63.5 knots; i.e., 2.5 knots over the required regulatory limit. Granted 5/24/83.

[FR Doc. 83-26546 Filed 9-28-83; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—N. 30-83]

Bonds of 2003; Interest Rate

September 23, 1983.

The Secretary announced on September 22, 1983, that the interest rate on the bonds designed Bonds of 2003, described in Department Circular—Public Debt Series—No. 30–83, dated September 14, 1983, will be 11⅞ percent. Interest on the bonds will be payable at the rate of 11⅞ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-26507 Filed 9-28-83; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 190
Thursday, September 29, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, October 4, 1983.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Agriculture Options—Proposed Rules.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1376-83 Filed 9-27-83; 2:07 pm]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, October 4, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 200, second floor, Columbia Plaza Office Building, 2401 E. Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-06-FOIA-132-MK, concerning a request for a confidential witness statement from a charge file.
4. Freedom of Information Act Appeal No. 83-7-FOIA-107-SL, concerning a request to identify information on witnesses in an investigation.
5. Freedom of Information Act Appeal No. 83-08-FOIA-160-PA, concering a request for a Title VII charge file.
6. Compliance Manual, Section 605, Title VII Jurisdiction.
7. Proposed Contract for the Kentucky Commission on Human Rights.
8. Proposed Management Directive 711A, Affirmative Action for Hiring, Placement, and Advancement of Handicapped Individuals.

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Withdrawal of Commissioner Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices of EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued September 27, 1983.

[S-1377-83 Filed 9-27-83; 4:04 pm]

BILLING CODE 4710-29-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:45 p.m. on Friday, September 23, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of certain assets acquired by the Corporation from City and County Bank of Knox County (In Liquidation), Knoxville, Tennessee, City and County Bank of Anderson County (In Liquidation), Lake City, Tennessee, City & County Bank of Washington County (In Liquidation), Johnson City, Tennessee, and United American Bank in Hamilton County (In Liquidation), Chattanooga, Tennessee (Case No. 45,784-L).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), and (c)(9)(B)).

Dated: September 26, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1372-83 Filed 9-27-83; 12:01 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, October 3, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance incidental to withdrawal from the Federal Reserve System:

Valley State Bank, Yankton, South Dakota

Application for consent to purchase assets and assume liabilities and establish three branches:

Liberty Bank, Glendale, Arizona, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in three

branches of Southwest Savings and Loan Association, Phoenix, Arizona, and to establish the three branches of Southwest Savings and Loan Association as branches of Liberty Bank

Applications for consent to establish branches:

The Stockmen's Bank, Kingman, Arizona, for consent to establish a branch at the southeast corner of the intersection of Fourth and Lewis Streets, Ash Fork, Arizona

Commonwealth Bank, Torrance, California, for consent to establish a branch at 12616 Ventura Boulevard, Studio City, California

The Valley Bank and Trust Company, Bridgeport, Connecticut, for consent to establish a branch at 925 White Plains Road, Trumbull, Connecticut

Barnett Bank of the Keys, Tavernier, Florida, for consent to establish a branch at 31 Ocean Reef Drive, Key Largo, Florida

Triad Bank, Greensboro, North Carolina, for consent to establish branches at 917 East Bessemer Avenue, Greensboro, North Carolina, and at 3703 High Point Road, Greensboro, North Carolina

Applications for consent to establish remote service facilities:

Camarillo Community Bank, Camarillo, California, for consent to establish a remote service facility at 2309 Antonio Avenue, Camarillo, California

Cheshire County Savings Bank, Keene, New Hampshire, for consent to establish remote service facilities at the Marlow Grocery Store, off Route 10, Marlow, New Hampshire, and at the South Village Store, Route 63, Westmoreland, New Hampshire

Northwest Bank & Trust Company, Davenport, Iowa, for consent to establish three remote service facilities in Geifman Food Stores located at Northgate Plaza at Kimberly and Eastern; 1646 West Kimberly Road; and 3021 Rockingham Road, all in Davenport, Iowa

Application for consent to relocate the main office and to establish a branch:

University Bank of Wichita, Wichita, Kansas, for consent to relocate its main office to Twenty First and Woodlawn, Plaza Twenty-one, and to establish a branch at 1741 North Hillside (the present main office site), both within Wichita, Kansas

Application for consent to relocate a branch:

Westlands Bank, Santa Ana, California, for consent to relocate its Santa Clara County Regional Lending Branch from 1701 South Bascom Avenue to 1901 South Bascom Avenue, Suite 500, Campbell, California

Request for an exemption pursuant to section 348.4(b)(1) of the Corporation's rules and regulations:

The Harbor Bank of Maryland, Baltimore, Maryland

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,777–L First National Bank of Oak Lawn, Oak Lawn, Illinois

Memorandum and Resolution re: The Madison County Bank, Fredericktown, Missouri

Memorandum and Resolution re: Penn Square Bank, National Association, Oklahoma City, Oklahoma

Reports of committees and officers:

Minute of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors

Discussion Agenda:

No matters scheduled

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 26, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1373–83 Filed 9–27–83; 12:02 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 3, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to establish a branch:

Provident Savings Bank, Jersey City, New Jersey, for consent to establish a branch at 2461 Livingston Street, Northvale, New Jersey.

Application for consent to exercise limited trust powers:

The Binghamton Savings Bank, Binghamton, New York.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 26, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1374–83 Filed 9–27–83; 12:02 pm]

BILLING CODE 6714–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, October 5, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Old Dominion Power Company, Docket Nos. VA 81-40-R and VA 81-65. (Issues include whether the utility company is an "operator," under the circumstances of the case, subject to the coverage of the Mine Act.)

* * * * *

TIME AND DATE: Following oral argument, October 5, 1983.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above listed case.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-1371-83 Filed 9-27-83; 11:19 am]

BILLING CODE 6735-01-M

7

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services 34 CFR 64.74.

DATE: October 14, 1983.

ADDRESS: Conference Room M07, Old Post Office Building, 1100 Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sara Traut, Special Assistant to the Director for Management and Budget, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, D.C. (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act which is the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94-462. The Board has the responsibility for the general policies with respect to the powers, duties and authorities vested in the Institute under this title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of the Board is open to the public on October 14, 1983 from 10 a.m. to 4:30 p.m. The agenda for the meeting on October 14, 1983 will be as follows:

I. Director's Report
II. Review of 1983 Awards
III. Regulatory Issues
IV. Review of 1984 Application Packages/ Schedule
V. SP Contract
VI. Conservation
VII. Other Business

Susan Phillips,

Director-Designate.

[S-1375-83 Filed 9-27-83; 2:02 pm]

BILLING CODE 4000-02-M

federal register

Thursday
September 29, 1983

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Alternative Sampling Procedures for Sulfuric Acid Plants

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2387-5]

Standards of Performance for New Stationary Sources; Alternative Sampling Procedures for Sulfuric Acid Plants

AGENCY: Environmental Protection Agency, EPA.

ACTION: Final rule.

SUMMARY: Alternative procedures for determining SO_2 or sulfuric acid mist air pollutant emission rates based on measurements of O_2 and SO_2 or acid mist concentrations in sulfuric acid plant exhaust were proposed in the **Federal Register** July 16, 1982 (47 FR 31012). This action promulgates revisions to new stationary source performance standards which would allow use of the alternatives for sulfuric acid plants that oxidize elemental sulfur or oxidize ore that contains elemental sulfur. The procedures may be used for emission monitoring calculations or for determining emission rates using the reference methods.

EFFECTIVE DATE: September 29, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this revision is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-82-03, containing information considered by EPA in revising the regulation, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION:

Public Participation

Revisions to Subpart H of 40 CFR Part 60 for sulfuric acid plants were proposed and published on July 16, 1982, in the **Federal Register** (47 FR 31012). Public comments were solicited at the time of proposal. The public comment period was from July 16, to September 14, 1982.

Two comment letters were received concerning issues relative to the proposed revisions. The comments have been carefully considered, and where determined to be appropriate by the Administrator, changes have been made in the proposed revisions.

Significant Comments and Changes to the Proposed Regulation Revisions

Comments on the proposed revisions to Subpart H of 40 CFR Part 60 were received from industrial representatives. The comments and EPA's responses serve as the basis for the changes made to the revisions between proposal and promulgation. The comments discussed in this preamble are the major comments and are summarily addressed.

Both commenters were concerned that the applicability of the revisions be defined clearly. One commenter felt that clearer language was needed to define for which plant types the revisions would be most appropriate. Another comment concerned the possible use of supplemental oxygen in sulfuric acid plants negating the use of the alternative procedure.

The applicability section of the revisions has been changed to emphasize the types of plants for which the alternative procedures would be applicable and those for which the procedures would not be applicable.

One commenter noted several minor errors in the equations of the revisions that required corrections. These corrections were made.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents so that they can effectively participate in the rulemaking process. Along with the basis and purpose of the proposed and promulgated revisions and EPA responses to significant comments, the contents of the docket will serve as a record in case of judicial review (except for interagency review materials (Section 307(d)(7)(A)).

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. The regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have any economic impact on a substantial number of small entities, because the revisions do not impose any additional test cost. In fact, in some cases, costs may be reduced.

This rulemaking is issued under the authority of sections 111, 114, and 301(a) of the Clean Air Act, amended (42 U.S.C. 7411, 7414, and 7601(a)).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants.

Dated: September 22, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

Subpart H of 40 CFR Part 60 is amended as follows:

1. By adding a paragraph (d) to § 60.84 as follows:

§ 60.84 Emission monitoring.

* * * * *

(d) Alternatively, a source that processes elemental sulfur or an ore that contains elemental sulfur and uses air to supply oxygen may use the following continuous emission monitoring approach and calculation procedures in determining SO_2 emission rates in terms of the standard. This procedure is not required, but is an alternative that would alleviate problems encountered

in the measurement of gas velocities or production rate. Continuous emission monitoring of SO_2, O_2, and CO_2 (if required) shall be installed, calibrated, maintained, and operated by the owner or operator and subjected to the certification procedures in Performance Specifications 2 and 3. The calibration procedure and span value for this SO_2 monitor shall be as specified in paragraph (b) of this section. The span value for CO_2 (if required) shall be 10 percent and for O_2 shall be 20.9 percent (air). A conversion factor based on process rate data is not necessary. Calculate the SO_2 emission rate as follows:

$$E_{SO2} = C_{SO2} S \frac{1}{0.265 - 0.0126(O_2) = A(CO_2}$$

Where:

$E_{SO2} = {}_{SO2}$ emission rate, kg/t acid (1b/ton acid).

$C_{SO2} = {}_{SO2}$ concentration, kg/dscm (1b/dscf) (see table below).

S = Acid production rate factor.
= 368 dscm/t acid for metric units.
= 11800 dscf/ton acid for English units.

$O_2 = O_2$ concentration, percent.

A = Auxiliary fuel factor.
= 0.00 for no fuel.
= 0.0226 for methane.
= 0.0217 for natural gas.
= 0.0196 for propane.
= 0.0172 for #2 oil.
= 0.0161 for #6 oil.
= 0.0148 for coal.
= 0.0126 for coke.

$O_2 = CO_2$ concentration, percent.

Note.—It is necessary in some cases to convert measured concentration units to other units for these calculations:

Use the following table for such conversions:

From—	To—	Multiply by—
g/scm	kg/scm	10^{-3}
mg/scm	kg/scm	10^{-6}
ppm (SO_2)	kg/scm	$2,660 \times 10^{-6}$
ppm (SO_2)	lb/scf	$2,660 \times 10^{-7}$

2. By adding a paragraph (e) to § 60.85 as follows:

§ 60.85 Test methods and procedures.

* * * * *

(e) Alternatively, a source that processes elemental sulfur or an ore that contains elemental sulfur and uses air to supply oxygen may use the SO_2, acid mist, O_2, and CO_2 (if required) measurement data in determining SO_2 and acid mist emission rates in terms of the standard. Data from the reference method tests as specified in (a) of this part are required; that is, Method 8 for SO_2 and acid mist and Method 3 for O_2 and CO_2. No determinations of production rate or total gas flow rate are necessary. Calculate the SO_2 and acid mist emission rate as described in § 60.84(d) substituting the acid mist concentration for C_{SO2} as appropriate.

[FR Doc. 83-26378 Filed 9-28-83; 8:45 am]
BILLING CODE 6550-50-M

federal register

Thursday
September 29, 1983

Part III

Department of Energy

Bonneville Power Administration

Proposed Customer Service Policy; Request For Comments

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Customer Service Policy; Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Customer Service Policy and request for comments. *File Number:* CSP-1.

SUMMARY: Under the Bonneville Project Act of 1937 and subsequent legislation, the Bonneville Power Administration is responsible for marketing power from Federal dams and other resources in the Pacific Northwest. BPA must assure the widest possible use and reasonable outlets for the electricity it markets. In fulfillment of this responsibility, BPA has provided a high-voltage power grid which transmits bulk power from Northwest generating facilities to the utilities and other customers which buy power from BPA.

BPA's Customer Service Policy defines the divisions of responsibility between BPA and its customers for providing facilities which link BPA's transmission system with the distribution systems or other facilities of BPA customers.

On June 15, 1982, BPA published notice of an intent to revise its Customer Service Policy, and requested recommendations on that revision. BPA has now considered the recommendations it has received, and proposes the revised Customer Service Policy printed below. BPA requests comments on this proposed policy.

The major changes in the revised Customer Service Policy include: (1) An expanded scope, covering BPA facilities provided for all customer groups; (2) a shift in the financial and construction role to customers in adding capacity at existing and constructing new distribution substations; (3) elimination of the feasibility test as a means of assuring cost recovery; (4) promotion of better joint, one-utility long-range planning between BPA and customers; and (5) allowance, under certain situations, of customer construction of facilities of BPA expense.

Responsible Official: Mr. Thomas M. Noguchi, Director, Division of Customer Service, is now the official responsible for development of the Customer Service Policy.

EFFECTIVE DATES: BPA will accept comments on the proposed Customer Service Policy through November 15, 1983. Written comment should be postmarked no later than that date. BPA expects to publish the final Customer Service Policy in early 1984.

BPA will hold Public Information and Comment Forums on the proposed policy at the dates and locations listed below. At each location, BPA will hold a Public Information Forum to describe the proposed policy and answer questions, followed by a Public Comment Forum at which formal comments will be received for the record. Registration for Public Information Forums is from 9:30 a.m. to 10 a.m. Public Information Forums are from 10 a.m. to noon. Registrations for Public Comment Forums is 1 p.m. to 1:30 p.m. Public Comment Forums are from 1:30 p.m. to 4 p.m.

Thursday, October 27, 1983, at Ron's 19th Hole, Veteran's Memorial Golf Course, 201 E. Rees, Walla Walla, Washington.

Friday, October 28, 1983, at Burley Inn, 800 N. Overland Avenue, Burley, Idaho.

Monday, October 31, 1983, at Cavanaugh's, Clearwater Room, North 700 Division, Spokane, Washington.

Tuesday, November 1, 1983, at Red Lion Village Inn, Blackfoot Room, 100 Madison, Missoula, Montana.

Thursday, November 3, 1983, at Room 464, BPA Headquarters, 1002 NE. Holladay, Portland, Oregon.

Friday, November 4, 1983, at Doubletree Plaza Hotel, Scottsdale Room, 16500 South Center Parkway, Tukwila, Washington.

ADDRESSES: Submit written comments to Ms. Donna L. Geiger, Public Involvement, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION, CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2581.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Fred Rettenmund, Boise District Manager, Owyee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9137.

SUPPLEMENTARY INFORMATION:

Background

BPA's Customer Service Policy was last revised informally in 1976. Traditionally, the policy has outlined the division of responsibility between BPA and its preference customers in providing substations and related facilities. The present proposed Customer Service Policy revision expands the scope of the policy to include service to other BPA customer classes and provision of transmission facilities by BPA to customers' load areas.

Development of the Proposed Customer Service Policy

BPA announced its intent to revise the Customer Service Policy in the **Federal Register** on June 15, 1982. In September 1982, BPA held workshops on the Customer Service Policy revision in eight Northwest cities. BPA accepted recommendations on the policy revision from interested parties through November 20, 1982. Written recommendations were received from 31 parties. Since November 1982, BPA has remained in contact with various BPA customers and customer groups, and has continued to receive informal recommendations on the Customer Service Policy revision. All recommendations received have been considered in preparing this proposed policy.

Copies of written recommendations received to date and summarized notes of the Customer Service Policy workshops are available from the Public Involvement office at the address above.

This **Federal Register** notice contains the proposed CSP policy and attendant guidelines. Appendices to the proposed policy, excepting Appendix A, are available from the BPA Public Involvement office or from any BPA Area or District office at the addresses listed above. Appendix A, Definitions, is found at the end of this Notice.

CSP Appendices

A. Definitions
B. Project Proposal—Short-Term Construction Plan
C. BPA Reliability Criteria and Standards—Planning Sections
D. Environmental Procedures

E. Project Lead Times
F. Typical Distribution Substation—Development Guidelines, Elevation and Plan Views, One-line Diagram.
G. Division of Responsibilities Letter Agreement

Policy Completion Schedule

BPA will receive comments on the proposed Customer Service Policy through November 15, 1983. Public Comment Forums will be held in six Northwest cities at times and locations listed above.

Following closure of the public comment period, BPA will prepare a Staff Evaluation of the record which will present staff recommendations to the BPA Administrator. The Administrator will then determine the final policy, and will document his decision in a Record of Decision. BPA expects to publish the final policy in the **Federal Register** in early 1984.

Compliance with National Environmental Policy Act

NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. BPA has undertaken a review of the proposed CSP to determine the level of NEPA documentation that is necessary in this case. Appropriate environmental review under DOE's NEPA guidelines will be prepared and integrated into the development of the proposed policy, and will be available before the final policy is decided upon.

Reasons for Customer Service Policy Revision

The 1962 CSP dealt only with BPA's largest customer class, the preference customers. Preference customers are those publicly owned utilities (i.e., PUD's, Cooperatives, Municipalities) that provide electrical service to approximately one-half of the consumers in the Pacific Northwest. Each preference customer is unique in terms of size, electrical load, and geographical characteristics. For example, some customers serve densely populated urban areas, while others serve sparsely populated rural areas. Further, some customers are located close to power plants, thus requiring a minimum of transmission facilities, while other customers are located at some distance from power plants, requiring much more extensive transmission facilities. The goal of the CSP was to provide a similar level of service for each of BPA's preference customers in the face of these differences.

The CSP was unofficially revised and updated in 1976. However, the scope was still limited to preference customers, and the policy focused only on distribution substations and related facilities. BPA's relationships with other classes of customers and other transmission facilities were not addressed.

Even within the context of service to preference customers, the existing policy has been difficult to apply consistently to all customers. Certain provisions, such as the feasibility test discussed below, have caused some customers to express dissatisfaction with their service. In other areas, more detail has been needed to allow consistent application of the policy.

In addition, customers have stressed the importance of retaining sufficient flexibility in the policy to allow practical resolution of individual utilities' unique problems.

Major Revisions in Proposed CSP

The revised CSP is designed to provide efficient and equitable services to all BPA customers. Two major features characterize the revised CSP. First, the scope is expanded, covering all customers and transmission facilities. Second, BPA's services and requirements have been described in detail, so utilities can use the policy as a tool in planning their own facility development. The level of detail provided will also help assure consistent application of the policy throughout BPA's service area.

A. Expanded Scope

The revised CSP deals with Direct Service Industries (DSI's), and Investor-Owned Utilities (IOU's) as well as preference customers.

Also, the revised CSP provides guidelines and criteria for all transmission facilities, not only distribution substations. Transmission lines, transmission line taps, and transformer additions are covered as well as distribution substations. The policy also describes the provision of facilities for wheeling. Wheeling is transmitting other utilities' energy over BPA lines. Finally, the revised CSP addresses BPA's participation in emergency operations should a customer suffer a transformer failure.

B. Revised CSP as a Planning Tool

BPA customers had expressed frustration with their inability to determine in advance what services BPA would provide for their systems. The proposed CSP revision contains sufficient detail to allow customers to employ the policy itself as a planning tool for future expansion projects involving BPA. The CSP outlines BPA's financial and construction responsibilities for a broad range of transmission facilities for different sizes and types of customers. Therefore, customers considering expansion projects can plan with knowledge of BPA's participation in the projects, minimizing uncertainty regarding the extent and timing of BPA's participation. The proposed policy will enhance customers' understanding of facility design, construction, operation, and maintenance standards that are required for BPA involvement. This will help them gauge the cost impact of these standards, and determine the overall project economies with more accuracy.

Proposed CSP Structure

The proposed CSP consists of a policy statement, guidelines, and appendices. The policy statement provides the foundation for the entire policy. The guidelines section provides the necessary detail to assist customers and BPA in policy interpretation, and maintain consistent application. The appendices provide further clarification in specific areas. They include Definitions, BPA Reliability Criteria and Standards, Environmental Implementation Procedures, and Construction Responsibilities. Copies of the Appendices are available from BPA at the locations listed under "Addresses."

Goals of Proposed Policy

A. Provide Consistency and Flexibility in Relationship Between BPA and Customers

The guidelines contained in the CSP establish the "groundrules" for BPA's involvement with its customers. These groundrules will help provide consistent levels of service. There can be exceptions to the guidelines; however, suitable justification must be provided for each exception.

B. Institute One-Utility Planning Concept for all Customer Service Projects

One-utility planning means that planning of future customer service projects will be done as if all facilities were owned by a single utility in a particular study or service area. This is the fundamental concept underlying the proposed policy revision. For planning purposes, there will be no distinction between BPA facilities and customer facilities. The actual division of construction and financial responsibilities will be done after the planning is completed. As a result of this

approach, the most efficient long-range plan will be developed with minimum overall cost and environmental impacts. This planning concept will encourage cooperation between BPA and its customers, thereby minimizing problems in the construction and operation phases.

