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Friday
December 7, 1984

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Environmental Protection Agency

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Food and Drug Administration

Antibiotics
Food and Drug Administration

Banks, Banking
Federal Reserve System

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Fuel Economy
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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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Title 3—

The President

Executive Order 12493 of December 5, 1984

President's Commission on Executive Exchange

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to amend the responsibilities of the President's Commission on Executive Exchange and to continue its work of benefiting both the Government and the private sector by enabling the most outstanding executives to work in the other sector, it is hereby ordered as follows:

Section 1. *Establishment of the Commission.* (a) The President's Commission on Executive Exchange is hereby continued.

(b) The Commission shall be composed of not more than thirty-six members who shall be appointed from time to time by the President from among leaders in the private sector and the Executive branch of the Government. The President shall seek, so far as he deems practicable or advisable, to appoint up to seventy-five percent of the Commission membership from the ranks of Chief Executive Officers, Chief Operating Officers, Chairmen, Senior Partners or other individuals of comparable rank and stature from the private sector. Executive branch members, to the extent the President deems practicable or advisable, may include Cabinet Secretaries, Agency Heads, and such other officials of comparable rank or position as deemed appropriate by the President.

The President shall designate a Chairman from among the members of the Commission. The Chairman and members shall serve at the pleasure of the President. Members of the Commission shall serve two-year terms or until a successor is appointed.

(c) Members of the Commission who are full-time officers or employees of the Federal government shall receive no additional compensation by reason of this Order, and members who are not such officers or employees shall serve without compensation, but each Commissioner shall be provided with travel expenses, including per diem in lieu of subsistence, as authorized by law.

Sec. 2. *Functions of the Commission.* (a) The Commission shall administer an Executive Exchange Program in which: (1) outstanding private sector executives, primarily those who have achieved senior level management positions, and also those exceptional managers who have unique qualifications and extremely high potential for policymaking positions, will be selected as Presidential Exchange Executives and assigned to positions in the Senior Executive Service or positions of comparable rank or stature, reporting, as appropriate, to Cabinet Officers, Ambassadors, Agency Heads, Under Secretaries, Assistant Secretaries or other high-ranking Government officials for not more than one year, with an extension of up to ninety days in extraordinary circumstances; and (2) career Federal Executives who are members of the Senior Executive Service, or equivalent level, will be selected as Presidential Exchange Executives and assigned for one year to positions in the private sector offering significant challenge, responsibility and regular and continuing contact with senior private sector officials.

(b) The Commission shall administer an Executive International Embassy Assignments Program in which exceptionally qualified private sector executives, primarily those who have achieved senior level management positions, and also exceptional managers who have unique qualifications and extremely high potential for policymaking positions, may be selected as Presidential

Exchange Executives and, as appropriate, assigned for one year, with an extension of up to ninety days, to the Senior Foreign Service or other key positions in United States Embassies reporting to Ambassadors or othe high-ranking Government officials.

(c) The Commission shall administer an education program which places the work experience of the Presidential Exchange Executives in the broader context of both Federal government and private sector operations and, to the extent desirable and appropriate, may include exposure to international economic and foreign affairs.

(d) The Commission shall supervise and review the operation of the Program, and may recommend to the President ways to promote and improve the Program.

(e) The Commission shall ensure that the Program operates in compliance with the merit principles set forth in Section 2301 of Title 5 of the United States Code.

Sec. 3. *Responsibilities of Executive Agencies.* Each Executive agency shall, to the extent permitted by law, provide the Commission with such assistance as may be necessary for the effective performance of its functions.

Sec. 4. *Administrative Provisions.* (a) The Office of Personnel Management shall provide the Commission with administrative services, staff support and travel expenses, as authorized by law. The Office of Administration, Executive Office of the President, may provide services to the Commission on a reimbursable basis pursuant to interagency agreement, as may be authorized by the Economy Act of 1932, as amended, 31 U.S.C. 1535 *et seq.*

(b) The Executive Director's responsibilities shall be to carry out the activities of the Commission.