C. Emphasize BPA Mission

The revised CSP closely adheres to the mandate of the Bonneville Project Act to BPA to encourage widespread electric use in the Pacific Northwest. Under the revised policy, BPA's mission of providing bulk power to the region's utilities, regardless of geographic location, is carried forth in the guidelines for financial and construction responsibilities. This is consistent with BPA's "postage stamp" rate concept, under which utilities are charged the same rate for energy regardless of their proximity to generation sources.

Feasibility Test Eliminated

The existing CSP contains a feasibility test as the yardstick to determine BPA's participation. Under this test, BPA would only construct facilities if the estimated gross revenues from the project would exceed the estimated annual costs of the project over a 10-year period. Since each utility customer is unique, this absolute criterion led to inconsistencies and penalized certain customers, particularly those located in remote areas.

In the proposed policy, the feasibility test is eliminated. BPA's participation in any project is generally determined by applying the one-utility planning concept, and is governed by restrictions on the facilities BPA will provide for any customer, articulated by customer class or contractual arrangement. Remotely located customers are no longer penalized, and will receive the same level of service as more proximate customers.

Types of Transmission Facilities Provided by BPA

The facilities involved in this policy are outlined below.

A. Distribution Substations

Distribution substations typically include a power transformer and both high and low voltage switching equipment. Generally, the low voltage switching equipment is the customer's responsibility.

B. Transmission Lines

Transmission lines, as opposed to distribution lines, are normally defined as those which transmit electrical energy at a minimum voltage of 115 kV. These lines carry the electrical energy to the distribution substations from generation sources.

C. Transmission Taps

A transmission tap is a direct connection to an existing transmission line. It generally includes protective switchgear.

D. Revenue Metering Facilities

Revenue metering facilities are required to record the exchange and/or delivery of electrical energy for billing purposes. Instrument transformers and meters are included in revenue metering facilities.

E. Transformer Additions

Transformation capacity can be added at existing distribution substations. This can usually be accomplished by increasing the size of a transformer or installing an additional transformer.

F. Main Grid Substation Facilities

In addition to its distribution substations, BPA has a number of large switching substations which interconnect lines within the high-voltage grid. Under the CSP, BPA will provide interconnections with customers' systems at main grid substations, if that is the most efficient way to serve customers.

Conditions for BPA Facility Construction

A. Best Plan-of-Service Criteria

The general construction plan for meeting the energy delivery needs of a customer is called a "plan-of-service." Under the one-utility planning process, appropriate BPA Area representatives and the customer will develop and evaluate plan-of-service alternatives for each service problem. This evaluation will determine the best plan-of-service. Criteria for determining the best plan-of-service include overall cost, reliability, environmental impact, etc. BPA's participation will be limited to the best plan-of-service. Within other limitations of the policy, the division of construction and financing responsibilities would depend upon the character of construction defined by the best plan-of-service. For example, if the best plan-of-service required transmission facilities (including distribution substations) to be constructed, BPA, as the transmission utility, would normally be responsible. Or, if the best plan-of-service required distribution facilities to be constructed, the customer, as the distribution utility, would be responsible.

B. Facilities Provided by Customer Class

1. Facilities for Power Sales Customers

Power sales customers are those preference customers, DSI's, and IOU's that purchase energy from BPA under long-term power sales contracts. BPA will normally construct transmission facilities, consistent with the best plan-of-service, for energy delivery to power sales customers. The following limitations apply to BPA's financial and construction responsibilities.

BPA will provide a maximum of 50 MVA transformer capacity, in either existing or new facilities, to all customers with less than 50 MW peak load. The customer is responsible for all additional transformer capacity. BPA intends to shift responsibility for building distribution substations from BPA (under existing policy) to the customers (under the proposed policy) because customers can frequently construct and finance such substations at lower costs. BPA will provide transformer capacity up to 50 MVA to help smaller customers develop sufficient rate bases to support construction of facilities greater than 50 MVA.

Consistent with existing BPA policy, BPA will not constuct transmission facilities within urban or other high load density areas.

Larger power sales customers will be responsible for a greater share of transmission line construction responsibilities. This limitation is based on the fact that larger customers generally have transmission facilities within their service area to serve their own loads. Therefore, costs for additional transmission facilities should be shared by the customer and BPA. However, regardless of the customer's increased responsibilities within their service area, BPA will still provide the necessary bulk power delivery facilities to their service areas.

2. Facilities for Wheeling Customers

Wheeling customers are utilities that transmit their own power over BPA transmission lines to their own customers. BPA will provide limited facilities for wheeling purposes. All costs will be borne by the wheeling customers.

3. Facilities for Special Situations

Some customers purchase power from BPA under short-term power sales contracts. For these customers, BPA will not specifically construct transmission facilities unless other regional benefits can be realized.

If BPA is asked to provide a convenience point of delivery (i.e., a facility not consistent with the best plan-of-service), the requesting customer will bear all of the associated direct and indirect costs.

Customer Service Policy

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Introduction

The main goal of the Customer Service Policy (CSP) is to provide the most efficient and equitable delivery of electrical energy from Bonneville Power Administration (BPA) through its customer utilities to the region's consumers. This policy will encourage both BPA and the region's utilities to work together in the development of the best plan-of-service under the one-utility concept, and to describe the financial and construction responsibilities for the implementation of the plan. The resulting policy is intended to provide the most efficient, fair division of responsibilities between BPA and its customer utilities for the construction of facilities for delivery of power to those utilities and to the ultimate consumers. The policy has been developed through the joint efforts of the region's utilities and BPA.

The CSP consists of a policy statement, guidelines, and appendices. The policy statement provides the foundation for the entire policy. All other statements must be consistent with this policy statement. The guidelines section provides the necessary detail to assist utilities and BPA in policy interpretation, and maintain consistent application. The appendices provide a further clarification of the policy statements and guidelines, with supplemental information regarding BPA's standards and policies. They include sections on Definitions, BPA Reliability Criteria and Standards, Environmental Implementation Procedures, and Construction Responsibilities.

Due to the detailed nature of certain sections, periodic revision of this document will be necessary. Whether or not a complete public involvement process is required for CSP modifications, the customer utilities shall be apprised of major changes and requested to comment. Minor changes to the guidelines and updates of the appendice shall be made by BPA and distributed to customer utilities.

Customer Service Policy Statement

1. BPA provides services to its customers (power sales and wheeling) in accordance with the Bonneville Project Act, the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Construction Act. BPA will deliver the output from Federal generating plants and other acquired resources to its customers to achieve the greatest benefit to the Region's electric power consumers.

2. As a marketing agency, BPA's primary responsibility for delivery of power is to provide a reliable transmission system for the integration and delivery of bulk power to its customers in the Pacific Northwest. BPA will construct and finance transmission facilities for the delivery of bulk power to general service areas. BPA will not assume a utility's area transmission responsibility and will encourage larger utilities to develop the necessary interconnected transmission system.

3. Planning and construction of facilities by BPA will be based upon joint studies conducted by BPA and each customer to determine the best engineering, economic, and environmental plan-of-service based on the one-utility concept. Joint, one-utility, long-range planning will maximize economic efficiency, improve electrical system performance, and minimize environmental impacts.

4. BPA will be financially responsible for providing a limited amount of capacity for deliveries at distribution voltage levels for small utility power sales customers. This assistance to smaller utilities will enable them to develop the financial base necessary to provide the construction, operation, and maintenance of the facilities beyond the maximum level provided for by BPA.

5. BPA planning, construction, operation and maintenance of transmission lines and substations will be accomplished in accordance with applicable environmental legislation and in cooperation with Federal, State, and local governments, and concerned public.

Customer Service Policy Guidelines

I. General

The guidelines section of the Customer Service Policy (CSP) is intended to delineate the basic principles of the Customer Service Policy Statement by providing the details necessary for application. This should promote consistent interpretation of these principles by both BPA and the utilities. The guidelines were designed for and will be applied in normal situations. Deviations may be necessary to accommodate unique circumstances. Cordination of policy modifications and interpretations will be the responsibility of the BPA Division of Customer Service of the Office of Power and Resources Management. This section is divided into three parts; Utility planning, Facility Construction, and Financial and Construction Responsibilities.

II. Utility Planning

A. One-Utility Planning

BPA will plan its system and encourage others to plan on a one-utility basis without regard to ownership of facilities. This planning criterion is essential to provide the greatest benefits to the electric power consumer. Under one-utility planning, consideration of such factors as engineering and operation and maintenance requirements, long-range planning, loss evaluation, and the economics and environmental impacts of various alternatives would assure the adoption of the best plan-of-service and avoid the construction of unnecessary facilities. A point of delivery which does not meet this criterion shall be deemed a convenience point of delivery (see B-3, Convenience Points of Delivery) and, if constructed, shall be at no expense to the BPA.

B. Joint Utility Plan Development

Joint utility plan development requires that all utilities work in a coordinated and cooperative manner to evaluate and develop the plans-of-service. These joint planning discussions must take place in all phases of the plan development.

Early involvement by BPA in the joint planning process will normally assure BPA acceptance and cooperation. This will lead toward a timely project completion. BPA Area staff will be the primary BPA contact and will work with Utilities in developing the joint utility plan.

Plan development should include all "study area" utilities and BPA. The utilities and BPA should evaluate each utilities' system requirements and planning assumptions. If differences exist in planning assumptions, BPA and the utilities should develop acceptable assumptions for planning purposes. If common assumptions cannot be agreed upon, BPA's financial participation in the subsequently developed plan may be limited and will be evaluated on a case-by-case basis.

After planning assumptions have been defined, the participants will jointly develop the system long-range plan. The key elements in planning for the study area include:

(a) Load forecast for existing and proposed delivery points.

(b) Idemification of transmission and distribution reliability problems and system losses due to increased loading of the existing system.

(c) Development of all reasonable alternative solutions.

(d) Alternative evaluation; economic, engineering, and environmental.

(e) Long-range plan selection.

It is important that all relevant factors be considered in the final decision, including alternative main grid costs, loss analysis, and environmental impacts. After the long-range plan is developed, the budget item proposal can be prepared. This proposal is a short term construction plan evaluating solutions to a particular service problem. The elements of this plan which shall be required are shown in Appendix B. Sufficient lead time will insure timely completion of BPA construction responsiblities (see Appendix E, Project Lead Time).

C. Reliability

Under the one-utility concept, reliability factors should be examined within each customer's system as well as in BPA's system. This is necessary because the reliability of the customer's system must be a factor in the selection of the best overall plan and the BPA system must be protected from any possible adverse effects of customer additions. The sensitivity and magnitude of the loads within each customer's system should also be considered in setting the level of reliability required. BPA's reference for its reliability planning is the Reliability Criteria and Standards Manual. This manual outlines the quality of service BPA strives to maintain in its system. The major Criteria are shown in Appendix C and include System Planning, Operations, Maintenance, Customer Service, Transmission Lines, Substations, and Control.

Any exceptions or deviations from the BPA Reliability Criteria may be referred by the customer to the appropriate Area office for evaluation (Appendix C, Procedures for Revisions).

D. Environmental

BPA is required to comply with the provisions of the National Environmental Policy Act (NEPA) and other environmental legislation. All final plan-of-service proposals will require compliance with NEPA and other applicable environmental legislation. When BPA evaluates alternative plans of service, the environmental impacts of each alternative must be considered. BPA will work closely with Federal State, and local agencies to minimize duplication of efforts in complying with environmental regulations.

The information necessary to conduct an environmental analysis must be obtained in a timely manner so that construction schedules can be maintained. Under certain circumstances, the Environmental Manager and/or the Environmental Coordinators, in consultation with the Area offices, will require customers to prepare or contribute data to environmental studies addressing their proposals. These studies must satisfy the appropriate environmental regulations to BPA's satisfaction before BPA will expend major funds on a customer service project. The implementation procedures and type of information needed are described in Appendix D.

III. Facility Construction

The major goal of facility construction is the timely addition of facilities to meet load growth in the most efficient and economic manner. This section discusses the engineering aspects of construction. The conditions under which the facilities will be constructed and the division of financial responsibility are discussed in Section IV, Financial and Construction Responsibilities. A chart on BPA typical project lead times is shown in Appendix E.

A. BPA Construction

The facilities interconnected shall be compatible with BPA facilities and shall neither jeopardize nor hinder the normal operation of the BPA system. BPA will not normally construct facilities required within city limits and urban or subdivided areas nor facilities to serve a single ultimate consumer (e.g., industrial consumer). Consistent with other provisions of this policy, points of delivery at distribution voltages shall be 3-phase deliveries and shall be granted at the secondary voltage level of the distribution substation only.

1. Transmission Taps. Line taps will normally be constructed, controlled, operated, and maintained by BPA personnel. Taps to BPA transmission lines must be adequately equipped with appropriate sectionalizing devices (e.g., disconnect switches, automatic sectionalizing switches, quick break, load break, power circuit breakers) as determined by BPA to maintain system reliability and stability. BPA's authorization for any new or revised POD will be required for this type of project. Compliance with environmental regluations is required. Project lead time is normally 1 year but may be extended due to project complexities.

2. Transmission Line. BPA will construct transmission lines at 115 kV and above, as necessary, to a customer's load area, consistent with the other elements of this policy. Construction will normally be by BPA or its contractor. The project lead time can be 2 years or more depending on project complexity. Compliance with environmental regulations is required.

3. Distribution Substation. The distribution substation will normally transform transmission level voltages, 115 kV and above, to distribution levels. If the existing transmission voltage is 69 kV, BPA may construct stepdown substations to transform it to distribution voltage levels. A typical BPA-constructed stepdown substation consists of high-side isolating and transformer protection devices, power transformer, metering, meter house, and yard. Under normal conditions it is assumed the customer will install a switching station adjacent to or within BPA the stepdown substation, with appropriate protective devices. In this case, BPA will not provide a lowside feeder breaker (see Appendix C, Reliability Criteria—Customer Service). Substations will be designed to allow the use of mobile emergency transformers and spare transformers simultaneously. Development guidelines, elevation and plan views, and one-line diagram for a typical distribution substation are shown in Appendix F. Construction will normally be done by BPA or its contractor. The normal project lead time is 4 years. Compliance

with environmental regulations is required.

4. Transformer Additions. BPA transformer capacity additions in distribution substations will normally be energized based on the following criteria: (see Appendix C, Reliability Criteria—Customer Service)

a. Winter peaking loads—before estimated peak load exceeds transformer force-cooled thermal rating adjusted for ambient temperature and 95 percent power factor (for nonstandard transformers apply the summer peaking criteria stated below);

b. Summer peaking loads—before estimated peak load exceeds 90 percent of transformer, force-cooled thermal rating adjusted for ambient temperature and 95 percent power factor.

The project lead time for transformer additions is normally 3 years. However, if an unassigned system transformer is available, the lead time may be reduced. Compliance with environmental regulations is required.

5. Revenue Metering. Revenue metering facilities are required to record power deliveries or exchanges. The location of the revenue metering may be at the point of delivery or interconnection, or at a more convenient location. Metering facilities for power deliveries will normally be provided, installed, operated, and maintained by BPA. Normally, metering installations shall conform to BPA standards. Any designs for metering installations deviating from these standards shall receive BPA approval prior to construction. The project lead time for a metering installation is 1 year, but may be extended due to project complexities.

6. Main Grid Substation Facilities. BPA may construct facilities within existing main grid substations if required by a customer's load. The facilities must be consistent with the best plan-of-service, based upon the one-utility planning concept. Project lead time will vary due to project complexities and magnitude. Compliance with environmental regulations is required.

B. Customer Construction for BPA

Where feasible, it may be appropriate for the customer to construct for BPA (see Section IV(D)). Facilities must comply with environmental standards and be constructed so as to not jeopardize the integrity of the BPA system. If operated and maintained by BPA, these facilities must be constructed to BPA engineering and safety standards.

C. Customer construction in BPA Substations

In an effort to encourage one-utility planning, customers may install, construct, operate, and maintain their equipment within BPA substation yards when space is available. All interconnections to BPA facilities shall meet BPA standards in order to provide the protection necessary for safe and reliable operation of BPA facilities. Compliance with environmental regulations and contracting procedures will be required.

D. Project Responsibilities Statement

In any joint project involving two or more utilities, it is essential that a clear understanding of each party's responsibilities is established prior to design and construction. A Division of Responsibilities Letter Agreement will be developed and signed by all parties prior to design and construction phases of the project. Development of the agreement shall begin after the project Construction Budget Project Authorization (CBPA) is signed. The agreement will be initiated and negotiated by BPA Areas. A fully executed agreement will be required for each project. An agreement outline is shown in Appendix G.

IV. Financial and Construction Responsibilities

This section discusses BPA's role and responsibility in providing service facilities to its customers: Publicly and Cooperatively Owned and Investor-Owned Utilities, Federal Agencies, and Direct-Service Industries. Service facilities include both delivery and interconnection facilities, such as area transmission support projects, delivery terminals, distribution substations, transformer additions, and resource integration facilities.

A. BPA Criteria for Granting Interconnections

The following criteria shall be met in granting a Point of Delivery (POD) or Interconnection (POI):

1. *Best Plan-of-Service.* Consistent with the aspects of the Utility Planning Section (Section II), it must be demonstrated that the POD or POI represents the best overall plan-of-service on a one-utility basis. If it does not represent the best overall plan, it shall be deemed a convenience point of delivery. (See IV.B.3, Convenience Point of Delivery).

2. *Service Cost Recovery.* Recovery of BPA's costs associated with establishing and maintaining the facilities required for delivery to and at the POD or POI is assured. This will be accomplished normally through wholesale power rates (Power Sales Customers), or through transmission rates, or special contract actions (Wheeling Customers). Any contract action describing cost-sharing arrangements and construction responsibilities shall be approved prior to granting the POD or POI. The contract shall include provisions for recovery of any otherwise unrecoverable costs in the event of load reduction or early termination.

B. BPA Facility Construction

In determining BPA's financial and construction responsibility, the facilities required for Power Sales Customers and Wheeling Customers will be discussed separately. Costs associated with joint-use facilities (power sales and wheeling) shall be allocated equitably among the parties. If a customer requires a higher level of service than normally provided by BPA (e.g., looped instead of radial service), the additional costs of providing the higher level of service will be borne by the customer. Also, if BPA is requested to provide facilities to serve a load of tentative nature, a minimum bill provision shall be agreed upon before the Division of Responsibilities Letter Agreement is executed.

1. Power Sales Facilities—Firm Power. BPA will construct or be financially responsible for providing the transmission facilities required for the delivery of bulk power to customers' service areas.

a. Transmission Tap. BPA will construct all taps on BPA transmission lines for deliveries to utility customers at BPA substations or customer-constructed substations. Each tap will include the necessary line sectionalizing switches. The customer will provide the protection and isolation devices as required by BPA.

b. Transmission Line. BPA will construct lines which provide for bulk power delivery at the local transmission level, 115 kV and above, consistent with the best plan-of-service.

If transmission lines to a load area are required they will normally be constructed by BPA. However, customers shall be responsible for all construction of transmission lines within load areas, city limits and urban or subdivided areas and all construction of short tap lines (up to ½ miles). Also customers that have assumed load area transmission responsibilities or that serve continuous load areas will be responsible for providing all subsequent load area transmission lines Customers above 175 MW peak load will have all construction and financial

responsiblities within their service areas regardless of any of the above special conditions.

c. Distribution Substation. In order to assist small utilities (under 50 MW peak load), BPA will be responsible for providing up to 50 MVA of nameplate distribution or stepdown transformer capacity (force-cooled) at the distribution voltage level. The 50 MVA level includes BPA-installed transformer capacity and associated substation facilities, transformer capacity that BPA leases, and BPA-provided transfer service loads. As utilities approach the capacity level and additional capacity is required, BPA's financial assistance may be reduced but will be determined on a case-by-case basis. The 50 MVA level is intended to assist smaller utilities in developing the financial base necessary to provide for distribution facilities beyond the level provided by BPA. If BPA has installed an oversized transformer to serve a customer, the level of transformation capacity charged against the 50 MVA level will be determined on a case-by-case basis. Generally, the capacity of a standard-size transformer which could adequately have served the load will determine the level of capacity against the 50 MVA level. Customers shall be responsible for all substation construction within city limits, and urban subdivided areas.

In transfer situations, BPA will provide continued transfer service for load growth at existing points of delivery until additional facilities are required, contracted transfer demand limits and reach, or transfer agreements are terminated. Transfer cost for capacity above the 50 MVA level will be borne by the Customer.

d. Transformer Additions. Based on the best overall plan-of-service determination and consistent with the 50 MVA criterion as stated above, BPA will provide transfromer capacity additions at BPA distribution substations for existing points of delivery. Customers above the 50 MVA level will be responsible for transformer additions. BPA will assist these customers by constructing on a trust fund basis or by providing available substation property.

e. Metering. BPA will normally provide all necessary metering, and will assume financial responsibility for interchange telemetering required under transfer situations.

BPA may, at its option, meter and bill more than one point of delivery on a combined or coincidental basis. Under normal conditions, a diversity charge will be assessed; however, it may be waived if the customer has constructed transmission facilities which would provide benefits to BPA. These include, but are not limited to, facilities BPA would have normally constructed, facilities which provide backup for the BPA transmission system leading to continued power sales, and facilities which prolong the life of existing BPA facilities. In order to waive a diversity charge, it must be demonstrated that the benefits BPA would receive due to a customer's increased role in transmission construction exceed the revenues accrued through noncoincidental billing.

f. Main Grid Substation Facilities. BPA will construct and be financially responsible for facilities required for power delivery to customers at their area transmissionvoltage level. These delivery facilities include transmission terminal positions and main grid power transformers.

2. Power Sales Facilities—Nonfirm or Short-Term Firm Power. BPA will not normally construct facilities specifically for serving any part of a customer's nonfirm or short-term firm power purchases unless it can be shown to provide overall benefits to the region. If excess capacity is available, BPA will provide deliveries at the requested customer point of delivery.

3. Convenience Points of Delivery. A convenience point of delivery is a point of delivery which is requested for an individual customer's needs and which is not accepted as the best one-utility plan-of-service. Since BPA places the one-utility concept as a fundamental principle in its planning process, it must be assured other utilities plan on the same basis. Therefore, all costs associated with a convenience POD shall be borne directly by the interconnecting utility.

In order to grant a convenience POD, BPA must be assured of complete and long-term incremental cost recovery (increased cost of convenience POD over existing POD) associated with the power delivery. This will include direct BPA expenses of the transmission tap and metering, and any indirect costs, such as long-term increased transmission losses, transmission reconductoring, and increased system protection requirements. A specific agreement shall be negotiated outlining these terms prior to the POD approval. In the Power Sales Contract, the POD shall be stated as a convenience point of delivery. Compliance with environmental regualtions and procedures will be required.

4. Wheeling Facilities. In constructing facilities which provide a wheeling service, BPA must assure recovery of its investments. This will normally be accomplished by the actions stated below. However, a Use-of-Facility Transmission (UFT) rate, another appropriate BPA rate, or a trust fund may be employed if the recovery is uncertain.

a. Transmission Tap. The Wheeling Customer will be financially responsible for all costs associated with a BPA transmission line tap. BPA will normally construct the tap facilities. These will be financed under a trust fund arrangement. BPA will retain control and will operate and maintain any facilities which are an integral part of its transmission lines. BPA will retain ownership of all trust fund line sectionalizing switches.

b. Transmission Line. In the construction of transmission lines, BPA will construct network facilities required for and providing the benefits of an interconnected regional network. BPA will not construct facilities from a customer's resource to the BPA network nor assume a customer's service area transmission responsibilties unless agreed upon through specific contractual arrangements. Cost recovery for joint-use lines shall be through established transmission rates, while costs for sole use (Wheeling) facilities shall be borne directly by Wheeling customers (UFT rate or trust fund). Prior to BPA commitment of funds, appropriate contractual actions shall be agreed upon, including rate and load reduction/termination provisions.

c. Distribution Substation. All costs for the use of a distribution substation shall be borne by Wheeling Customers (using the UFT rate methodology). BPA will not normally construct these types of facilities for the sole purpose of wheeling deliveries.

d. Transformer Additions. All costs for the use of distribution substation transformer additions shall be borne by the Wheeling Customers (using the UFT rate methodology). BPA will not normally construct these types of facilities for the sole purpose of wheeling deliveries.

e. Metering. BPA will install the metering as required. Costs shall be borne by the Wheeling Customers through a trust fund mechanism.

f. Main Grid Substation Facilities. BPA will construct new main grid substations which provide a regional benefit. Appropriate contractual agreements for recovery of BPA investment will be signed prior to BPA commitment of funds. Specific facilities for wheeling customers within new or existing main grid substations shall normally be limited to terminal positions at approved PODs or POIs but may include other facilities, such as power transformers, based upon mutual

acceptance. All costs shall be borne by the wheeling customer and will normally be recovered by trust fund.

C. Customer Facility Construction

1. For BPA. A demonstrated benefit to BPA may allow a Power Sales Customer to construct a facility at BPA expense. The following factors will be considered in making the determination:

a. Best overall plan-of-service.

b. Customer(s) will experience undue hardship if project is delayed due to BPA procedural and construction requirements.

c. Overall cost benefit to BPA.

d. Land acquisition and construction will comply with all Federal, state, and local government regulations and environmental requirements.

e. Unanticipated load growth in the Customer's service area.

f. Geographic proximity to existing BPA facilities.

This service is not intended to circumvent normal one-utility planning.

Decisions by BPA whether to own or lease facilities constructed by customers will be made on an individual basis. If facilities are owned by BPA, then the operation and maintenance of the facility will be normally done by BPA. When customers retain ownership, they will normally provide operation and maintenance. BPA will make monthly payments based on the annual facility cost, including interest, amortization, overheads, operations, and maintenance costs.

2. In BPA Substation Yards and Other Properties. Customers will be encouraged to construct low-voltage delivery facilities within BPA substation yards or other properties. This construction will be limited to available space and compliance with BPA safety and environmental requirements. In this context, construction includes design, construction, operation, and maintenance. In existing properties, the customer shall pay for the costs incurred by BPA due to construction of the facility. Land costs will not be included.

D. Emergency Operations

BPA will assist in establishing an emergency transformer coverage program for transformer failures in customers' systems. Standard size transformers (25 MVA, 115 kV primary, and 34.5 kV, 24.9 kV, 13.8 kV, and 12.5 kV secondaries) will be available for participating small to intermediate level customers (less than 175 MW peak load). The customer substations must be designed to accommodate installation and safe operation of the transformers. All costs associated with this service shall be paid by the participants. To insure adequate coverage, BPA and the customers requesting this service will jointly develop a transformer coverage plan. Two services will be available: mobile spare coverage (short-term) and construction reserve coverage (up to 1 year).

E. Transfer Service

In accordance with other provisions of this policy for establishing new points of delivery, BPA can arrange for service to a power sales customer over a third party's (transferor) facilities if consistent with the best plan-of-service. BPA's financial responsibility shall include the costs of all transfers on the types of facilities that BPA would normally be required to provide for the customer.

In the event of unsatisfactory or discontinued transfer service, BPA and the customer will develop and implement the best plan-of-service based on one-utility planning principles and in accordance with other provisions of this policy, as an alternative to the original transfer service.

F. Resource Integration

Resources acquired by customers will be wheeled pursuant to section B-4 of this policy. All costs will be borne by the users and appropriate contractual actions shall be agreed upon before BPA commitment of funds.

G. Direct-Service Industry Service

BPA will construct or provide by transfer service the required transmission and substation facilities for service to its Direct Service Industrial customers. Repayment of facility cost shall be through wholesale industrial power rates.

Issued in Portland, Oregon, on September 19, 1983.

Peter T. Johnson,

Administrator.

Appendix A

Definitions

Annual Cost Ratio: Annual cost of the Federal Transmission System, or any applicable portion thereof, divided by investment in such system. Similar calculation can be made for individual utility's system.

Area Load Center: Point at which the load of a given area is assumed to be centralized or concentrated.

Bonneville Project Act: Established Bonneville Power Administration in 1937.

Bulk Power *Delivery:* With regards to BPA mission, delivery of transmission level power quantities to point of delivery.

Capacity Limit: The maximum load carrying capability of a Utility's transmission or distribution facility determined by the owning utility. See Thermal Limit.

Categoriçal Exclusion: A category of actions which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment nor an environmental impact statement is required.

CEQ: Council on Environmental Quality

Coincidental Billing: Combining two or more points of metering to bill as one point of delivery.

Convenience Point of Delivery: Point of delivery that is not accepted as the best plan-of-service.

Cooperative: A private, nonprofit utility, operating within state law but essentially self-regulated by a board of directors elected from its membership.

Customer: Power Sales Customer or Wheeling Customer of BPA.

Direct-Service Industry (DSI): An industrial customer that contracts for the direct purchase of power from BPA.

Distribution Facilities: Facilities that move low voltage power from the point of delivery to individual end-use loads. The maximum voltage of distribution facilities varies around the region but voltages at 34.5 kV and below are normally considered distribution voltages.

Distribution Substation: A substation which transforms voltage from transmission to customer distribution voltage. Transforms electricity from higher to lower voltage, usually 115 kV to 12.5 kV (or 24.9 kV or 34.5 kV).

Distribution Voltage Level: The voltage level of a utility for serving load areas, normally 34.5 kV and below.

Diversity: The difference between the sum of the noncoincident peaks of two or more individual loads and the coincident peak of the combined load.

Diversity Factor: The ratio of the sum of the noncoincident maximum demands of the various subdivisions of a system, or part of a system, to the maximum demand of the whole system, or part under consideration.

End-Use Consumer: A consumer which purchases power from a utility for its own use.

Environmental Assessment (EA): A document prepared by a Federal agency which assesses whether a proposed action is a "major Federal action significantly affecting the quality of the human environment," and which serves as the basis for a determination as to whether an environmental impact statement is required.

Environmental Impact Statement (EIS): A document prepared in accordance with the requirements of Section 102(a)(c) of the National Environmental Policy Act.

Federal Columbia River Transmission Act: A Federal law enacted in 1974 which gave Bonneville the jurisdiction to meet expenses with revenues received from customers.

Feeder Position: This normally includes a load and fault interrupting device, metering, a structure to connect an outgoing distribution line, and associated bus and switches as required.

Finding of No Significant Impact (FONSI): A document by a Federal agency briefly presenting the reasons for an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement will not be prepared.

Firm Power: Power guaranteed to be available at all times during the period covered by a commitment, even under adverse conditions, except for reason of certain uncontrollable forces or service provisions. Firm power is composed of either firm energy, firm capacity, or both.

Intermediate Customer: A Power Sales Customer with less than 175 MW peak load and greater than 50 MW peak load. See Small Customer and Large Customer.

Investor-Owned Utility (IOU): A utility which is organized under state law as a corporation for the purpose of providing electric power service and earning a profit for its stockholders.

Large Customer: A Power Sales Customer with more than 175 MW peak load who operates an extensive utility system and receives bulk power deliveries from BPA. See Small Customer and Intermediate Customer.

Lead time: The time required from initial BPA review stages to project energization.

Load: The amount of electric power delivered or required at a given point on a system. Load originates primarily at the energy consuming equipment of consumer or a PBA customer.

Load Area: The distinct portion of a utility's service area in which the load is concentrated.

Load Estimate: The official BPA load estimate for the utility developed jointly between BPA and the utility.

Mitigation: Activity undertaken to reduce or eliminate environmental impacts of a proposed action. Includes: (a) Avoiding the impact altogether by not taking a certain action or parts of an action, (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation, (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (d) reducing or restoring the affected environment, (e) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, (f) compensating for the impact by replacing or providing substitute resources or environments.

Minimum Bill Provisions: Assurance of cost recovery for facilities constructed by BPA to serve loads of a tentantive nature, typically, larger industrial or irrigation loads.

Municipal Utility: A utility owned and operated by a city.

NEPA: The National Environmental Policy Act.

NEPA Document: An environmental assessment, an environmental impact statement, an environmental impact statement supplement, a finding of no significant impact, a record of decision, or any other documentation prepared pursuant to a NEPA requirement.

Network: The interconnected portion of BPA's transmission system rated 230 kV or higher.

Nonfirm Power: Power supplied or available under an arrangement which does not have the guaranteed continuous availability feature of Firm Power.

Normal Utility Practice: The range of practices that are generally accepted by electric utilities for all phases of operation, consistent with standards publications such as American national Standards Institute (ANSI), National Electric Code, National Electric and Safety Code, Rural Electric Administration Standards, and Institute of Electrical and Electronics Engineers (IEEE).

One-Utility Concept: Planning decisions are made as though the same utility owned all relevant generating, transmission, and distribution facilities.

Pacific Northwest Electric Power Planning and Conservation Act (Regional Act): Public Law 96–501, enacted on December 5, 1980.

Peak Load: Maximum power demanded by a utility.

Planning Standards: Criteria of a utility or utilities, in a joint plan, which describe the standards based in the planning process. These include reliability, economic, environmental, and public policy factors.

Plan-of-Service: The project or projects which will solve a utility's or utilities' electrical service problem.

Point of Delivery (POD): Point at which utility systems are connected with the primary purpose of one-way power delivery.

Point of Interconnection: Point in which utility systems are connected at which power can flow in either direction.

Power Sales Customer: A utility or industry which purchases electric power from BPA; distinguished from consumer, one who buys electric power from a utility. See Small, Intermediate, or Large Customer.

Power Transformer: Device used for changing voltage levels.

PUD: Public Utility District (in Washington) or People's Utility District (in Oregon); a separate unit of government established by voters of a district to supply electric or other utility service.

Reliability: In a network power system, the ability of the system to continue operation while some lines or generators are out of service or while the system is under stress. BPA has established minimum standards in the Reliability Criteria and Standards (Appendix C). For distribution utilities, reliability is defined in terms of yearly cumulative outage times per customer, number of outages per year per customer, and revenue loss due to outages.

Resource Integration: Facilities necessary for interconnection of a generation project to the BPA transmission system.

Rural Electrification Administration (REA): A Federal agency which provides assistance to qualifying utilities.

Service Area: Total geographic area in which the utility provides electrical service.

Small Customer: Power Sales Customer whose total load requirements are less than 50 MVA of total system capacity or less than 50 MW peak load. See Intermediate Customer and Large Customer.

Subdivided Area: Area zoned for residential development.

Termination Charge: Unrecoverable costs associated with the unamortized value of a facility, which are the responsibility of a utility in the event of load reduction or termination before contract expiration.

Thermal Capacity: Maximum load which an electric device can carry under specified conditions for a given period of time, without exceeding limits of temperature or stress.

Transfer Agreement: Contractual agreement outlining the responsibilities of a utility for transfer of another utility's power, normally when the POD is in the transferor's load control area.

Transferor: Entity which receives energy at one point of system and

makes such energy available at another point on its system.

Transmission Facilities: Facilities that transport energy from large generation centers over significant distances to distribution centers. Transmission voltages vary around the region depending on usage, but are at least 115 kV.

Transmission Voltage Level: Voltage level, 115 kV or aboved, which transmits bulk power from a source to other principle parts of the system.

Urban Area: Residential, commercial, or industrial area as defined by local land use plans.

Voltage Regulator: Usually a transformer device with the windings of the primary and regulated circuits suitably adapted and arranged for the control of the voltage of the regulated circuit.

Wheeling: The use of the transmission facilities of one system to transmit power of and for another system.

Wheeling Customer: A utility which transmits power over BPA transmission facilities for its own use.

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Thursday
September 29, 1983

Part IV

Department of the Interior

National Park Service

Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

DEPARTMENT OF THE INTERIOR

National Park Service

Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. These standards and guidelines are not regulatory and do not set or interpret agency policy. They are intended to provide technical advice about archeological and historic preservation activities and methods.

DATE: These Standards and Guidelines are effective on September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Aten, Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240 (202-343-9500). A Directory of Technical Information listing other sources of supporting information is available from the National Park Service.

SUPPLEMENTARY INFORMATION: The Standards and Guidelines are prepared under the authority of Sections 101(f), (g), and (h), and Section 110 of the National Historic Preservation Act of 1966, as amended. State Historic Preservation Officers; Federal Preservation Officers including those of the Department of Agriculture, Department of Defense, Smithsonian Institution and General Services Administration; the Advisory Council on Historic Preservation; the National Trust for Historic Preservation; and other interested parties were consulted during the development of the Standards and Guidelines; additional consultation with these agencies will occur as the Standards and Guidelines are tested during their first year of use.

Purpose

The proposed Standards and the philosophy on which they are based result from nearly twenty years of intensive preservation activities at the Federal, State, and local levels.

The purposes of the Standards are:

To organize the information gathered about preservation activities.

To describe results to be achieved by Federal agencies, States, and others when planning for the identification, evaluation, registration and treatment of historic properties.

To integrate the diverse efforts of many entities performing historic preservation into a systematic effort to preserve our nation's cultural heritage.

Uses of the Standards

The following groups or individuals are encouraged to use these Standards:

Federal agency personnel responsible for cultural resource management pursuant to Section 110 of the National Historic Preservation Act, as amended, in areas under Federal jurisdiction. A separate series of guidelines advising Federal agencies on their specific historic preservation activities under Section 110 is in preparation.

State Historic Preservation Offices responsible under the National Historic Preservation Act, as amended, for making decisions about the preservation of historic properties in their States in accordance with appropriate regulations and the Historic Preservation Fund Grants Management Manual. The State Historic Preservation Offices serve as the focal point for preservation planning and act as a central state-wide repository of collected information.

Local governments wishing to establish a comprehensive approach to the identification, evaluation, registration and treatment of historic properties within their jurisdictions.

Other individuals and organizations needing basic technical standards and guidelines for historic preservation activities.

Organization

This material is organized in three sections: Standards; Guidelines; and recommended technical sources, cited at the end of each set of guidelines. Users of this document are expected to consult the recommended technical sources to obtain guidance in specific cases.

Review of the Standards and Guidelines

The Secretary of the Interior's Standards for Rehabilitation have recently undergone extensive review and their guidelines made current after 5 years of field use. Users and other interested parties are encouraged to submit written comments on the utility of these Standards and Guidelines except for the Rehabilitation Standards mentioned above. This edition will be thoroughly reviewed by the National Park Service (including consultation with Federal and State agencies), after the end of its first full year of use and any necessary modifications will be made. Subsequent reviews are anticipated as needed. Comments should be sent to Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

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Secretary of the Interior's Standards for Preservation Planning

Preservation planning is a process that organizes preservation activities (identification, evaluation, registration and treatment of historic properties) in a logical sequence. The Standards for Planning discuss the relationship among these activities while the remaining activity standards consider how each activity should be carried out. The Professional Qualifications Standards discuss the education and experience required to carry out various activities.

The Standards for Planning outline a process that determines when an area should be examined for historic properties, whether an identified property is significant, and how a significant property should be treated.

Preservation planning is based on the following principles:

—Important historic properties cannot be replaced if they are destroyed. Preservation planning provides for conservative use of these properties, preserving them in place and avoiding harm when possible and altering or destroying properties only when necessary.

—If planning for the preservation of historic properties is to have positive effects, it must begin before the identification of all significant properties has been completed. To make responsible decisions about historic properties, existing information must be used to the maximum extent and new information must be acquired as needed.

—Preservation planning includes public participation. The planning process should provide a forum for open discussion of preservation issues. Public involvement is most meaningful when it is used to assist in defining values of properties and preservation planning issues, rather than when it is limited to review of decisions already made. Early

and continuing public participation is essential to the broad acceptance of preservation planning decisions.

Preservation planning can occur at several levels or scales: in a project area; in a community; in a State as a whole; or in the scattered or contiguous landholdings of a Federal agency. Depending on the scale, the planning process will involve different segments of the public and professional communities and the resulting plans will vary in detail. For example, a State preservation plan will likely have more general recommendations than a plan for a project area or a community. The planning process described in these Standards is flexible enough to be used at all levels while providing a common structure which promotes coordination and minimizes duplication of effort. The Guidelines for Preservation Planning contain additional information about how to integrate various levels of planning.

Standard I. Preservation Planning Establishes Historic Contexts

Decisions about the identification, evaluation, registration and treatment of historic properties are most reliably made when the relationship of individual properties to other similar properties is understood. Information about historic properties representing aspects of history, architecture, archeology, engineering and culture must be collected and organized to define these relationships. This organizational framework is called a "historic context." The historic context organizes information based on a cultural theme and its geographical and chronological limits. Contexts describe the significant broad patterns of development in an area that may be represented by historic properties. The development of historic contexts is the foundation for decisions about identification, evaluation, registration and treatment of historic properties.

Standard II. Preservation Planning Uses Historic Contexts To Develop Goals and Priorities for the Identification, Evaluation, Registration and Treatment of Historic Properties

A series of preservation goals is systematically developed for each historic context to ensure that the range of properties representing the important aspects of each historic context is identified, evaluated and treated. Then priorities are set for all goals identified for each historic context. The goals with assigned priorities established for each historic context are integrated to produce a comprehensive and consistent set of goals and priorities for all historic contexts in the geographical area of a planning effort.

The goals for each historic context may change as new information becomes available. The overall set of goals and priorities are then altered in response to the changes in the goals and priorities for the individual historic contexts.

Activities undertaken to meet the goals must be designed to deliver a usable product within a reasonable period of time. The scope of the activity must be defined so the work can be completed with available budgeted program resources.

Standard III. The Results of Preservation Planning Are Made Available for Integration Into Broader Planning Processes

Preservation of historic properties is one element of larger planning processes. Planning results, including goals and priorities, information about historic properties, and any planning documents, must be transmitted in a usable form to those responsible for other planning activities. Federally mandated historic preservation planning is most successfully integrated into project management planning at an early stage. Elsewhere, this integration is achieved by making the results of preservation planning available to other governmental planning bodies and to private interests whose activities affect historic properties.

Secretary of the Interior's Guidelines for Preservation Planning

Introduction

These Guidelines link the Standards for Preservation Planning with more specific guidance and technical information. They describe one approach to meeting the Standards for Preservation Planning. Agencies, organizations or individuals proposing to approach planning differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Managing the Planning Process
Developing Historic Contexts
Developing Goals for a Historic Context
Integrating Individual Historic Contexts—Creating the Preservation Plan
Coordinating with Management Frameworks
Recommended Sources of Technical Information

Managing the Planning Process

The preservation planning process must include an explicit approach to implementation, a provision for review and revision of all elements, and a mechanism for resolving conflicts within the overall set of preservation goals and between this set of goals and other land use planning goals. It is recommended that the process and its products be described in public documents.

Implementing the Process

The planning process is a continuous cycle. To establish and maintain such a process, however, the process must be divided into manageable segments that can be performed within a defined period, such as a fiscal year or budget cycle. One means of achieving this is to define a period of time during which all the preliminary steps in the planning process will be completed. These preliminary steps would include setting a schedule for subsequent activities.