(c) Executive Order No. 12136 of May 15, 1979 is revoked.

Ronald Reagan

THE WHITE HOUSE,
December 5, 1984.

[FR Doc. 84-32239
Filed 12-6-84; 10:55 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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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 week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 420, 421, 425, 431, and 432

[Doc. No. 1698S]

Crop Insurance Regulations; Various

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Soybean, Grain Sorghum, Cotton, Peanut, and Corn Crop Insurance Regulations, effective for the 1985 crop year only, by changing the date for filing contract changes specified in the policies for insuring such crops. The intended effect of this rule is to provide additional time in which to file changes made in the Actuarial Tables for such crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Effective December 7, 1984. Written comments, data, and opinions on this interim rule must be submitted not later than February 5, 1985, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review dates established for these regulations are April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 16 of the policy for each of the crops listed below provides that any changes in the contract must be placed on file in the service office by a certain date. The contract consists of the application, the policy, and the actuarial table. In view of the increasing volume of work involved in finalizing the changes on the Actuarial Table for each crop insured in each county where such insurance is offered for the 1985 crop year, it has been determined that in the counties where changes in the contract must be on file by November 30, 1984, the date would be extended to December 17, 1984, effective for the 1985 crop year only.

The crop insurance regulations affected by this rule are:

Citation	Crop
7 CFR Part 420	Grain Sorghum.
7 CFR Part 421	Cotton.
7 CFR Part 425	Peanuts.
7 CFR Part 431	Soybeans.
7 CFR Part 432	Corn.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Program changes required an increased number of changes in the Actuarial Tables for the crop insurance policies affected by this rule for the 1985 crop year. Without these changes, the statutory mandate that the program be actuarially sound could not be met. The workload involved in the large number of actuarial changes will not permit filing of these actuarial tables in the counties by the present contract date of November 30. There is not sufficient time to provide for public comment and implement these changes prior to November 30. It has been determined that the date by which such changes are required to be placed on file in the service office shall be extended until December 17, 1984, and made effective for the 1985 crop year only.

The changes in the actuarial tables for the crops affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes in the actuarial table affecting their individual crop insurance contract, and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this rule for 60 days after publication in the Federal Register. This rule will be scheduled for review in order that any amendment made necessary by public comment may be published in the Federal Register as quickly as possible.

List of Subjects in 7 CFR Parts 420, 421, 425, 431, and 432

Crop insurance, Grain sorghum, Cotton, Peanuts, Soybeans, Corn.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Grain Sorghum, Cotton, Peanut, Soybean, and Corn Crop

Insurance Regulations (7 CFR Parts 420, 421, 425, 431, and 432, respectively), effective for the 1985 crop year only, in the following instances:

PARTS 420, 421, 425, 431, AND 432—[AMENDED]

1. The Authority citation for 7 CFR Parts 420, 421, 425, 431, and 432, is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

§§ 420.7, 421.7, 425.7, 431.7 and 432.7 [Amended]

2. 7 CFR 420.7(d)16, 421.7(d)16, 425.7(d)16, 431.7(d)16, and 432.7(d)16, are revised to read as follows:

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes will be available at your service office by December 31, preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties except that, for the 1985 crop year only, the date for all such other counties is December 17. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

Done in Washington, D.C., on November 1, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

Dated: November 30, 1984.

[FR Doc. 84–31811 Filed 12–6–84; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 493]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 275,000 cartons during the period December 9–15, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period December 9–15, 1984.

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 final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on December 4, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is steady.

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 is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. 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 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.793 is added as follows:

§ 910.793 Lemon Regulation 493.

The quantity of lemons grown in California and Arizona which may be handled during the period December 9, 1984, through December 15, 1984, is established at 275,000 cartons.

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

Dated: December 5, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–32174 Filed 12–6–84; 8:54 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 79–714C–2]

Control of Added Substances and Labeling Requirements for Cured Pork Products; Policy Statement

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Policy statement.

SUMMARY: This announces a revision to the Department's policy on the voluntary use of the April 13, 1984, regulations concerning the standards and labeling requirements for cured pork products prior to the effective date of April 15, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3840.