Review and Revision

Planning is a dynamic process. It is expected that the content of the historic contexts described in Standard I and the goals and priorities described in Standard II will be altered based on new information obtained as planning proceeds. The incorporation of this information is essential to improve the content of the plan and to keep it up-to-date and useful. New information must be reviewed regularly and systematically, and the plan revised accordingly.

Public Participation

The success of the preservation planning process depends on how well it solicits and integrates the views of various groups. The planning process is directed first toward resolving conflicts in goals for historic preservation, and second toward resolving conflicts between historic preservation goals and other land-use planning goals. Public participation is intergral to this approach and includes at least the following actions:

1. Involving historians, architectural historians, archeologists, historical architects, folklorists and persons from related discipline to define, review and revise the historic contexts, goals and priorities;

2. Involving interested individuals, organizations and communities in the planning area in identifying the kinds of historic properties that may exist and suitable protective measures;

3. Involving prospective users of the preservation plan in defining issues, goals and priorities;

4. Providing for coordination with other planning efforts at local, state, regional and national levels, as appropriate; and

5. Creating mechanisms for identifying and resolving conflicts about historic preservation issues.

The development of historic contexts, for example, should be based on the professional input of all disciplines involved in preservation and not be limited to a single discipline. For prehistoric archeology, for example, data from fields such as geology, geomorphology and geography may also be needed. The individuals and organizations to be involved will depend, in part, on those present or interested in the planning area.

Documents Resulting from the Planning Process

In most cases, the planning process produces documents that explain how the process works and that discuss the historic contexts and related goals and priorities. While the process can operate in the absence of these documents, planning documents are important because they are the most effective means of communicating the process and its recommendations to others. Planning documents also record decisions about historic properties.

As various parts of the planning process are reviewed and revised to reflect current information, related documents must also be updated. Planning documents should be created in a form that can be easily revised. It is also recommended that the format, language and organization of any documents or other materials (visual aids, etc.) containing preservation planning information meet the needs of prospective users.

Developing Historic Contexts

General Approach

Available information about historic properties must be divided into manageable units before it can be useful for planning purposes. Major decisions about identifying, evaluating, registering and treating historic properties are most reliably made in the context of other related properties. A historic context is an organizational format that groups information about related historic properties, based on a theme, geographic limits and chronological period. A single historic context describes one or more aspects of the historic development of an area, considering history, architecture, archeology, engineering and culture; and identifies the significant patterns that individual historic properties represent, for example, Coal Mining in Northeastern Pennsylvania between 1860 and 1930. A set of historic contexts is a comprehensive summary of all aspects of the history of the area.

The historic context is the cornerstone of the planning process. The goal of preservation planning is to identify, evaluate, register and treat the full range of properties representing each historic context, rather than only one or two types of properties. Identification activities are organized to ensure that research and survey activities include properties representing all aspects of the historic context. Evaluation uses the historic context as the framework within which to apply the criteria for evalution to specific properties or property types. Decisions about treatment of properties are made with the goal of treating the range of properties in the context. The use of historic contexts in organizing major preservation activities ensures that those activities result in the preservation of the wide variety of properties that represent our history, rather than only a small, biased sample of properties.

Historic contexts, as theoretical constructs, are linked to actual historic properties through the concept of property type. Property types permit the development of plans for identification, evaluation and treatment even in the absence of complete knowledge of individual properties. Like the historic context, property types are artifical constructs which may be revised as necessary.

Historic contexts can be developed at a variety of scales appropriate for local, State and regional planning. Given the probability of historic contexts overlapping in an area, it is important to coordinate the development and use of contexts at all levels. Generally, the State Historic Preservation Office possesses the most complete body of information about historic properties and, in practice, is in the best position to perform this function.

The development of historic contexts generally results in documents that describe the prehistoric processes or patterns that define the context. Each of the contexts selected should be developed to the point of identifying important property types to be useful in later preservation decision-making. The amount of detail included in these summaries will vary depending on the level (local, state, regional, or national) at which the contexts are developed and on their intended uses. For most planning purposes, a synopsis of the written description of the historic context is sufficient.

Creating a Historic Context

Generally, historic contexts should not be constructed so broadly as to include all property types under a single historic context or so narrowly as to contain only one property type per historic context. The following procedures should be followed in creating a historic context.

1. Identify the concept, time period and geographical limits for the historic context

Existing information, concepts, theories, models and descriptions should be used as the basis for defining historic contexts. Biases in primary and secondary sources should be identified and accounted for when existing information is used in defining historic contexts.

The identification and description of historic contexts should incorporate contributions from all disciplines involved in historic preservation. The chronological period and geographical area of each historic context should be defined after the conceptual basis is established. However, there may be exceptions, especially in defining prehistoric contexts where drainage systems or physiographic regions often are outlined first. The geographical boundaries for historic contexts should not be based upon contemporary political, project or other contemporary boundaries if those boundaries do not coincide with historical boundaries. For example, boundaries for prehistoric contexts will have little relationship to contemporary city, county or state boundaries.

2. Assemble the existing information about the historic context

a. *Collecting information:* Several kinds of information are needed to construct a preservation plan. Information about the history of the area encompassed by the historic context must be collected, including any information about historic properties that have already been identified. Existing survey or inventory entries are an important source of information about historic properties. Other sources may include literature on prehistory, history, architecture and the environment; social and environmental impact assessments; county and State land use plans; architectural and folklife studies and oral histories; ethnographic research; State historic inventories and registers; technical reports prepared for Section 106 or other assessments of historic properties; and and direct consultation with individuals and organized groups.

In addition, organizations and groups that may have important roles in defining historic contexts and values

should be identified. In most cases a range of knowlegeable professionals drawn from the preservation, planning and academic communities will be available to assist in defining contexts and in identifying sources of information. In other cases, however, development of historic contexts may occur in areas whose history or prehistory has not been extensively studied. In these situations, broad general historic contexts should be initially identified using available literature and expertise, with the expectation that the contexts will be revised and subdivided in the future as primary source research and field survey are conducted. It is also important to identify such sources of information as existing planning data, which is needed to establish goals for identification, evaluation, and treatment, and to identify factors that will affect attainment of those goals.

The same approach for obtaining information is not necessarily desirable for all historic contexts. Information should not be gathered without first considering its relative importance to the historic context, the cost and time involved, and the expertise required to obtain it. In many cases, for example, published sources may be used in writing initial definitions of historic contexts; archival research or field work may be needed for subsequent activities.

b. *Assessing information:* All information should be reviewed to identify bias in historic perspective, methodological approach, or area of coverage. For example, field surveys for archeological sites may have ignored historic archelolgical sites, or county land use plans may have emphasized only development goals.

3. Synthesize information

The information collection and analysis results in a written narrative of the historic context. This narrative provides a detailed synthesis of the data that have been collected and analyzed. The narrative covers the history of the area from the chosen perspective and identifies important patterns, events, persons or cultural values. In the process of identifying the important patterns, one should consider:

a. Trends in area settlement and development, if relevant;

b. Aesthetic and artistic values embodied in architecture, construction technology or craftsmanship;

c. Research values or problems relevant to the historic context; social and physical sciences and humanities; and cultural interests of local communities; and

d. Intangible cultural values of ethnic groups and native American peoples.

4. Define property types

A property type is a grouping of individual properties based on shared physical or associative characteristics. Property types link the ideas incorporated in the theoretical historic context with actual historic properties that illustrate those ideas. Property types defined for each historic context should be directly related to the conceptual basis of the historic context. Property types defined for the historic context "Coal Mining in Northeastern Pennsylvania, 1860–1930" might include coal extraction and processing complexes; railroad and canal transportation systems; commercial districts; mine workers' housing; churches, social clubs and other community facilities reflecting the ethnic origins of workers; and residences and other properties associated with mine owners and other industrialists.

a. *Identify property types:* The narrative should discuss the kinds of properties expected within the geographical limits of the context and group them into those property types most useful in representing important historic trends.

Generally, property types should be defined after the historic context has been defined. Property types in common usage ("Queen Anne houses," "mill buildings," or "stratified sites") should not be adopted without first verifying their relevance to the historic contexts being used.

b. *Characterize the locational patterns of property types:* Generalizations about where particular types of properties are likely to be found can serve as a guide for identification and treatment. Generalizations about the distribution of archeological properties are frequently used. The distribution of other historic properties often can be estimated based on recognizable historical, environmental or cultural factors that determined their location. Locational patterns of property types should be based upon models that have an explicit theoretical or historical basis and can be tested in the field. The model may be the product of historical research and analysis ("Prior to widespread use of steam power, mills were located on rivers and streams able to produce water power" or "plantation houses in the Mississippi Black Belt were located on sandy clay knolls"), or it may result from sampling techniques. Often the results of statistically valid sample surveys can be used to describe the locational patterns of a representative portion of properties belonging to a particular property type. Other surveys can also provide a basis for suggesting locational patterns if a diversity of historic properties was recorded and a variety of environmental zones was inspected. It is likely that the identification of locational patterns will come from a combination of these sources. Expected or predicted locational patterns of property types should be developed with a provision made for their verification.

c. *Characterize the current condition of property types:* The expected condition of property types should be evaluated to assist in the development of identification, evaluation and treatment strategies, and to help define physical integrity thresholds for various property types. The following should be assessed for each property type:

(1) Inherent characteristics of a property type that either contribute to or detract from its physical preservation. For example, a property type commonly constructed of fragile materials is more likely to be deteriorated than a property type constructed of durable materials; structures whose historic function or design limits the potential for alternative uses (water towers) are less likely to be reused than structures whose design allows a wider variety of other uses (commercial buildings or warehouses).

(2) Aspects of the social and natural environment that may affect the preservation or visibility of the property type. For example, community values placed on certain types of properties (churches, historic cemeteries) may result in their maintenance while the need to reuse valuable materials may stimulate the disappearance of properties like abandoned houses and barns.

It may be most efficient to estimate of the condition of property types based on professional knowledge of existing properties and field test these estimates using a small sample of properties representative of each type.

5. Identify information needs

Filling gaps in information is an important element of the preservation plan designed for each historic context. Statements of the information needed should be as specific as possible, focusing on the information needed, the historic context and property types it applies to, and why the information is needed to perform identification, evaluation, or treatment activities.

Developing Goals for a Historic Context

Developing Goals

A goal is a statement of preferred preservation activities, which is

generally stated in terms of property types.

The purpose of establishing preservation goals is to set forth a "best case" version of how properties in the historic context should be identified, evaluated, registered and treated. Preservation goals should be oriented toward the greatest possible protection of properties in the historic context and should be based on the principle that properties should be preserved in place if possible, through affirmative treatments like rehabilitation, stabilization or restoration. Generally, goals will be specific to the historic context and will often be phrased in terms of property types. Some of these goals will be related to information needs previously identified for the historic context. Collectively, the goals for a historic context should be a coherent statement of program direction covering all aspects of the context.

For each goal, a statement should be prepared identifying:

1. The goal, including the context and property types to which the goal applies and the geographical area in which they are located;
2. The activities required to achieve the goal;
3. The most appropriate methods or strategies for carrying out the activities;
4. A schedule within which the activities should be completed; and
5. The amount of effort required to accomplish the goal, as well as a way to evaluate progress toward its accomplishment.

Setting priorities for goals

Once goals have been developed they need to be ranked in importance. Ranking involves examining each goal in light of a number of factors.

1. General social, economic, political and environmental conditions and trends affecting (positively and negatively) the identification, evaluation, registration and treatment of property types in the historic context.

Some property types in the historic context may be more directly threatened by deterioration, land development patterns, contemporary use patterns, or public perceptions of their value, and such property types should be given priority consideration.

2. Major cost or technical considerations affecting the identification, evaluation and treatment of property types in the historic context.

The identification or treatment of some property types may be technically possible but the cost prohibitive; or techniques may not currently perfected (for example, the identification of submerged sites or objects, or the evaluation of sites containing material for which dating techniques are still being developed).

3. Identification, evaluation, registration and treatment activities previously carried out for property types in the historic context.

If a number of properties representing one aspect of a historic context have been recorded or preserved, treatment of additional members of that property type may receive lower priority than treatment of a property type for which no examples have yet been recorded or preserved. This approach ensures that the focus of recording or preserving all elements of ths historic context is retained, rather than limiting activities to preserving properties representing only some aspects of the context.

The result of considering the goals in light of these concerns will be a list of refined goals ranked in order of priority.

Integrating Individual Contexts—Creating the Preservation Plan

When historic contexts overlap geographically, competing goals and priorities must be integrated for effective preservation planning. The ranking of goals for each historic context must be reconciled to ensure that recommendations for one context do not contradict those for another. This important step results in an overall set of priorities for several historic contexts and a list of the activities to be performed to achieve the ranked goals. When applied to a specific geographical area, this is the preservation plan for that area.

It is expected that in many instances historic contexts will overlap geographically. Overlapping contexts are likely to occur in two combinations—those that were defined at the same scale (i.e., textile development in Smithtown 1850–1910 and Civil War in Smithtown 1855–1870) and those defined at different scales (i.e., Civil War in Smithtown and Civil War in the Shenandoah Valley). The contexts may share the same property types, although the shared property types will probably have different levels of importance, or they may group the same properties into different property types, reflecting either a different scale of analysis or a different historical perspective.

As previously noted, many of the goals that the formulated for a historic context will focus on the property types defined for that context. Thus it is critical that the integration of goals include the explicit consideration of the potential for shared property type membership by individual properties. For example, when the same property types are used by two contexts, reconciling the goals will require weighing the level of importance assigned to each property type. The degree to which integration of historic contexts must involve reconciling property types may be limited by the coordinated development of historic contexts used at various levels.

Integration with Management Frameworks

Preservation goals and priorities are adapted to land units through integration with other planning concerns. This integration must involve the resolution of conflicts that arise when competing resources occupy the same land base. Successful resolution of these conflicts can often be achieved through judicious combination of inventory, evaluation and treatment activities. Since historic properties are irreplaceable, these activities should be heavily weighted to discourage the destruction of significant properties and to be compatible with the primary land use.

Recommended Sources of Technical Information

Resource Protection Planning Process. State and Plans Grants Division, 1980. Washington, D.C. Available from Survey and Planning Branch, Interagency Resources Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Outlines a step-by-step approach to implementing the resource protection planning process.

Resource Protection Planning Process Case Studies. Available from Survey and Planning Branch, Interagency Resources Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Reports prepared by State Historic Preservation Offices and other using the planning process.

Planning Theory. Andreas Faludi, 1980. Oxford: Pergamon Press. Constructs a model of planning using concepts borrowed from general systems theory.

SECRETARY OF THE INTERIOR'S STANDARDS FOR IDENTIFICATION

Identification activities are undertaken to gather information about historic properties in an area. The scope of these activities will depend on: existing knowledge about properties; goals for survey activities developed in the planning process; and current management needs.

Standard I. Identification of Historic Properties Is Undertaken to the Degree Required To Make Decisions

Archival research and survey activities should be designed to gather the information necessary to achieve defined preservation goals. The

objectives, chosen methods and techniques, and expected results of the identification activities are specified in a research design. These activities may include archival research and other techniques to develop historic contexts, sampling an area to gain a broad understanding of the kinds of properties it contains, or examining every property in an area as a basis for property specific decisions. Where possible, use of quantitative methods is important because it can produce an estimate, whose reliability may be assessed, of the kinds of historic properties that may be present in the studied area. Identification activities should use a search procedure consistent with the management needs for information and the character of the area to be investigated. Careful selection of methods, techniques and level of detail is necessary so that the gathered information will provide a sound basis for making decisions.

Standard II. Results of Identification Activities are Integrated Into the Preservation Planning Process

Results of identification activities are reviewed for their effects on previous planning data. Archival research or field survey may refine the understanding of one or more historic contexts and may alter the need for additional survey or study of particular property types. Incorporation of the results of these activities into the planning process is necessary to ensure that the planning process is always based on the best available information.

Standard III. Identification Activities Include Explicit Procedures for Record-Keeping and Information Distribution

Information gathered in identification activities is useful in other preservation planning activities only when it is systematically gathered and recorded, and made available to those responsible for preservation planning. The results of identification activities should be reported in a format that summarizes the design and methods of the survey, provides a basis for others to review the results, and states where information on identified properties is maintained. However, sensitive information, like the location of fragile resources, must be safeguarded from general public distribution.

Secretary of the Interior's Guidelines for Identification

Introduction

These Guidelines link the Standards for Identification with more specific guidance and technical information. The Guidelines outline one approach to meet the Standards for Identification. Agencies, organizations and individuals proposing to approach identification differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Role of Identification in the Planning Process
Performing Identification
Integrating Identification Results
Reporting Identification Results
Recommended Sources of Technical Information

Role of Identification in the Planning Process

Identification is undertaken for the purpose of locating historic properties and is composed of a number of activities which include, but are not limited to archival research, informant interviews, field survey and analysis. Combinations of these activities may be selected and appropriate levels of effort assigned to produce a flexible series of options. Generally identification activities will have multiple objectives, reflecting complex management needs. Within a comprehensive planning process, identification is normally undertaken to acquire property-specific information needed to refine a particular historic context or to develop any new historic contexts. (See the Guidelines for Preservation Planning for discussion of information gathering to establish plans and to develop historic contexts.) The results of identification activities are then integrated into the planning process so that subsequent activities are based on the most up-to-date information. Identification activities are also undertaken in the absence of a comprehensive planning process, most frequently as part of a specific land-use or development project. Even lacking a formally developed preservation planning process, the benefits of efficent, goal-directed research may be obtained by the development of localized historic contexts, suitable in scale for the project area, as part of the background research which customarily occurs before field survey efforts.

Performing Identification

Research Design

Identification activities are essentially research activities for which a statement of objectives or research design should be prepared before work is performed. Within the framework of a comprehensive planning process, the research design provides a vehicle for integrating the various activities performed during the identification process and for linking those activities directly to the goals and the historic context(s) for which those goals were defined. The research design stipulates the logical integration of historic context(s) and field and laboratory methodology. Although these tasks may be performed individually, they will not contribute to the greatest extent possible in increasing information on the historic context unless they relate to the defined goals and to each other. Additionally, the research design provides a focus for the integration of interdisciplinary information. It ensures that the linkages between specialized activities are real, logical and address the defined research questions. Identification activities should be guided by the research design and the results discussed in those terms. (See Reporting Identification Results)

The research design should include the following:

1. *Objectives* of the identification activities. For example: to characterize the range of historic properties in a region; to identify the number of properties associated with a context; to gather information to determine which properties in an area are significant.

The statement of objectives should refer to current knowledge about the historic contexts or property types, based on background research or assessments of previous research. It should clearly define the physical extent of the area to be investigated and the amount and kinds of information to be gathered about properties in the area.

2. *Methods* to be used to obtain the information. For example: archival research or field survey. Research methods should be clearly and specifically related to research problems.

Archival research or survey methods should be carefully explained so that others using the gathered information can understand how the information was obtained and what its possible limitations or biases are.

The methods should be compatible with the past and present environmental character of the geographical area under study and the kinds of properties most likely to be present in the area.

3. *The expected results* and the reasons for those expections.

Expectations about the kind, number, location, character and condition of historic properties are generally based on a combination of background research, proposed hypotheses, and analogy to the kinds of properties known to exist in areas of similar environment or history.

Archival Research

Archival or background research is generally undertaken prior to any field survey. Where identification is undertaken as part of a comprehensive planning process, background research may have taken place as part of the development of the historic contexts (see the Guidelines for Preservation Planning). In the absence of previously developed historic contexts, archival research should address specific issues and topics. It should not duplicate previous work. Sources should include, but not be limited to, historical maps, atlases, tax records, photographs, ethnographies, folklife documentation, oral histories and other studies, as well as standard historical reference works, as appropriate for the research problem. (See the Guidelines for Historical Documentation for additional discussion.)

Field Survey

The variety of field survey techniques available, in combination with the varying levels of effort that may be assigned, give great flexibility to implementing field surveys. It is important that the selection of field survey techniques and level of effort be responsive to the management needs and preservation goals that direct the survey effort.

Survey techniques may be loosely grouped into two categories, according to their results. First are the techniques that result in the characterization of a region's historic properties. Such techniques might include "windshield" or walk-over surveys, with perhaps a limited use of sub-surface survey. For purposes of these Guidelines, this kind of survey is termed a "reconnaissance." The second category of survey techniques is those that permit the identification and description of specific historic properties in an area; this kind of survey effort is termed "intensive." the terms "reconnaissance" and "intensive" are sometimes defined to mean particular survey techniques, generally with regard to prehistoric sites. The use of the terms here is general and is not intended to redefine the terms as they are used elsewhere.

Reconnaissance survey might be most profitably employed when gathering data to refine a developed historic context—such as checking on the presence or absence of expected property types, to define specific property types or to estimate the distribution of historic properties in an area. The results of regional characterization activities provide a general understanding of the historic properties in a particular area and permit management decisions that consider the sensitivity of the area in terms of historic preservation concerns and the resulting implications for future land use planning. The data should allow the formulation of estimates of the necessity, type and cost of further identification work and the setting of priorities for the individual tasks involved. In most cases, areas surveyed in this way will require resurvey if more complete information is needed about specific properties.

A reconnaissance survey should document:

1. The kinds of properties looked for;
2. The boundaries of the area surveyed;
3. The method of survey, including the extent of survey coverage;
4. The kinds of historic properties present in the surveyed area;
5. Specific properties that were identified, and the categories of information collected; and
6. Places examined that did not contain historic properties.

Intensive survey is most useful when it is necessary to know precisely what historic properties exist in a given area or when information sufficient for later evaluation and treatment decisions is needed on individual historic properties. Intensive survey describes the distribution of properties in an area; determines the number, location, and condition of properties; determines the types of properties actually present within the area; permits classification of individual properties; and records the physical extent of specific properties.

An intensive survey should document:

1. The kinds of properties looked for;
2. The boundaries of the area surveyed;
3. The method of survey, including an estimate of the extent of survey coverage;
4. A record of the precise location of all properties identified; and
5. Information on the appearance, significance, integrity and boundaries of each property sufficient to permit an evaluation of its significance.

Sampling

Reconnaissance or intensive survey methods may be employed according to a sampling procedure to examine less-than-the-total project or planning area.

Sampling can be effective when several locations are being considered for an undertaking or when it is desirable to estimate the cultural resources of an area. In many cases, especially where large land areas are involved, sampling can be done in stages. In this approach, the results of the initial large area survey are used to structure successively smaller, more detailed surveys. This "nesting" approach is an efficient technique since it enables characterization of both large and small areas with reduced effort. As with all investigative techniques, such procedures should be designed to permit an independent assessment of results.

Various types of sample surveys can be conducted, including, but not limited to: random, stratified and systematic. Selection of sample type should be guided by the problem the survey is expected to solve, the nature of the expected properties and the nature of the area to be surveyed.

Sample surveys may provide data to estimate frequencies of properties and types of properties within a specified area at various confidence levels. Selection of confidence levels should be based upon the nature of the problem the sample survey is designed to address.

Predictive modeling is an application of basic sampling techniques that projects or extrapolates the number, classes and frequencies of properties in unsurveyed areas based on those found in surveyed areas. Predictive modeling can be an effective tool during the early stages of planning an undertaking, for targeting field survey and for other management purposes. However, the accuracy of the model must be verified; predictions should be confirmed through field testing and the model redesigned and retested if necessary.

Special survey techniques

Special survey techniques may be needed in certain situations.

Remote sensing techniques may be the most effective way to gather background environmental data, plan more detailed field investigations, discover certain classes of properties, map sites, locate and confirm the presence of predicted sites, and define features within properties. Remote sensing techniques include aerial, subsurface and underwater techniques. Ordinarily the results of remote sensing should be verified through independent field inspection before making any evaluation or statement regarding frequencies or types of properties.

Integrating Identification Results

The results of identification efforts must be integrated into the planning process so that planning decisions are based on the best available information. The new informantion is first assessed against the objectives of the identification effort to determine whether the gathered information meets

the defined identification goals for the historic context(s); then the goals are adjusted accordingly. In addition, the historic context narrative, the definition of property types and the planning goals for evaluation and treatment are all adjusted as necessary to accommodate the new data.

Reporting Identification Results

Reporting of the results of identification activities should begin with the statement of objectives prepared before undertaking the survey. The report should respond to each of the major points documenting:

1. Objectives;
2. Area researched or surveyed;
3. Research design or statement of objectives;
4. Methods used, including the intensity of coverage. If the methods differ from those outlined in the statement of objectives, the reasons should be explained.
5. Results: how the results met the objectives; result analysis, implications and recommedations; where the compiled information is located.

A summary of the survey results should be available for examination and distribution. Identified properties should then be evaluated for possible inclusion in appropriate inventories.

Protection of information about archeological sites or other properties that may be threatened by dissemination of that information is necessary. These may include fragile archeological properties or properties such as religious sites, structures, or objects, whose cultural value would be compromised by public knowledge of the property's location.

Recommended Sources of Technical Information

The Archeological Survey: Methods and Uses. Thomas F. King. Interagency Archeological Services, U.S. Department of the Interior, 1978. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO stock number 024-016-00091. Written primarily for the non-archeologist, this publication presents methods and objectives for archeological surveys.

Cultural Resources Evaluation of the Northern Gulf of Mexico Continental Shelf. National Park Service, U.S. Department of the Interior, 1977.

Guidelines for Local Surveys: A Basis for Preservation Planning. Anne Derry, H. Ward Jandl, Carol Shull and Jan Thorman. National Register Division, U.S. Department of the Interior, 1978. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO stock number 024-016-0089-7. General guidance about designing and carrying out community surveys.

The Process of Field Research: Final Report on the Blue Ridge Parkway Folklife Project. American Folklife Center, 1981.

Regional Sampling in Archeology. David Hurst Thomas. University of California, Archeological Survey Annual Report, 1968-9, 11:87-100.

Remote Sensing: A Handbook for Archeologists and Cultural Resource Managers. Thomas R. Lyons and Thomas Eugene Avery. Cultural Resource Management Division, National Park Service, U.S. Department of the Interior, 1977.

Remote Sensing and Non-Destructive Archeology. Thomas R. Lyons and James L. Ebert, editors. Remote Sensing Division, Southwest Cultural Resources Center, National Park Service, U.S. Department of the Interior and University of New Mexico, 1978.

Remote Sensing Experiments in Cultural Resource Studies: Non-Destructive Methods of Archeological Exploration, Survey and Analysis. Thomas R. Lyons, assembler. reports of the Chaco Center, Number One. National Park Service, U.S. Department of the Interior and University of New Mexico, 1976.

Sampling in Archeology. James W. Mueller, editor. University of Arizona Press, 1975. Tucson, Arizona.

Scholars as Contractors. William J. Mayer-Oakes and Alice W. Portnoy, editors. Cultural Resource Management Studies. U.S. Department of the Interior, 1979.

Sedimentary Studies of Prehistoric Archeological Sites. Sherwood Gagliano, Charles Pearson, Richard Weinstein, Diana Wiseman, and Christopher McClendon. Division of State Plans and Grants, National Park Service, U.S. Department of the Interior, 1982. Washington, D.C. Available from Coastal Environments Inc., 1260 Main Street, Baton Rouge, Louisiana 70802. Establishes and evaluates a method for employing sedimentological analysis in distinguishing site areas from non-site areas when identifying submerged archeological sites on the continental shelf.

State Survey Forms. Available from Interagency Resource Management Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Characterizes cultural resource survey documentation methods in State Historic Preservation Offices.

Truss Bridge Types: A Guide to Dating and Identifying. Donald C. Jackson and T. Allan Comp. American Association for State and Local History, 1977. Nashville, Tennessee. Technical leaflet #95. Available from AASLH, 708 Berry Road, Nashville, Tennessee 37204. Information about performing surveys of historic bridges and identifying the types of properties encountered.

Secretary of the Interior's Standards for Evaluation

Evaluation is the process of determining whether identified properties meet defined criteria of significance and therefore should be included in an inventory of historic properties determined to meet the criteria. The criteria employed vary depending on the inventory's use in resource management.

Standard I. Evaluation of the Significance of Historic Properties Uses Established Criteria

The evaluation of historic properties employs criteria to determine which properties are significant. Criteria should therefore focus on historical, architectural, archeological, engineering and cultural values, rather than on treatments. A statement of the minimum information necessary to evaluate properties against the criteria should be provided to direct information gathering activities.

Because the National Register of Historic Places is a major focus of preservation activities on the Federal, State and local levels, the National Register criteria have been widely adopted not only as required for Federal purposes, but for State and local inventories as well. The National Historic Landmark criteria and other criteria used for inclusion of properties in State historic site files are other examples of criteria with different management purposes.

Standard II. Evaluation of Significance Applies the Criteria Within Historic Contexts

Properties are evaluated using a historic context that identifies the significant patterns that properties represent and defines expected property types against which individual properties may be compared. Within this comparative framework, the criteria for evaluation take on particular meaning with regard to individual properties.

Standard III. Evaluation Results in A List or Inventory of Significant Properties That Is Consulted In Assigning Registration and Treatment Priorities

The evaluation process and the subsequent development of an inventory of significant properties is an on-going activity. Evaluation of the significance of a property should be completed before registration is considered and before preservation treatments are selected. The inventory entries should contain sufficient information for subsequent activities such as registration or treatment of properties, including an evaluation statement that makes clear the significance of the property within one or more historic contexts.

Standard IV. Evaluation Results Are Made Available to the Public

Evaluation is the basis of registration and treatment decisions. Information about evaluation decisions should be organized and available for use by the general public and by those who take part in decisions about registration and treatment. Use of appropriate computer-assisted data bases should be a part of the information dissemination effort. Sensitive information, however, must be safeguarded from general public distribution.

Secretary of the Interior's Guidelines for Evaluation

Introduction

These Guidelines link the Standards for Evaluation with more specific guidance and technical information. These Guidelines describe one approach to meeting the Standards for Evaluation. Agencies, organizations, or individuals proposing to approach evaluation differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

The Evalauation Process
Criteria
Application of Criteria within a Historic Context
Inventory
Recommended Sources of Technical Information

The Evaluation Process

These Guidelines describe principles for evaluating the significance of one or more historic properties with regard to a given set of criteria.

Groups of related properties should be evaluated at the same time whenever possible; for example, following completion of a theme study or community survey.

Evaluation should not be undertaken using documentation that may be out of date. Prior to proceeding with evaluation the current condition of the property should be determined and previous analyses evaluated in light of any new information.

Evaluation must be performed by persons qualified by education, training and experience in the application of the criteria. Where feasible, evaluation should be performed in consultation with other individuals experienced in applying the relevant criteria in the geographical area under consideration; for example, the State Historic Preservation Officer or local landmarks commission.

Evaluation is completed with a written determination that a property is or is not significant based on provided information. This statement should be part of the record.

Criteria: The purposes of evaluation criteria should be made clear. For example, the criteria may be used "to evaluate properties for inclusion in the county landmarks list," or "to implement the National Register of Historic Places program."

For Federal cultural resource management purposes, criteria used to develop an inventory should be coordinated with the National Register criteria for evaluation as implemented in the approved State comprehensive historic preservation plan.

Content of Criteria: Criteria should be appropriate in scale to the purpose of the evaluation. For example, criteria designed to describe national significance should not be used as the basis for creating a county or State inventory. Criteria should be categorical and not attempt to describe in detail every property likely to qualify. Criteria should outline the disciplines or broad areas of concern (history, archeology, architectural history, engineering and culture, for example) included within the scope of the inventory; explain what kinds of properties, if any, are excluded and the reasons for exclusion; and define how levels of significance are measured, if such levels are incorporated into the criteria. If the criteria are to be used in situations where the National Register criteria are also widely used, it is valuable to include a statement explaining the relationship of the criteria used to the National Register criteria, including how the scope of the inventory differs from that defined by the National Register criteria and how the inventory could be use to identify properties that meet the National Register criteria.

Information Needed to Evaluate Properties: The criteria should be accompanied by a statement defining the minimum information necessary to evaluate properties to insure that this information is collected during identification activities intended to locate specific historic properties. Generally, at least the following will be needed:

1. Adequately developed historic contexts, including identified property types. (See the Guidelines for Preservation Planning for discussion of development of historic contexts.)

2. Sufficient information about the appearance, condition and associative values of the property to be evaluated to:

a. Classify it as to property type;

b. Compare its features or characteristics with those expected for its property type; and

c. Define the physical extent of the property and accurately locate the property.

To facilitate distinguishing between facts and analysis, the information should be divided into categories, including identification and description of pertinent historical contexts; description of the property and its significance in the historical context; and analysis of the integrity of the property relative to that needed to represent the context.

Usually documentation need not include such items as a complete title history or biography of every owner of a property, except where that information is important in evaluating its significance. Information on proposed or potential treatments or threats, such as destruction of a property through uncontrollable natural processes, is also not needed for evaluation, unless those effects are likely to occur prior to or during the evaluation, thereby altering the significant characteristic of the property. If archeological testing or structural analysis is needed for evaluation, it should not proceeded beyond the point of providing the information necessary for evaluation and should not unnecessarily affect significant features or values of the property.

When more information is needed: Evaluation cannot be conducted unless all necessary information is available. (See Information Needed to Evaluate Properties.) Any missing information or analysis should be identified (e.g. development of context or information on the property) as well as the specific activities required to obtain the information (archival research, field survey and testing, or laboratory testing). When adequate information is not available, it is important to record that fact so that evaluation will not be undertaken until the information can be obtained. In some cases needed information is not obtainable, for example, where historical records have been destroyed or analytical techniques have not been developed to date materials in archeological sites. If an evaluation must be completed in these cases, it is important to acknowledge what information was not obtainable and how that missing information may affect the reliability of the evaluation.

Application of the Criteria within a Historic Context

The first step in evaluation is considering how the criteria apply to the

particular historic context. This is done by reviewing the previously developed narrative for the historic context and determining how the criteria would apply to properties in that context, based on the important patterns, events, persons and cultural values identified. (See the discussion of the historic context narrative in the Guidelines for Preservation Planning.) This step includes identification of which criteria each property type might meet and how integrity is to be evaluated for each property type under each criterion. Specific guidelines for evaluating the eligibility of individual properties should be established. These guidelines should outline and justify the specific physical characteristics or data requirements that an individual property must possess to retain integrity for the particular property type; and define the process by which revisions or additions can be made to the evaluation framework.

Consideration of property type and intergrity: After considering how the criteria apply to the particular historic context, the evaluation process for a property generally includes the following steps:

1. A property is classified as to the appropriate historic context(s) and property type(s). If no existing property type is appropriate, a new property type is defined, its values identified, and the specific characteristics or data requirements are outlined and justified as an addition to the historic context. If necessary, a new historic context is defined for which values and property types and their integrity requirements are identified and justified.

2. A comparison is made between the existing information about the property and the integrity characteristics or data required for the property type.

a. If the comparison shows that the property possesses these characteristics, then it is evaluated as significant for that historic context. The evaluation includes a determination that the property retains integrity for its type.

b. If the comparison shows that the property does not meet the minimum requirements, one of several conclusions is reached:

(1) The property is determined not significant because it does not retain the integrity defined for the property type.

(2) The property has characteristics that may make it significant but these differ from those expected for that property type in that context. In this case, the historic context or property types should be reexamined and revised if necessary, based on subsequent research and survey.

The evaluation should state how the particular property meets the integrity requirements for its type. When a property is disqualified for loss of integrity, the evaluation statement should focus on the kinds of integrity expected for the property type, those that are absent for the disqualified property, and the impact of that absence on the property's ability to exemplify architectural, historical or research values within a particular historic context.

The integrity of the property in its current condition, rather than its likely condition after a proposed treatment, should be evaluated. Factors such as structural problems, deterioration, or abandonment should be considered in the evaluation only if they have affected the integrity of the significant features or characteristics of the property.

Inventory

An inventory is a repository of information on specific properties evaluated as significant.

Content: The inventory should include:

1. Summaries of the important historic contexts. These may be in the form of an approved plan or analyses of historic contexts important in the history of the geographical area covered by the inventory.

2. Descriptions of significant property types of these contexts, whether or not any specific properties have been identified.

3. Results of reconnaissance surveys or other identification activities, even if the level of information on specific properties identified as part of those activities is not sufficient to evaluate individual properties.

4. Information on individual properties that was used in evaluation.

Historic contexts are identified by name, with reference to documents describing those contexts, or with a narrative statement about the context(s) where such documents do not exist.

A description of the property. Part of this description may be a photographic record.

A statement that justifies the significance of the property in relation to its context(s). This statement should include an analysis of the integrity of the property.

Boundaries of the property.

A record of when a property was evaluated and included in the inventory, and by whom.

Records on demolished or altered properties and properties evaluated as not significant should be retained, along with full description of areas surveyed, for the planning information these records provide about impacts to properties and about the location and character of non-significant properties to prevent redundant identification work at a later time.

Maintenance: Inventory entries should be maintained so that they accurately represent what is known about historic properties in the area covered by the inventory. This will include new information gained from research and survey about the historic contexts, property types, and previously evaluated properties, as well as information about newly evaluated properties. For individual properties, addition of kinds of significance, change in the boundaries, or loss of significance through demolition or alteration should be recorded.

Uses and Availability: An inventory should be managed so that the information is accessible. Its usefulness depends on the organization of information and on its abilty to incorporate new information. An inventory should be structured so that entries can be retrieved by locality or by historic context.

The availability of the inventory information should be announced or a summary should be distributed. This may be in the form of a list of properties evaluated as significant or a summary of the historic contexts and the kinds of properties in the inventory. Inventories should be avilable to managers, planners, and the general public at local, State, regional, and Federal agency levels.

It is necessary to protect information about archeological sites or other properties whose integrity may be damaged by widespread knowledge of their location. It may also be necessary to protect information on the location of properties such as religious sites, structures, or objects whose cultural value would be compromised by public knowledge of the property's location.

Recommended Sources of Technical Information

How to Apply the National Register Critera. Available through the National Register Branch, Interagency Resources Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Provides detalied technical information about interpretation of the significance and integrity criteria used by the National Register of Historic Places program.

How To Series. Available through the National Register Branch, Interagency Resources Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Discusses application of the National Register criteria for evaluation. Titles include:

How To Establish Boundaries for National Register Properties.
How To Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years.
How To Improve Quality of Photos for National Register Nominations.
How To Apply for Certification of Significance Under Section 2124 of the Tax Reform Act of 1976.
How To Apply for Certification of State and Local Statutes and Historic Districts.
How To Quality Historic Properties Under the New Federal Law Affective Easements.

Importance of Small, Surface, and Disturged Sites as Sources of Significant Archeological Data. Valerie Talmage and Olga Chesler. Interagency Archeological Service 1977. Washington, D.C. Available from the National Technical Information Service. NTIS Publication Number PB 270939/AS. Discusses the role of small, surface, and disturbed sites as sources of significant information about a variety of prehistoric activities. These types of sites are frequently ignored in the development of regional archeological research designs.

Secretary of the Interior's Standards For Registration

Registration is the formal recognition of properties evaluated as significant. Preservation benefits provided by various registration programs range from honorific recognition to prohibition of demolition or alteration of included properties. Some registration programs provide recognition and other broad benefits while other programs authorize more specific forms of protection.

Standard I. Registration Is Conducted According To Stated Procedures

Registration of historic properties in the National Register of Historic Places must be done in accordance with the National Register regulations published in the Code of Federal Regulations, 36 CFR 60. Registration for other lists or purposes follow an established process that is understood by the public, particularly by those interests that may be affected by registration.

Standard II. Registration Information Locates, Describes and Justifies the Significance and Physical Integrity of a Historic Property

Registers are used for planning, research and treatment. They must contain adequate information for users to locate a property and understand its significance. Additional information may be appropriate depending on the intended use of the register.

Standard III. Registration Information is Accessible to the Public

Information should be readily available to the public and to government agencies responsible for the preservation of historic properties and for other planning needs.

Secretary of the Interior's Guidelines for Registration

Introduction

These Guidelines link the Standards for Registration with more specific guidance and technical information. They describe one approach to meeting the Standards for Registration. Agencies, organizations, or individuals proposing to approach registration differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

Purpose of Registration Programs
Registration Procedures
Documentation on Registered Properties
Public Availability
Recommended Sources of Technical Information

Purpose of Registration Programs

Registration of historic properties is the formal recognition of properties that have been evaluated as significant according to written criteria. Registration results in an official inventory or list that serves an administrative function. A variety of benefits or forms of protection accure to a registered property, ranging from honorific recognition to prohibition of demolition or alteration.

Some registration programs provide recognition and other broad benefits or entitlements, while other registrations of properties may, in addition, authorize more specific forms of protection. The application of the registration process should be a logical outgrowth of the same planning goals and priorities that guided the identification and evaluation activities. All registration programs should establish priorities for recognition of their authorized range of properties; provide for confidentiality of sensitive information; and establish a means of appealing the registration or non-registration of a property.

Registration Procedures

Explicit procedures are essential because they are the means by which the public can understand and participate in the registration process. Procedures for registration programs should be developed by professionals in the field of historic preservation, in consultation with those who will use or be affected by the program. Prior to taking effect, procedures should be published or circulated for comment at the governmental level at which they will be used. (Procedures for registration of properties in the National Register of Historic Places and the National Historic Landmarks list, for example, are published in the **Federal Register**.)

Any registration program should include:

1. A professional staff to prepare or assess the documentation;
2. A professional review, independent of the nominating source, to provide an impartial evaluation of the documented significance;
3. Adequate notice to property owners, elected officials and the public about proposed registrations and the effects of listing, if any; and
4. A means of public participation.

Professional Review: The registration process should include an independent evaluation of the significance of the property and of the quality and thoroughness of the documentation supporting that significance. Such evaluation ensures that significance is adequately justified and that registration documentation meets the technical requirements of the registration process.

State and local preservation programs, concerned with both public and private properties, generally use a review board, panel or commission. This level of professional review has proven to be effective in assessing the significance of properties considered for registration.

Review boards and other forms of independent review should include professionals in the fields or diciplines included in the criteria; representatives of other fields or disciplines may be desirable to reflect other values or aspects of the register. Key personnel must be qualified by education, training or experience to accomplish their designated duties. (See the Professional Qualifications Standards.)

The scope of the independent review should be clearly stated in the registration procedures and should not include issues outside the scope of the applicable criteria for evaluation and other areas specified in the procedures. Generally, independent reviewers should not be involved in any primary research or analysis related to properties under consideration; this information should be gathered and organized prior to review meetings. Documentation presented to the reviewers should be made available to

the public prior to review meetings or public hearings. Registration of properties should not take place until review of documentation has been completed.

Public Notice: Adequate notice allows property owners, officials and other interested parties to comment on proposed registrations prior to action by the independent reviewers. The degree of protection and control provided by a registration program may be a factor in determining what constitutes adequate notice. For example, adequate notice of proposed inclusion in honorific registers may be less complex than that for registration that results in local controls on alteration or demolition of registered properties.

Notice to elected officials and the public is necessary to distribute information about potential registrations of concern to planning and development interests.

Adequate notice to property owners may be accomplished through means ranging from individual notification by mail to publication of a public notice, depending on the nature of the registration program and the number and character of the properties involved.

Public notices and owner notification about proposed registrations should include the dates and times of public meetings and review meetings, the kinds of comments that are appropriate, and how comments will be considered in the evaluation process. The notice should also state where information can be obtained about the registration program, the criteria used to evaluate properties for inclusion, and the significance of specific properties under consideration.

The procedures should include a means of public participation in the form of submission of written comments or a review meeting open to the public or a public hearing.

The procedures should state time periods within which reviews, notices, comments, public hearings, review meetings and appeals will occur. The time periods should be short enough to allow for efficient recognition of historic properties but also allow adequate time for public comment and participation by those affected. Time periods may vary depending on whether activities are carried out at the local, State, or national level. These time schedules should be widely circulated so that the process is widely understood.

Appeal Process: A means of appeal should be included in the registration process to allow for reconsideration of a property's inclusion. Reasons for appeal may range from existence of additional information about the property supporting or refuting its significance to administrative or procedural error. An appeal process should specify to whom an appeal may be made and how the information that is provided will be evaluated. The appeal procedures should also state the time limit, if any, on appealing a decision and on consideration of information and issuance of a decision by the appeal authority.

Documentation on Registered Properties

Documentation requirements should be carefully weighed to provide the information *actually* needed to reach a registration decision and should be made public. It should be made certain that identification and evaluation activities obtain and record the information necessary for registration. Documentation should be prepared in a standardized format and on materials that are archivally stable and easy to store and retrieve.

Location: The precise location of a historic property must be clearly identified.

Street address, town or vicinity, and county should be provided. Properties should also be located on maps; these may be USGS maps, county planning maps, or city base maps or real estate maps. A uniform system of noting location, such as UTM grid points or longitude and latitude, should supplement mapping. It is recommended that each registration process standardize the preferred choice of maps appropriate to the scope of the process.

Description: An accurate description of a property includes a description of both the current and historical physical appearance and condition of the property and notes the relevant property type(s) for the applicable historic context(s). Discussion should include alterations, deterioration, relocation and other changes to the property since its period of significance.

Significance: A statement of significance should explain why a property meets the criteria for inclusion in the register to which it has been nominated.

This statement should contain at least 3 elements:

1. Reference to the relevant historic context(s);

2. Identification of relevant property types within the context and their characteristics; and

3. Justification that the property under consideration has the characteristics required to qualify it.

Relevant historic contexts can be identified through reference to the preservation plan or other documents where the contexts have been previously described or can be provided by a narrative discussion of the context. (The development of contexts and their use in evaluating properties are discussed in the Guidelines for Preservation Planning and the Guidelines for Evaluation.) A significant property type and its characteristics are identified either through reference to the historic context(s) or by a narrative in the documentation that describes historic contexts. Justification of a specific property is made by systematic comparison of its characteristics to those required for the property type.

Boundaries: The delineation and justification of boundaries for a registered property are important for future treatment activities. It is expecially critical when legal restraints or restrictions may result from the registration of properties. Thus, boundaries should correspond as closely as possible to the actual extent and configuration of the property and should be carefully selected to encompass, but not exceed, the extent of the significant resource(s). The selection of boundaries should reflect the significant aspects of the property.

Arbitrary boundaries should not be chosen for ease of description since this can result in the inclusion of unrelated land or in exclusion of a portion of the historic property. Present property lines should not be chosen as property boundaries without careful analysis of whether they are appropriate to the historic property. A single uniform boundary description and acreage should not be applied to a group or class of properties (antebellum plantations, for example) without examination of the actual extent of each property. The selected boundaries should be justified as appropriate to the historic property.

Boundaries should be clearly and precisely described, using a verbal boundary description, legal description, accurate sketch map, or lines drawn on base maps, or a combination of these where needed to specify the limits of the property being registered. When used, maps should show the location of buildings, structures, sites or objects within the boundary.

Updating Information on Registered Properties: A change in the condition of the significant features of a property may require a change in the official registration record. Alteration of a significant architectural feature, for example, could mean that a property is no longer significant for its architectural design.

Additional significance of registered properties may be identified through development of new historic contexts.

Research may reveal that a property is significant in other historic contexts or is significant at a higher level. For example, a property previously recognized as of local significance could be found to be of national significance.

A change in location or condition of a registered property may mean that the property is no longer significant for the reasons for which it was registered and the property should be deleted from the registered list.

Public Availability

Lists of registered properties should be readily available for public use, and information on registered properties should be distributed on a regular basis. Lists of properties registered nationally are distributed through publication in the **Federal Register** and to Congressional Offices and State Historic Preservation Offices. Comprehensive information should be stored and maintained for public use at designated national, State and local authorities open to the public on a regular basis.

Information should be retrievable by the property name, and location, historic context or property type. The specific location of properties that may be threatened by dissemination of that information must be withheld. These may include fragile archeological properties or properties such as religious sites, structures, or objects whose cultural value would be compromised by public knowledge of the property location.

Recommended Sources of Technical Information

How to Complete National Register Forms. National Register Division, National Park Service, U.S. Deparment of the Interior, 1977. Washington, D.C. Available through the Superintendent of Documents, US Government Printing Office, Washington, D.C. 20402. GPO Stock Number 024–005–00666–4. This publication is the standard reference on the documentation requirements of the National Register of Historic Places program.

How To Series. Available through the National Register Branch, Interagency Resources Division, National Park Service, Department of the Interior 20240. These information sheets contain supplementary information about interpreting the National Register criteria for evaluation and documentation requirements of the National Register registration program. Title include:

How To Establish Boundaries for National Register Properties.

How To Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years.

How To Improve the Quality of Photographs for National Register Nominations.

How To Apply for Certification of Significance Under Section 2124 of the Tax Reform Act of 1976.

How To Apply for Certification of State and Local Statutes and Historic Districts.

How To Qualify Historic Properties Under the New Federal Law Affecting Easements.

Note on Documentation and Treatment of Historic Properties

Documentation and treatment of historic properties includes a variety of techniques to preserve or protect properties, or to document their historic values and information. While documentation activities may be applied to any potentially historic property, generally only those properties that first have been evaluated as significant against specified criteria (such as those of the National Register) are treated. Some commonly applied treatments are preservation in place, rehabilitation, restoration and stabilization; there are other types of treatments also. Documentation and treatment may be applied to the same property; for example, archeological, historical, and architectural documentation may be prepared before a structure is stabilized or before foundations or chimneys or other lost features are reconstructed.

Alternatives for treatment will usually be available, and care should be applied in choosing among them. Preservation in place is generally preferable to moving a property. Over time, the preferred treatment for a property may change; for example, an archeological site intended for preservation in place may begin to erode so that a combination of archeological documentation and stabilization may be required. If a decision is made that a particular property will not be preserved in place, the need for documentation must then be considered.

The three sets of documentation standards (i.e., the Standards for Historical Documentation, Standards for Architectural and Engineering Documentation, and Standards for Archeological Documentation) as well as the Standards for Historic Preservation Projects (Acquisition, Preservation, Stabilization, Protection, Rehabilitation, Restoration, and Reconstruction) describe the techniques of several disciplines to treat historic properties, and to document or preserve information about their historical values. The integration of planning for documentation and treatment with their execution is accomplished in a statement of objectives, or research design. Because both the goals and appropriate methodologies are likely to be interdisciplinary in nature, the relationship among these various activities should be specified in the research design to ensure that the resulting documentation produces a comprehensive record of historic properties in an efficient manner.

Secretary of the Interior's Standards for Historical Documentation

Historical documentation provides important information related to the significance of a property for use by historians, researchers, preservationists, architects, and historical archeologists. Research is used early in planning to gather information needed to identify and evaluate properties. (These activities are discussed in the Standards and Guidelines for Preservation Planning and the Standards and Guidelines for Identification.) Historical documentation is also a treatment that can be applied in several ways to properties previously evaluated as significant; it may be used in conjunction with other treatment activities (as the basis for rehabilitation plans or interpretive programs, for example) or as a final treatment to preserve information in cases of threatened property destruction. These Standards concern the use of research and documentation as a treatment.

Standard I. Historical Documentation Follows a Research Design That Responds to Needs Identified in the Planning Process

Historical documentation is undertaken to make a detailed record of the significance of a property for research and interpretive purposes and for conservation of information in cases of threatened property destruction. Documentation must have defined objectives so that proposed work may be assessed to determine whether the resulting documentation will meet needs identified in the planning process. The research design or statement of objectives is a formal statement of how the needs identified in the plan are to be addressed in a specific documentation project. This is the framework that guides the selection of methods and evaluation of results, and specifies the relationship of the historical documentation efforts to other proposed treatment activities.

Standards II. Historical Documentation Employs an Appropriate Methodology to Obtain the Information Required by The Research Design

Methods and techniques of historical research should be chosen to obtain needed information in the most efficient way. Techniques should be carefully selected and the sources should be

recorded so that other researchers can verify or locate information discovered during the research.

Standard III. The Results of Historical Documentation Are Assessed Against the Research Design and Integrated Into the Planning Process

Documentation is one product of research; information gatherd about the usefulness of the research design itself is another. The research results are assessed against the research design to determine how well they meet the objectives of the research. The results are integrated into the body of current knowledge and reviewed for their implications for the planning process. The research design is reviewed to determine how future research designs might be modified based on the activity conducted.

Standard IV. The Results of Historical Documentation Are Reported and Made Available to the Public

Research results must be accessible to prospective users. Results should be communicated to the professional community and the public in reports summarizing the documentation activity and identifying the repository of additional detailed information. The goal of disseminating information must be balanced, however, with the need to protect sensitive information whose disclosure might result in damage to properties.

Secretary of the Interior's Guidelines for Historical Documentation

Introduction

These Guidelines link the Standards for Historical Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Historical Documentation. Agencies, organizations or individuals proposing to approach historical documentation differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Historical Documentation Objectives
Research Design
Methods
Integrating Results
Reporting Results
Recommended Sources of Technical Information

Documentation Objectives

Documentation is a detailed record, in the form of a report or other written document, of the historical context(s) and significance of a property. Historical research to create documentation uses archival materials, oral history techniques, ethnohistories, prior research contained in secondary sources and other sources to make a detailed record of previously identified values or to investigate particular questions about the established significance of a property or properties. It is an investigative technique that may be employed to document associative, architectural, cultural or informational values of properties. It may be used as a component of structural recording or archeological investigation, to enable interpretation or to mitigate the anticipated loss of a property through conservation of information about its historical, architectural or archeological significance. Documentation generally results in both greater factual knowledge about the specific property and its values, and in better understanding of the property in its historical context. In addition to increasing factual knowledge about a property and its significance in one historical context, documentation may also serve to link the property to or define its importance in other known or yet-to-be defined historic contexts.

Documentation should incorporate, rather than duplicate, the findings of previous research. Research may be undertaken to identify how a particular property fits into the work of an architect or builder; to analyze the historical relationship among several properties; or to document in greater detail the historical contexts of properties. The kinds of questions investigated will generally depend on what is already known or understood and what information is needed. For example, documentation of a bridge whose technological significance is well understood, but whose role in local transportation history is not, would summarize the information on the former topic and focus research on the associative values of the property. The questions that research seeks to answer through deed, map or archival search, oral history and other techniques may also relate to issues addressed in structural documentation or archeological investigation; for example, the reasons for and history of modification of a building to be the subject of architectural or engineering documentation.

Research Design

Historical documentation is guided by a statement of objectives, research design or task directive prepared before research is performed. The research design is a useful statement of how proposed work will enhance existing archival data and permits comparison of the proposed work with the results. The purpose of the research design is to define the proposed scope of the documentation work and to define a set of expectations based on the information available prior to the research. Generally, the research design also ensures that research methods are commensurate with the type, quality and source of expected information.

The research design for a property should identify:

1. Evaluated significance of the property(ies) to be investigated;
2. Historical, architectural, archeological or cultural issues relevant to the evaluated significance of the property;
3. Previous research on those issues and how the proposed work is related to existing knowledge;
4. The amount and kinds of information required to produce reliable historical analyses;
5. Methods to be used to obtain the information;
6. Types of sources to be investigated; types of personnel required;
7. Expected results or findings based on available knowledge about the property and its context; and
8. Relationship of the proposed historical documentation to other proposed treatment activities; for example, recommendations on the use of documentation in interpretive programs or other aspects of treatment such as anticipated architectural, engineering or archeological documentation).

Research Methods

Research methods should be chosen based on the information needs, be capable of replication and be recorded so that another researcher could follow the same research procedure. Sources should be recorded so that other researchers can locate or verify the information discovered during the search.

Use of Sources: The variety of available written and graphic materials and the number of individuals that can serve as sources, including but not limited to personal records, deed and title books, newspapers, plats, maps, atlases, photographs, vital records, censuses, historical narratives, interviews of individuals and secondary source materials, should be considered in developing the research design. Part of the development of the research design is deciding what kinds of source materials are most likely to contain needed information and at what point in the research process that information will be most valuable. For example,

often secondary sources are most valuable for gathering background information, while primary sources are more useful to gather or confirm specific facts. The documentation goals may not *require* exhaustive investigation of sources, such as deed records or building permits. Research may be kept cost-effective by making careful decisions about when to use particular sources, thereby limiting the use of time-consuming techniques to when absolutely necessary. Decisions about when to gather information may also affect the quality of information that can be gathered. When dealing with large project areas where loss of many properties is anticipated, it is important to gather information from local archival sources and oral histories before project activities destroy or disperse family or community records and residents.

Analysis of the accuracy and biases of source materials is critical in analyzing the information gathered from these sources. Maps, historical atlases and insurance maps should be assessed like written records for errors, biases and omissions; for example, some map sources may omit structures of a temporary nature or may not fully depict ethnic or minority areas. Likewise, building plans and architectural renderings may not reflect a structure as it was actually built.

Analysis: Analysis should not only focus on the issues defined in the research design, but should also explore major new issues identified during the course of research or analysis. The documentation gathered may raise important issues not previously considered, and further investigation may be important, particularly when contradictory information has been gathered. It is important to examine the implications of these new issues to ensure that they are investigated in a balanced way.

Questions that should be considered in analyzing the information include:

1. Has enough information been gathered to anwser the questions that were posed?

2. Do the answers contradict one another? If so, it may be necessary to search for more evidence. If no additional evidence is available, judgements must be based on the available sources, weighing their biases. Conflicts of source materials should be noted.

In general, the more the researcher knows about the general historical period and setting, and limitations of the source materials under investigation, the better the individual is prepared to evaluate the information found in the documentary sources investigated. Peer review or consultation with other knowledgeable individuals about the information and the tentative conclusions can be an important part of the analysis.

Integrating Results

The results of documentation must be integrated into the planning process so that planning decisions are based on the best available informaiton. The new information is first assessed against the research design to determine whether the gathered information meets the defined objectives of the research. Then the relevant historic contexts, property types, and treatment goals for those contexts are all adjusted, as necessary, based on the historical documentation results.

Reporting Results

Reports should contain:

1. Summaries of the purpose of the documentation, the research design and methods and techniques of investigation.

2. Sources of facts or analyses so that other researchers can locate the information in its original context. Notation of any conflicts in source materials and how the individual performing the documentation interpreted these conflicts.

3. Sources consulted, including those expected to contain useful information and those that contained no information about the property(s).

4. Assessment of the accuracy, biases and historical perspective of all sources. This information and that identified in No. 3 may be provided in an annotated bibliography.

5. Discussion of major analyses and results, including conclusions regarding all major research issues identified in the research design, as well as important issues raised in the course of research. The analysis should be summarized in terms of its impact on interpretating the property's significance and expanding or altering the knowledge about the property and its context.

6. Researchers' interpretation of historical events or trends. These interpretations should be clearly identified.

Primary results should be preserved and made accessible in some manner, although they need not necessarily be contained in the report. At a minimum, the report should reference the location of notes and analyses.

Results of historical documentation should be made available for use in preservation planning and by the general public. Report formats may vary, depending on the audience and the anticipated uses of the documentation, but professionally accepted rules of report writing should be followed. If reports are of a technical nature, the format of the major scientific journal of the pertinent discipline may be the most appropriate format. Peer review of draft reports is one means of ensuring that state-of-the-art technical reports are produced.

Recommended Sources of Technical Information

Folklife and Fieldwork: A Layman's Introduction to Field Techniques. Peter Bartis. American Folklife Center, Washington, D.C., 1979.

Ordinary People and Everyday Life: Perspectives on the New Social History. James B. Gardnee and George Rollie Adams, editors, American Association for State and Local History, Nashville, Tennessee, 1983.

The Process of Field Research. Carl Fleischhauer and Charles K. Wolfe. American Folklife Center, Washington, D.C., 1981.

Researching Heritage Buildings. Margaret Carter. Ministry of the Environment, Ottawa, Canada, 1983.

Secretary of the Interior's Standards for Architectural and Engineering Documentation

These standards concern the development of documentation for historic buildings, sites, structures and objects. This documentation, which usually consists of measured drawings, photographs and written data, provides important information on a property's significance for use by scholars, researchers, preservationists, architects, engineers and others interested in preserving and understanding historic properties. Documentation permits accurate repair or reconstruction of parts of a property, records existing conditions for easements, or may preserve information about a property that is to be demolished.

These Standards are intended for use in developing documentation to be included in the Historic American Building Survey (HABS) and the Historic American Engineering Record (HAER) Collections in the Library of Congress. HABS/HAER, in the National Park Service, have defined specific requirements for meeting these Standards for their collections. The HABS/HAER requirements include information important to development of documentation for other purposes such as State or local archives

Standard I. Documentation Shall Adequately Explicate and Illustrate What is Significant or Valuable About the Historic Building, Site, Structure or Object Being Documented.

The historic significance of the building, site, structure or object identified in the evaluation process should be conveyed by the drawings, photographs and other materials that comprise documentation. The historical, architectural, engineering or cultural values of the property together with the purpose of the documentation activity determine the level and methods of documentation. Documentation prepared for submission to the Library of Congress must meet the HABS/HAER Guidelines.

Standard II. Documentation Shall be Prepared Accurately From Reliable Sources With Limitations Clearly Stated to Permit Independent Verification of the Information.

The purpose of documentation is to preserve an accurate record of historic properties that can be used in research and other preservation activities. To serve these purposes, the documentation must include information that permits assessment of its reliability.

Standard III. Documentation Shall be Prepared on Materials That are Readily Reproductible, Durable and in Standard Sizes.

The size and quality of documentation materials are important factors in the preservation of information for future use. Selection of materials should be based on the length of time expected for storage, the anticipated frequency of use and a size convenient for storage.

Standard IV. Documentation Shall be Clearly and Concisely Produced.

In order for documentation to be useful for future research, written materials must be legible and understandable, and graphic materials must contain scale information and location references.

Secretary of the Interior's Guidelines for Architectural and Engineering Documentation

Introduction

These Guidelines link the Standards for Architectural and Engineering Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Architectural Engineering Documentation. Agencies, organizations or individuals proposing to approach documentation differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Definitions
Goal of Documentation
The HABS/HAER Collections
Standard I: Content
STandard II: Quality
Standard III: Materials
Standard IV: Presentation
Architectural and Engineering Documentation Prepared for Other Purposes
Recommended Sources of Technical Information

Definitions

These definitions are used in conjunction with these Guidelines:

Architectural Data Form—a one page HABS form intended to provide identifying information for accompanying HABS documentation.

Documentation—measured drawings, photographs, histories, inventory cards or other media that depict historic buildings, sites, structures or objects.

Field Photography—photography, other than large-format photography, intended for the purpose of producing documentation, usually 35mm.

Field Records—notes of measurements taken, field photographs and other recorded information intended for the purpose of producing documentation.

Inventory Card—a one page form which includes written data, a sketched site plan and a 35mm contact print dry-mounted on the form. The negative, with a separate contact sheet and index should be included with the inventory card.

Large Format Photographs—photographs taken of historic buildings, sites, structures or objects where the negative is a 4 X 5", 5 X 7" or 8 X 10" size and where the photograph is taken with appropriate means to correct perspective distortion.

Measured Drawings—drawings produced on HABS or HAER formats depicting existing conditions or other relevant features of historic buildings, sites, structures or objects. Measured drawings are usually produced in ink on archivally stable material, such as mylar.

Photocopy—A photograph, with large-format negative, of a photograph or drawing.

Select Existing Drawings—drawings of historic buildings, sites, structures or objects, whether original construction or later alteration drawings that portray or depict the historic value or significance.

Sketch Plan—a floor plan, generally not to exact scale although often drawn from measurements, where the features are shown in proper relation and proportion to one another.

Goal of Documentation

The Historic American Buildings Survey (HABS) and Historic American Engineering Record (HAER) are the national historical architectural and engineering documentation programs of the National Park Service that promote documentation incorporated into the HABS/HAER collections in the Library of Congress. The goal of the collections is to provide architects, engineers, scholars, and interested members of the public with comprehensive documentation of buildings, sites, structures and objects significant in American history and the growth and development of the built environment.

The HABS/HAER Collections: HABS/HAER documentation usually consists of measured drawings, photographs and written data that provide a detailed record which reflects a property's significance. Measured drawings and properly executed photographs act as a form of insurance against fires and natural disasters by permitting the repair and, if necessary, reconstruction of historic structures damaged by such disasters. Documentation is used to provide the basis for enforcing preservation easement. In addition, documentation is often the last means of preservation of a property; when a property is to be demolished, its documentation provides future researchers access to valuable information that otherwise would be lost.

HABE/HAER documentation is developed in a number of ways. First and most usually, the National Park Service employs summer teams of student architects, engineers, historians and architectural historians to develop HABS/HAER documentation under the supervision of National Park Service professionals. Second, the National Park Service produces HABS/HAER documentation, in conjunction with restoration or other preservation treatment, of historic buildings managed by the National Park Service. Third, Federal agencies, pursuant to Section 110(b) of the National Historic Preservation Act, as amended, record those historic properties to be demolished or substantially altered as a result of agency action or assisted action (referred to as mitigation projects). Fourth, individuals and organizations prepare documentation to HABS/HAER standards and donate that documentation to the HABS/HAER collections. For each of these programs,

different Documentation Levels will be set.

The Standards describe the fundamental principles of HABS/HAER documentation. They are supplemented by other material describing more specific guidelines, such as line weights for drawings, preferred techniques for architectural photography, and formats for written data. This technical information is found in the HABS/HAER Procedures Manual.

These Guidelines include important information about developing documentation for State or local archives. The State Historic Preservation Officer or the State library should be consulted regarding archival requirements if the documentation will become part of their collections. In establishing archives, the important questions of durability and reproducibility should be considered in relation to the purposes of the collection.

Documentation prepared for the purpose of inclusion in the HABS/HAER collections must meet the requirements below. The HABS/HAER office of the National Park Service retains the right to refuse to accept documentation for inclusion in the HABS/HAER collections when that documentation does not meet HABS/HAER requirements, as specified below.

Standard I: Content

1. *Requirement:* Documentation shall adequately explicate and illustrate what is significant or valuable about the historic building, site, structure or object being documented.

2. *Criteria:* Documentation shall meet one of the following documentation levels to be considered adequate for inclusion in the HABS/HAER collections.

a. Documentation Level I;

(1) Drawings: a full set of measured drawings depicting existing or historic conditions.

(2) Photographs: photographs with large-format negatives of exterior and interior views; photocopies with large format negatives of select existing drawings or historic views where available.

(3) Written data: history and description.

b. Documentation Level II;

(1) Drawings: select existing drawings, where available, should be photographed with large-format negatives or photographically reproduced on mylar.

(2) Photographs: photographs with large-format negatives of exterior and interior views, or historic views, where available.

(3) Written data: history and description.

c. Documentation Level III;

(1) Drawings: sketch plan.

(2) Photographs: photographs with large-format negatives of exterior and interior views.

(3) Written data: architectural data form.

d. Documentation Level IV: HABS/HAER inventory card.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* The HABS/HAER office retains the right to refuse to accept any documentation on buildings, site, structures or objects lacking historical significance. Generally, buildings, sites, structures or objects must be listed in, or eligible for listing in the National Register of Historic Places to be considered for inclusion in the HABS/HAER collections.

The kind and amount of documentation should be appropriate to the nature and significance of the buildings, site, structure or object being documented. For example, Documentation Level I would be inappropriate for a building that is a minor element of a historic district, notable only for streetscape context and scale. A full set of measured drawings for such a minor building would be expensive and would add little, if any, information to the HABS/HAER collections. Large format photography (Documentation Level III) would usually be adequate to record the significance of this type of building.

Similarly, the aspect of the property that is being documented should reflect the nature and significance of the building, site, structure or object being documented. For example, measured drawings of Dankmar Adler and Louis Sullivan's Auditorium Building in Chicago should indicate not only facades, floor plans and sections, but also the innovative structural and mechanical systems that were incorporated in that building. Large format photography of Gunston Hall in Fairfax County, Virginia, to take another example, should clearly show William Buckland's hand-carved moldings in the Palladian Room, as well as other views.

HABS/HAER documentation is usually in the form of measured drawings, photographs, and written data. While the criteria in this section have addressed only these media, documentation need not be limited to them. Other media, such as films of industrial processes, can and have been used to document historic buildings, sites, structures or objects. If other media are to be used, the HABS/HAER office should be contacted before recording.

The actual selection of the appropriate documentation level will vary, as discussed above. For mitigation documentation projects, this level will be selected by the National Park Service Regional Office and communicated to the agency responsible for completing the documentation. Generally, Level I documentation is required for nationally significant buildings and structures, defined as National Historic Landmarks and the primary historic units of the National Park Service.

On occasion, factors other than significance will dictate the selection of another level of documentation. For example, if a rehabilitation of a property is planned, the owner may wish to have a full set of as-built drawings, even though the significance may indicate Level II documentation.

HABS Level I measured drawings usually depict existing conditions through the use of a site plan, floor plans, elevations, sections and construction details. HAER Level I measured drawings will frequently depict original conditions where adequate historical material exists, so as to illustrate manufacturing or engineering processes.

Level II documentation differs from Level I by substituting copies of existing drawings, either original or alteration drawings, for recently executed measured drawings. If this is done, the drawings must meet HABS/HAER requirements outlined below. While existing drawings are rarely as suitable as as-built drawings, they are adquate in many cases for documentation purposes. Only when the desirability of having as-built drawings is clear are Level I measured drawings required in addition to existing drawings. If existing drawings are housed in an accessible collection and cared for archivally, their reproduction for HABS/HAER may not be necessary. In other cases, Level I measured drawings are required in the absence of existing drawings.

Level III documentation requires a sketch plan if it helps to explain the structure. The architectural data form should supplement the photographs by explaining what is not readily visible.

Level IV documentation consists of completed HABS/HAER inventory cards. This level of documentation, unlike the other three levels, is rarely considered adequate documentation for the HABS/HAER collections but is undertaken to identify historic resources in a given area prior to additional, more comprehensive documentation.

Standard II: Quality

1. *Requirement:* HABS and HAER documentation shall be prepared accurately from reliable sources with limitations clearly stated to permit independent verification of information.

2. *Criteria:* For all levels of documentation, the following quality standards shall be met:

a. Measured drawings: Measured drawings shall be produced from recorded, accurate measurements. Portions of the building that were not accessible for measurement should not be drawn on the measured drawings, but clearly labeled as not accessible or drawn from available construction drawings and other sources and so identified. No part of the measured drawings shall be produced from hypothesis or non-measurement related activities. Documentation Level I measured drawings shall be accompanied by a set of field notebooks in which the measurements were first recorded. Other drawings, prepared for Documentation Levels II and III, shall include a statement describing where the original drawings are located.

b. Large format photographs: Large format photographs shall clearly depict the appearance of the property and areas of significance of the recorded building, site, structure or object. Each view shall be perspective-corrected and fully captioned.

c. Written history: Written history and description for Documentation Levels I and II shall be based on primary sources to the greatest extent possible. For Levels III and IV, secondary sources may provide adequate information; if not, primary research will be necessary. A frank assessment of the reliability and limitations of sources shall be included. Within the written history, statements shall be footnoted as to their sources, where appropriate. The written data shall include a methodology section specifying name of researcher, date of research, sources searched, and limitations of the project.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* The reliability of the HABS/HAER collections depends on documentation of high quality. Quality is not something that can be easily prescribed or quantified, but it derives from a process in which thoroughness and accuracy play a large part. The principle of independent verification HABS/HAER documentation is critical to the HABS/HAER collections.

Standard III: Materials

1. *Requirement:* HABS and HAER documentation shall be prepared on materials that are readily reproducible for ease of access; durable for long storage; and in standard sizes for ease of handling.

2. *Criteria:* For all levels of documentation, the following material standards shall be met:

a. Measured Drawings:

Readily Reproducible: Ink on translucent material.

Durable: Ink on archivally stable materials.

Standard Sizes: Two sizes: 19 × 24" or 24 × 36".

b. Large Format Photographs:

Readily Reproducible: Prints shall accompany all negatives.

Durable: Photography must be archivally processed and stored. Negatives are required on safety film only. Resin-coated paper is not accepted. Color photography is not acceptable.

Standard Sizes: Three sizes: 4 × 5", 5 × 7", 8 × 10".

c. Written History and Description:

Readily Reproducible: Clean copy for xeroxing.

Durable: Archival bond required.

Standard Sizes: 8½ × 11".

d. Field Records:

Readily Reproducible: Field notebooks may be xeroxed. Photo identification sheet will accompany 35 mm negatives and contact sheets.

Durable: No requirement.

Standard Sizes: Only requirement is that they can be made to fit into a 9½ × 12" archival folding file.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* All HABS/HAER records are intended for reproduction; some 20,000 HABS/HAER records are reproduced each year by the Library of Congress. Although field records are not intended for quality reproduction, it is intended that they be used to supplement the formal documentation. The basic durability performance standard for HABS/HAER records is 500 years. Ink on mylar is believed to meet this standard, while color photography, for example, does not. Field records do not meet this archival standard, but are maintained in the HABS/HAER collections as a courtesy to the collection user.

Standard IV: Presentation

1. *Requirement:* HABS and HAER documentation shall be clearly and concisely produced.

2. *Criteria:* For levels of documentation as indicated below, the following standards for presentation will be used:

a. Measured Drawings: Level I measured drawings will be lettered mechanically (i.e., Leroy or similar) or in a handprinted equivalent style. Adequate dimensions shall be included on all sheets. Level III sketch plans should be neat and orderly.

b. Large format photographs: Level I photographs shall include duplicate photographs that include a scale. Level II and III photographs shall include, at a minimum, at least one photograph with a scale, usually of the principal facade.

c. Written history and description: Data shall be typewritten on bond, following accepted rules of grammar.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

Architectural and Engineering Documentation Prepared for Other Purposes

Where a preservation planning process is in use, architectural and engineering documentation, like other treatment activities, are undertaken to achieve the goals identified by the preservation planning process. Documentation is deliberately selected as a treatment for properties evaluated as significant, and the development of the documentation program for a property follows from the planning objectives. Documentation efforts focus on the significant characteristics of the property, as defined in the previously completed evaluation. The selection of a level of documentation and the documentation techniques (measured drawings, photography, etc.) is based on the significance of the property and the management needs for which the documentation is being performed. For example, the kind and level of documentation required to record a historic property for easement purposes may be less detailed than that required as mitigation prior to destruction of the property. In the former case, essential documentation might be limited to the portions of the property controlled by the easement, for example, exterior facades; while in the latter case, significant interior architectural features and non-visible structural details would also be documented.

The principles and content of the HABS/HAER criteria may be used for guidance in creating documentation requirements for other archives. Levels of documentation and the durability and sizes of documentation may vary depending on the intended use and the repository. Accuracy of documentation should be controlled by assessing the reliability of all sources and making that assessment available in the archival record; by describing the limitations of the information available from research and physical examination of the

property; and by retaining the primary data (field measurements and notebooks) from which the archival record was produced. Usefulness of the documentation products depends on preparing the documentation on durable materials that are able to withstand handling and reproduction, and in sizes that can be stored and reproduced without damage.

Recommended Sources of Technical Information

Recording Historic Buildings. Harley J. McKee. Government Printing Office, 1970. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO number 024-005-0235-9.

HABS/HAER Procedures Manual. Historic American Buildings Survey/Historic American Engineering Record, National Park Service, 1980. Washington, D.C.

Photogrammetric Recording of Cultural Resources. Perry E. Borchers. Technical Preservation Services, U.S. Department of the Interior, 1977. Washinton, D.C.

Rectified Photography and Photo Drawings for Historic Preservation. J. Henry Chambers. Technical Preservation Services, U.S. Department of the Interior, 1975. Washington, D.C.

Secretary of the Interior's Standards for Archeological Documentation

Archeological documentation is a series of actions applied to properties of archeological interest. Documentation of such properties may occur at any or all levels of planning, identification, evaluation or treatment. The nature and level of documentation is dictated by each specific set of circumstances. Archeological documentation consists of activities such as archival research, observation and recording of above-ground remains, and observation (directly, through excavation, or indirectly, through remote sensing) of below-ground remains. Archeological documentation is employed for the purpose of gathering information on individual historic properties or groups of properties. It is guided by a framework of objectives and methods derived from the planning process, and makes use of previous planning decisions, such as those on evaluation of significance. Archeological documentation may be undertaken as an aid to various treatment activities, including research, interpretation, reconstruction, stabilization and data recovery when mitigating archeological losses resulting from construction. Care should be taken to assure that documentation efforts do not duplicate previous efforts.

Standard I. Archeological Documentation Activities Follow an Explicit Statement of Objectives and Methods That Responds to Needs Identified in the Planning Process

Archeological research and documentation may be undertaken to fulfill a number of needs, such as overviews and background studies for planning, interpretation or data recovery to mitigate adverse effects. The planning needs are articulated in a statement of objectives to be accomplished by the archeological documentation activities. The statement of objectives guides the selection of methods and techniques of study and provides a comparative framework for evaluating and deciding the relative efficiency of alternatives. Satisfactory documentation involves the use of archeological and historical sources, as well as those of other disciplines. The statement of objectives usually takes the form of a formal and explicit research design which has evolved from the interrelation of planning needs, current knowledge, resource value and logistics.

Standard II. The Methods and Techniques of Archeological Documentation are Selected To Obtain the Information Required by the Statement of Objectives

The methods and techniques chosen for archeological documentation should be the most effective, least destructive, most efficient and economical means of obtaining the needed information. Methods and techniques should be selected so that the results may be verified if necessary. Non-destructive techniques should be used whenever appropriate. The focus on stated objectives should be maintained throughout the process of study and documentation.

Standard III. The Results of Archeological Documentation are Assessed Against the Statement of Objectives and Integrated Into the Planning Process

One product of archeological documentation is the recovered data; another is the information gathered about the usefulness of the statement of objectives itself. The recovered data are assessed against the objectives to determine how they meet the specified planning needs. Information related to archeological site types, distribution and density should be integrated in planning at the level of identification and evaluation. Information and data concerning intra-site structure may be needed for developing mitigation strategies and are appropriately integrated at this level of planning. The results of the data analyses are integrated into the body of current knowledge. The utility of the method of approach and the particular techniques which were used in the investigation (i.e. the research design) should be assessed so that the objectives of future documentation efforts may be modified accordingly.

Standard IV. The Results of Archeological Documentation are Reported and Made Available to the Public

Results must be accessible to a broad range of users including appropriate agencies, the professional community and the general public. Results should be communicated in reports that summarize the objectives, methods, techniques and results of the documentation activity, and identify the repository of the materials and information so that additional detailed information can be obtained, if necessary. The public may also benefit from the knowledge obtained from archeological documentation through pamphlets, brochures, leaflets, displays and exhibits, or by slide, film or multi-media productions. The goal of disseminating information must be balanced, however, with the need to protect sensitive information whose disclosure might result in damage to properties. Curation arrangements sufficient to preserve artifacts, specimens and records generated by the investigation must be provided for to assure the availability of these materials for future use.

Secretary of the Interior's Guidelines for Archeological Documentation

Introduction

These Guidelines link the Standards for Archeological Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Documentation. Agencies, organizations or individuals proposing to approach archeological documentation differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

Archeological Documentation Objectives
Documentation Plan
Methods
Reporting Results
Curation
Recommended Sources of Technical Information

1. Collection of base-line data;

2. Problem-oriented research directed toward particular data gaps recognized in the historic context(s);

3. Preservation or illustration of significance which has been identified for treatment by the planning process; or

4. Testing of new investigative or conservation techniques, such as the effect of different actions such as forms of site burial (aqueous or non-aqueous).

Many properties having archeological components have associative values as well as research values. Examples include Native American sacred areas and historic sites such as battlefields. Archeological documentation may preserve information or data that are linked to the identified values that a particular property possesses. Depending on the property type and the range of values represented by the property, it may be necessary to recover information that relates to an aspect of the property's significance other than the specified research questions. It is possible that conflicts may arise between the optimal realizations of research goals and other issues such as the recognition/protection of other types of associative values. The research design for the archeological documentation should provide for methods and procedures to resolve such conflicts, and for the close coordination of the archeological research with the appropriate ethnographic, social or technological research.

Archeological Documentation Objectives

The term "archeological documentation" is used here to refer specifically to any operation that is performed using archeological techniques as a means to obtain and record evidence about past human activity that is of importance to documenting history and prehistory in the United States. Historic and prehistoric properties may be important for the data they contain, or because of their association with important persons, events, or processes, or because they represent architectural or artistic values, or for other reasons. Archeological documentation may be an appropriate option for application not only to archeological properties, but to above-ground structures as well, and may be used in collaboration with a wide range of other treatment activities.

If a property contains artifacts, features, and other materials that can be studied using archeological techniques, then archeological documentation may be selected to achieve particular goals of the planning process—such as to address a specified information need, or to illustrate significant associative values. Within the overall goals and priorities established by the planning process, particular methods of investigation are chosen that best suit the types of study to be performed.

Relationship of archeological documentation to other types of documentation or other treatments: Archeological documentation is appropriate for achieving any of various goals, including:

Documentation Plan

Research Design: Archeological documentation can be carried out only after defining explicit goals and a methodology for reaching them. The goals of the documentation effort directly reflect the goals of the preservation plan and the specific needs identified for the relevant historic contexts. In the case of problem oriented archeological research, the plan usually takes the form of a formal research design, and includes, in addition to the items below, explicit statements of the problem to be addressed and the methods or tests to be applied. The purpose of the statement of objectives is to explain the rationale behind the documentation effort; to define the scope of the investigation; to identify the methods, techniques, and procedures to be used; to provide a schedule for the activities; and to permit comparison of the proposed research with the results. The research design for an archeological documentation effort follows the same guidelines as those for identification (see the Guidelines for Identification) but has a more property-specific orientation.

The research design should draw upon the preservation plan to identify:

1. Evaluated significance of the property(ies) to be studied;

2. Research problems or other issues relevant to the significance of the property;

3. Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge;

4. The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements, including at what point information is redundant and documentation efforts have reached a point of diminishing returns;

5. Methods to be used to find the information; and

6. Relationship of the proposed archeological investigation to anticipated historical or structural documentation, or other treatments.

The primary focus of archeological documentation is on the data classes that are required to address the specified documentation objectives. This may mean that other data classes are deliberately neglected. If so, the reasons for such a decision should be carefully justified in terms of the preservation plan.

Archeological investigations seldom are able to collect and record all possible data. It is essental to determine the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered. One purpose of the research design is to estimate those limits in advance and to suggest at what point information becomes duplicative. Investigation strategies should be selected based on these general principles, considering the following factors:

1. Specific data needs;

2. Time and funds available to secure the data; and

3. Relative cost efficiency of various strategies.

Responsiveness to the concerns of local groups (e.g., Native American groups with ties to specific properties) that was built into survey and evaluation phases of the preservation plan, should be maintained in archeological investigation, since such activity usually involves site disturbance. The research design, in addition to providing for appropriate ethnographic research and consultation, should consider concerns voiced in previous phases. In the absence of previous efforts to coordinate with local or other interested groups, the research design should anticipate the need to initiate appropriate contracts and provide a mechanism for responding to sensitive issues, such as the possible uncovering of human remains or discovery of sacred areas.

The research design facilitates an orderly, goal directed and economical project. However, the research design must be flexible enough to allow for examination of unanticipated but important research opportunities that arise during the investigation.

Documentation Methods

Background Review: Archeological documentation usually is preceded by, or integrated with historical research (i.e. that intensive background information gathering including identification of previous archeological work and inspection of museum collections; gathering relevant data on geology, botany, urban geography and other related disciplines; archival research; informant interviews, or recording of oral tradition, etc.).

Depending on the goals of the archeological documentation, the background historical and archeological research may exceed the level of research accomplished for development of the relevant historic contexts or for identification and evaluation, and focuses on the unique aspects of the property to be treated. This assists in directing the investigation and locates a broader base of information than that contained in the property itself for response to the documentation goals. This activity is particularly important for historic archeological properties where information sources other than the property itself may be critical to preserving the significant aspects of the property. (See the Secretary of the Interior's Standards and Guidelines for Historical Documentation for discussion of associated research activities.)

Field Studies: The implementation of the research design in the field must be flexible enough to accommodate the discovery of new or unexpected data classes or properties, or changing field conditions. A phased approach may be appropriated when dealing with large complex properties or groups of properties, allowing for changes in emphasis or field strategy, or termination of the program, based on analysis of recovered data at the end of each phase. Such an approach permits the confirmation of assumptions concerning property extent, content or organization which had been made based on data gathered from identification and evaluation efforts, or the adjustment of those expectations and resulting changes in procedure. In some cases a phased approach may be necessary to gather sufficient data to calculate the necessary sample size for a statistically valid sample. A phased documentation program may often be most cost-effective, in allowing for early termination of work if the desired objectives cannot be achieved.

Explicit descriptive statements of and justification for field study techniques are important to provide a means of evaluating results. In some cases, especially those employing a sampling strategy in earlier phases (such as identification or evaluation), it is possible to estimate parameters of certain classes of data in a fairly rigorous statistical manner. It is thus desirable to maintain some consistency in choice of sampling designs throughout multiple phases of work at the same property. Consistency with previously employed areal sampling frameworks also improves potential replication in terms of later locating sampled and unsampled areas. It often is desirable to estimate the nature and frequency of data parameters based on existing information or analogy to other similar cases. These estimates may then be tested in field studies.

An important consideration in choosing methods to be used in the field studies should be assuring full, clear, and accurate descriptions of all field operations and observations, including excavation and recording techniques and stratigraphic or inter-site relationships.

To the extent feasible, chosen methodologies and techniques should take into account the possibility that future researchers will need to use the recovered data to address problems not recognized at the time the data were recovered. The field operation may recover data that may not be fully analyzed; this data, as well as the data analyzed, should be recorded and preserved in a way to facilitate future research.

A variety of methodologies may be used. Choices must be explained, including a measure of cost-effectiveness relative to other potential choices. Actual results can then be measured against expectations, and the information applied later in similar cases.

Destructive methods should not be applied to portions or elements of the property if nondestructive methods are practical. If portions or elements of the property being documented are to be preserved in place, the archeological investigation should employ methods that will leave the property as undisturbed as possible. However, in cases where the property will be destroyed by, for example, construction following the investigation, it may be most practical to gather the needed data in the most direct manner, even though that may involve use of destructive techniques.

Logistics in the field, including the deployment of personnel and materials and the execution of sampling strategies, should consider site significant, anticipated location of most important data, cost effectiveness, potential time limitations and possible adverse environmental conditions.

The choice of methods for recording data gathered in the field should be based on the research design. Based on that statement, it is known in advance of field work what kinds of information are needed for analysis; record-keeping techniques should focus on these data. Field records should be maintained in a manner that permits independent interpretation in so far as possible. Record-keeping should be standardized in format and level of detail.

Archeological documentation should be conducted under the supervision of qualified professionals in the disciplines appropriate to the data that are to be recovered. When the general public is directly involved in archeological documentation activities, provision should be made for training and supervision by qualified professionals. (See the Professional Qualifications Standards.)

Analysis: Archeological documentation is not completed with field work; analysis of the collected information is an integral part of the documentation activity, and should be planned for in the research design. Analytical techniques should be selected that are relevant to the objectives of the investigation. Forms of analysis that may be appropriate, depending on the type of data recovered and the objectives of the investigation, include but are not limited to: studying artifact types and distribution; radiometric and other means of age determination; studies of soil stratigraphy; studies of organic matter such as human remains, pollen, animal bones, shells and seeds; study of the composition of soils and study of the natural environment in which the property appears.

Reporting Results

Report Contents: Archeological documentation concludes with written report(s) including minimally the following topics:

1. Description of the study area;
2. Relevant historical documentation/background research;
3. The research design;
4. The field studies as actually implemented, including any deviation from the research design and the reason for the changes;
5. All field observations;
6. Analyses and results, illustrated as appropriate with tables, charts, and graphs;
7. Evaluation of the investigation in terms of the goals and objectives of the investigation, including discussion of how well the needs dictated by the planning process were served;
8. Recommendations for updating the relevant historic contexts and planning goals and priorities, and generation of new or revised information needs;
9. Reference to related on-going or proposed treatment activities, such as structural documentation, stabilization, etc.; and

10. Information on the location of original data in the form of field notes, photographs, and other materials.

Some individual property information, such as specific locational data, may be highly sensitive to disclosure, because of the threat of vandalism. If the objectives of the documentation effort are such that a report containing confidential information such as specific site locations or information on religious practices is necessary, it may be appropriate to prepare a separate report for public distribution. The additional report should summarize that information that is not under restricted access in a format most useful to the expected groups of potential users. Peer review of draft reports is recommended to ensure that state-of-the-art technical reports are produced.

Availability: Results must be made available to the full range of potential users. This can be accomplished through a variety of means including publication of results in monographs and professionals journals and distribution of the report to libraries or technical clearinghouses such as the National Technical Information Service in Springfield, Virginia.

Curation

Archeological specimens and records are part of the documentary record of an archeological site. They must be curated for future use in research, interpretation, preservation, and resource management activities. Curation of important archeological specimens and records should be provided for in the development of any archeological program or project.

Archeological specimens and records that should be curated are those that embody the information important to history and prehistory. They include artifacts and their associated documents, photographs, maps, and field notes; materials of an environmental nature such as bones, shells, soil and sediment samples, wood, seeds, pollen, and their associated records; and the products and associated records of laboratory procedures such as thin sections, and sediment fractions that result from the analysis of archeological data.

Satisfactory curation occurs when:

1. Curation facilities have adequate space, facilities, and professional personnel;

2. Archeological specimens are maintained so that their information values are not lost through deterioration, and records are maintained to a professional archival standard;

3. Curated collections are accessible to qualified researchers within a reasonable time of having been requested; and

4. Collections are available for interpretive purposes, subject to reasonable security precautions.

Recommended Sources of Technical Information

Archeomagnetism: A Handbook for the Archeologist. Jeffrey L. Eighmy, U.S. Department of the Interior, Washington, D.C., 1980.

The Curation and Management of Archeological Collections: A Pilot Study. Cultural Resource Management Series, U.S. Department of the Interior, September 1980.

Human Bones and Archeology. Douglas H. Ubelaker. Interagency Archeological Services, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C., 1980. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Manual for Museums. Ralph H. Lewis, National Park Service, U.S. Department of the Interior, 1976.

Treatment of Archeological Properties: A Handbook. Advisory Council on Historic Preservation. Washington D.C., 1980.

Secretary of the Interior's Standards for Historic Preservation Projects

General Standards for Historic Preservation Projects

The following general standards apply to all treatments undertaken on historic properties listed in the National Register.

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.

4. Changes which have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

5. Distinctive architectural features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, stabilization, preservation, rehabilitation, restoration, or reconstruction project.

Specific Standards for Historic Preservation Projects

The following specific standards for each treatment are to be used in conjunction with the eight general standards and, in each case, begin with number 9. For example, in evaluating acquisition projects, include the eight general standards plus the four specific standards listed under standards for Acquisition. The specific standards differ from those published for use in Historic Preservation Fund grant-in-aid projects (36 CFR Part 68) in that they discuss more fully the treatment of archeological properties.

Standards for Acquisition

9. Careful consideration shall be given to the type and extent of property rights which are required to assure the preservation of the historic resource. The preservation objectives shall determine the exact property rights to be acquired.

10. Properties shall be acquired in fee simple when absolute ownership is required to insure their preservation.

11. The purchase of less-than-fee-simple interests, such as open space or facade easements, shall undertaken when a limited interest achieves the preservation objective.

12. Every reasonable effort shall be made to acquire sufficient property with the historic resource to protect its historical, archeological, architectural or cultural significance.

Standard for Protection

9. Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

10. Protection shall safeguard the physical condition or environment of a property or archeological site from further deterioration or damage caused by weather or other natural, animal, or human intrusions.

11. If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

Standards for Stabilization

9. Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

10. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance and significance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical or archeological quality of the property, except where concealment would result in the alteration or destruction of historically or archeologically significant material or spaces. Accurate documentation of stabilization procedures shall be kept and made available for future needs.

11. Stabilization work that will result in ground disturbance shall be preceded by sufficient archeological investigation to determine whether significant subsurface features or artifacts will be affected. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with appropriate professional methods and techniques.

Standards for Preservation

9. Preservation shall maintain the existing form, integrity, and materials of a building, structure, or site. Archeological sites shall be preserved undisturbed whenever feasible and practical. Substantial reconstruction or restoration of lost features generally are not included in a preservation undertaking.

10. Preservation shall include techniques of arresting or retarding the deterioration of a property through a program of ongoing maintenance.

11. Use of destructive techniques, such as archeological excavation, shall be limited to providing sufficient information for research, interpretation and management needs.

Standards for Rehabilitation

9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural, or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Standards for Restoration

9. Every reasonable effort shall be made to use a property for is originally intended purpose or to provide a compatible use that will require minimum alteration to the property and its environment.

10. Reinforcement required for structural stability or the installation of protective or code required mechanical systems shall be concealed wherever possible so as not to intrude or detract from the property's aesthetic and historical qualities, except where concealment would result in the alteration or destruction of historically significant materials or spaces.

11. Restoration work such as the demolition of non-contributing additions that will result in ground or structural disturbance shall be preceded by sufficient archeological investigation to determine whether significant subsurface or structural features or artifacts will be affected. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with appropriate professional methods and techniques.

Standards for Reconstruction

9. Reconstruction of a part or all of a property shall be undertaken only when such work is essential to reproduce a significant missing feature in a historic district or scene, and when a contemporary design solution is not acceptable. Reconstruction of archeological sites generally is not appropriate.

10. Reconstruction of all or a part of a historic property shall be appropriate when the reconstruction is essential for understanding and interpreting the value of a historic district, or when no other building, structure, object, or landscape feature with the same associative value has survived and sufficient historical or archeological documentation exists to insure an accurate reproduction of the original.

11. The reproduction of missing elements accomplished with new materials shall duplicate the composition, design, color, texture, and other visual qualities of the missing element. Reconstruction of missing architectural or archeological features shall be based upon accurate duplication of original features substantiated by physical or documentary evidence rather than upon conjectural designs or the availability of different architectural features from other buildings.

12. Reconstruction of a building or structure on an original site shall be preceded by a thorough archeological investigation to locate and identify all subsurface features and artifacts. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with professional methods and techniques.

13. Reconstruction shall include measures to preserve any remaining original fabric, including foundations, subsurface, and ancillary elements. The reconstruction of missing elements. The reconstruction of missing elements and features shall be done in such a manner that the essential form and integrity of the original surviving features are unimpaired.

Secretary of the Interior Guidelines for Historic Preservation Projects

The guidelines for the Secretary of the Interior's Standards for Historic Preservation Projects, not included here because of their length, may be obtained separately from the National Park Serivce.

Professional Qualifications Standards

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of fulltime work but

may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology; and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Architecture.

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

Historic Architecture

The minimum professional qualifications historic in architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

Preservation Terminology

Acquisition—the act or process of acquiring fee title or interest other than fee title of real property (including acquisition of development rights or remainder interest).

Comprehensive Historic Preservation Planning—the organization into a logical sequence of preservation information pertaining to identification, evaluation, registration and treatment of historic properties, and setting priorities for accomplishing preservation activities.

Historic Context—a unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

Historic Property—a district, site, building, structure or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

Integrity—the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Intensive Survey—a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance within specific historic contexts.

Inventory—a list of historic properties determined to meet specified criteria of significance.

National Register Criteria—the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

Preservation (treatment)—the act or process of applying measures to sustain the existing form, integrity and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Property Type—a grouping of individual properties based on a set of shared physical or associative characteristics.

Protection (treatment)—the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

Reconnaissance Survey—an examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present.

Reconstruction (treatment)—the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or any part thereof, as it appeared at a specific period of time.

Rehabilitation (treatment)—the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

Research design—a statement of proposed identification, documentation, investigation, or other treatment of a historic property that identifies the project's goals, methods and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments.

Restoration—the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time

by means of the removal of later work or by the replacement of missing earlier work.

Sample Survey—survey of a representative sample of lands within a given area in order to generate or test predictions about the types and distributions of historic properties in the entire area.

Stabilization (treatment)—the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

Statement of objectives—see Research design.

Dated: September 26, 1983.

Russell E. Dickenson,

Director, National Park Service.

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Part V

Environmental Protection Agency

Energy Related Authority and Delayed Compliance Orders

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 55 and 65

[AH-FRL 2401-5]

Energy Related Authority and Delayed Compliance Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Agency is eliminating several obsolete sections from Part 55, entitled "Energy Related Authority," and Part 65, entitled "Delayed Compliance Orders." Some sections became obsolete when the Clean Air Act was amended in 1977. Others are obsolete because they pertain to temporary orders which have expired. Because the remaining sections of both Parts are interrelated, they will be consolidated into one Part. Several sections from Part 55 will be moved to Part 65 and the remainder of Part 55 will be eliminated. This action was proposed on September 1, 1982 (47 FR 38557).

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Biondi, Stationary Source Compliance Division (EN-341), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 382-2831.

SUPPLEMENTARY INFORMATION: A rulemaking action dated April 28, 1975 established Part 55, entitled "Energy Related Authority," to implement § 119 of the Clean Air Act as amended in 1974. Section 119 provided temporary relief from air pollution requirements to certain fuel burning stationary sources that converted from oil or gas to coal as their primary fuel.

The regulations in Part 55 became obsolete when the 1977 amendments eliminated Section 119 of the Clean Air Act. The Clean Air Act amendments continue to provide temporary relief for certain coal burning sources but utilize a new mechanism, the section 113(d)(5) Delayed Compliance Order. Delayed Compliance Orders are also available to other categories of sources, under sections 113(d) (1), (2), (3) and (4). When the Agency began issuing Delayed Compliance Orders under the authority of the 1977 Amendments, it published notices of section 113(d)(5) orders in Part 55, "Energy Related Authority." Orders issued under sections 113(d) (1), (2), (3) and (4). When the Agency began issuing Delayed Compliance Orders under the authority of the 1977 Amendments, it published notices of section 113(d)(5) orders in Part 55, "Energy Related Authority." Orders issued under sections 113(d) (1), (2), (3) and (4) were published in a newly established Part 65, entitled "Delayed Compliance Orders."

In the context of a review designed to identify obsolete portions of Part 55, it was discovered that once the obsolete portions were deleted, only notices of Delayed Compliance Orders would remain. Since Parts 55 and 65 would both relate solely to Delayed Compliance Orders, it makes sense to combine those parts. This action proposes to drop the obsolete portions of Part 55 and to move the remaining sections to Part 65. Obsolete portions of Part 65 will be eliminated as well.

Elimination of Part 55—Part 55, entitled "Energy Related Authority," contains three elements. The first is a set of regulations that governs the procedures by which certain coal burning stationary sources could receive Compliance Date Extensions (CDE's), Temporary Suspensions (TS's) and one-year postponements of applicable SIP requirements under the authority of the Clean Air Act as amended in 1974. Those regulations became obsolete through the Clean Air Act Amendments of 1977 and will be rescinded by today's action. The second and third elements of Part 55 are notices of Compliance Date Extensions and Delayed Compliance Orders that have been issued to individual sources. All of the Compliance Date Extensions and many of the Delayed Compliance Orders have expired and, by this action, will be rescinded. Because the legislative authority has expired, no additional Compliance Date Extensions will be issued. The Agency does expect to continue issuing Delayed Compliance Orders, although they will be published in Part 65.

Part 65—Part 65 will be amended by making a few minor changes to the General Provisions and adding to the lists of Federal Delayed Compliance Orders, those issued under section 113(d)(5). Orders that have expired will be deleted.

Comments on the Proposal—No comments were received by the Agency.[1]

Changes Since the Proposal—Notices of 5 Orders have been dropped because compliance with final emission limits has been demonstrated in the interim and the Orders are now obsolete. Those dropped are notices of Orders from the General Motors Corporation in Fremont, California; the New England Power Company's Brayton Point Generating Station; the Andersons' grain loading facility in Toledo, Ohio; and the Virginia Electric Power Company's Portsmouth and Chesterfield Generating Stations. An order issued to Montaup Electric Company, Somerset Generating Station in Somerset Massachusetts has been added to Part 65 because it was issued after the proposal.

Classification—Under The Regulatory Flexibility Act I certify that this regulation will not have a significant impact on a substantial number of small entities.

Under E.O. 12291 the Agency must state if a regulation is "major." The regulation is not major E.O. 12291 because the regulation would not impose any new requirements; therefore, no additional costs would be imposed. This rulemaking was reviewed by the Office of Management and Budget under Executive Order 12291.

Environmental Impact Statement. Not required for this action.

List of Subjects

40 CFR Part 55

Air pollution control, Energy.

40 CFR Part 65

Air pollution control.

(Sec. 113 of the Clean Air Act, as amended; 42 U.S.C. 7413)

Dated: September 22, 1983.

William D. Ruckelshaus,

Administrator.

Accordingly, Title 40 of the CFR is amended as set forth below.

PART 55—[REMOVED]

1. Title 40 of the CFR is amended by removing Part 55.

PART 65—DELAYED COMPLIANCE ORDERS

Subpart A—General Provisions

2. Section 65.01(f) is revised to read as follows:

§ 65.01 Definitions.

* * * * *

(f) The term "Federal delayed compliance order" shall mean a delayed compliance order issued by the Administrator under section 113(d) (1), (3), (4) or (5) of the Act.

* * * * *

§ 65.02 [Amended].

3. Section 65.02(a) is amended by revising the phrase, "section 113(d)(1),

[1] The proposed rule erroneously cited the Docket number as A-81-22. The number should have been A-82-17. No comments were addressed to either docket number.

(3), or (4)" to read, "section 113(d) (1), (3), (4) or (5)."

§ 65.03 [Amended].

4. Section 65.03(d) is amended by revising the phrase, "section 113(d) (1), (3), or (4)" to read, "section 113(d) (1), (3), (4) or (5)."

§§ 65.50, 65.60, 65.80, 65.120, 65.130, 65.150, 65.160, 65.170, 65.230, 65.270, 65.280, 65.290, 65.310, 65.320, 65.330, 65.340, 65.360, 65.370, 65.390, 65.410, 65.420, 65,430, 65.440, 65.450, 65.460, 65.470, 65.490, 65.500, 65.520, 65.540, 65.550, 65.570, 65.580, 65.590, 65.600 [Amended]

5. Sections 65.50, 65.60, 65.80, 65.120, 65.130, 65.150, 65.160, 65.170, 65.230, 65.270, 65.280, 65.290, 65.310, 65.320, 65.330, 65.340, 65.360, 65.370, 65.390, 65.410, 65.420, 65.430, 65.440, 65.450, 65.460, 65.470, 65.490, 65.500, 65.520, 65.540, 65.550, 65.570, 65.580, 65.590 and 65.600 are amended by revising the section headings to read "Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act," and replacing the word "proposal" with the word "promulgation" in the table headings.

§§ 65.51, 65.101, 65.111, 65.141, 65.171, 65.191, 65.192, 65.201, 65.211, 65.221, 65.222, 65.231, 65.251, 65.281, 65.301, 65.321, 65.361, 65.362, 65.381, 65.382, 65.391, 65.401, 65.402, 65.431, 65.432, 65.451, 65.471, 65.491, 65.511, 65.531, 65.532, 65.551, and 65.552 [Amended]

6. Sections 65.51, 65.101, 65.111, 65.141, 65.171, 65.191, 65.192, 65.201, 65.211, 65.221, 65.222, 65.231, 65.251, 65.281, 65.301, 65.321, 65.361, 65.362, 65.381, 65.382, 65.391, 65.401, 65.402, 65.431, 65.432, 65.451, 65.471, 65.491, 65.511, 65.531, 65.532, 65.551 and 65.552 are amended by removing the current entries from the tables and retaining the table headings, as shown:

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved].

§§ 65.90, 65.100, 65.110, 65.140, 65.180, 65.190, 65.200, 65.210, 65.220, 65.240, 65.300, 65.380, 65.400, 65.480 and 65.530 [Amended]

7. Sections 65.90, 65.100, 65.110, 65.140, 65.180, 65.190, 65.200, 65.210, 65.220, 65.240, 65.300, 65.380, 65.400, 65.480, and 65.530 are amended by revising the section heading, removing the current entries from the table, and retaining the table headings, as shown:

§ Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]	[Reserved]

Subpart D—Arizona

8. Section 65.70 is amended by revising the section heading and table, as shown:

§ 65.70 Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Phelps Dodge Co	Ajo, Ariz	9-81-27	40 CFR 51.125(d) 40 CFR 52.126(b)	Jan. 12, 1982	Dec. 31, 1985.
Phelps Dodge Co	Morenci, Ariz	9-81-28	40 CFR 51.125(d) Reg. 7-1-3.6 (Ariz. Dept. of Health).	do	Jan. 1, 1985.

Subpart V—Maryland

9. Section 65.250 is amended by revising the section heading and table, as shown.

§ 65.250 Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Naval Ordnance Station, Goddard Units 1-3.	Indian Head, Md	R-III-CC-007	COMAR § 10.03, 40.02B, 103.03. 40.02D, 10.03. 40.02C(2).	June 23, 1983	Mar. 1, 1985.

Subpart W—Massachusetts

10. Section 65.260 is amended by revising the section heading and table, as shown:

§ 65.260 Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Holyoke Water Power Mt. Tom Unit.	Holyoke, Mass		310 CMR 7.02(8), 7.05(4) and 7.06(1)	Nov. 24, 1981	Feb. 15, 1984.
New England Power Co., Salem Harbor Units 1, 2 and 3.	Salem, Mass		310 CMR 7.02(8), 7.05(4) and 7.06	Feb. 9, 1982	No later than Dec. 31, 1985.
Montaup Electric Co., Somerset Station.	Somerset, Mass		310 CMR 7.02(8) and 7.06(1)	Mar. 22, 1983	Do.

Subpart FF—New Jersey

11. Section 65.350 is amended by revising the section heading and table, as shown.

§ 65.350 Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Atlantic City Electric Deepwater Unit 8.	Pennsville, N.J	00109	N.J.A.C. 7:27-3.1 et seq. and 7:27-4.1 et seq. and 7:27-8.1 et seq.	Jan. 26, 1981	Oct. 1, 1983.

Subpart VV—Virginia

12. Section 65.510 is amended by revising the section heading and table, as shown:

§ 65.510 Federal delayed compliance orders issued under section 113(d)(1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Virginia Electric Power Co. Possum Pt. Units 2 & 3.	Possum Point, VA	R-111-CC-005	VAPCB Section IV, Rules 2 & 3	Mar. 9, 1981	Apr. 1, 1984, Nov. 1, 1982.

Subpart WW—Washington

13. Section 65.521 is amended by retaining the section heading and revising the table, as shown:

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Fletcher Oil Co	Takoma, Wash	W-13	WAC 173-490-040 WAC 173-490-201 PSAPCA 2.	May 19, 1982	Jan. 1, 1983.

Subpart AAA—Guam

16. Section 65.560 is amended by revising the section heading and table, as shown.

§ 65.560 Federal delayed compliance orders issued under section 113(d) (1), (3), (4) and (5) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FEDERAL REGISTER promulgation	Final compliance date
Guam Power Authority	Agana, Guam	9-80-8	Section 13.4 of Chapter 13, Guam Air Pollution Standards and Regulations.	Apr. 27, 1981	Feb. 15, 1985.

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