SUPPLEMENTARY INFORMATION: On April 13, 1984, the Department published a final rule in the **Federal Register** (49 FR 14856) establishing standards and labeling requirements for cured pork products, based on the protein fat free (PFF) content of the product, and setting forth the procedures to be used by the Agency in evaluating compliance with these requirements. The effective date of the rule is April 15, 1985.

On August 23, 1984, the Department published a policy statement in the **Federal Register** (49 FR 33434) concerning implementation dates for the PFF regulations. It permitted processors to apply the regulation before the effective date, beginning January 1, 1985, to cured pork products currently covered by standards (9 CFR 319.104 and 319.105). Products covered by the PFF regulation but for which there are no current standards were not to be produced under the new regulations

until April 15, 1985. Furthermore, the Agency has been advising establishments wishing to convert their production to PFF standards prior to April 15 that they must convert *all* their products at one time to facilitate inspection requirements.

Since publication of the August 23 policy statement, the Administrator has received requests to modify the policy concerning the voluntry use of the rule prior to its effective date. Upon reconsideration, the Administrator has determined that the previously stated policy on the voluntary use of the PFF regulation prior to the effective date is unnecessarily restrictive, and is making the following change to the August 23, 1984, policy statement.

The August 23, 1984, policy statement prohibited until April 15, 1985, the production under PFF standards of cured pork products not currently regulated under 9 CFR 319.104 and 319.105. This notice revokes that prohibition and permits preparation of these products beginning December 15, 1984. Therefore, any cured pork products specified in the April 13, 1984, regulations may, at the processors' option, be produced beginning December 15, 1984, provided such products comply with all other provisions of the PFF regulation published April 13, 1984. In addition, processors may convert their products to PFF standards one at a time. Processors should notify Regional Directors of their intentions regarding conversion of their products.

Done at Washington, DC, on December 3, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-32011 Filed 12-6-84; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 20, 30, 40, 50, 55, 70, and 73

Minor Correcting Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate a change in the mailing address for NRC's Region II Office, to correct the zip code for NRC's Region IV Office, and to correct the address of a location where IEEE Std 83–1983 may be inspected. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: December 7, 1984.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7086.

SUPPLEMENTARY INFORMATION: On May 11, 1984, NRC's Region II Office changed its mailing address for the receipt of all non-classified and non-safeguards correspondence. The new mailing address is U.S. Nuclear Regulatory Commission, Suite 2900, 101 Marietta Street, NW, Atlanta, Georgia 30323. The address for classified and unclassified safeguards information remains the same and should read as follows: U.S. Nuclear Regulatory Commission, P.O. Box 2203, Atlanta, Georgia 30301.

In an amendment published on September 28, 1983 (48 FR 44172), an incorrect zip code was printed for NRC's Region IV Office. It should read 76011.

In § 50.73, an incorrect reference has been made with regard to the availability of IEEE Std 83–1983 at the NRC's Public Document Room (PDR), located at 1717 H Street, NW, Washington, DC. This document is not available at the PDR but is available for inspection at the NRC's Technical Library, which is located in the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

Because these are amendments dealing with agency practice and procedures, the notice provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the Federal Register. Good cause exists to dispense the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing solely with agency procedures.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR 1, 20, 30, 40, 50, 55, 70, and 73.

The authority citation for this document is :

Authority: Sec. 161, Pub. L. 83–703, 66 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. In § 1.3, paragraph (b) is revised to read as follows:

§ 1.3 Location of principal offices and regional offices.

* * * * *

(b) The addresses of the NRC Regional Offices (see § 1.64) are:

Region I, USNRC, 631 Park Avenue, King of Prussia, PA 19406.
Region II, USNRC, 101 Marietta Street, NW, Suite 2900, Atlanta, GA 30323.
Region III, USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137.
Region IV, USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011.
USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.
Region V, USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

2. In Part 20, Appendix D is revised to read as follows:

APPENDIX D.—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

	Addresses	Telephone (24 hours)
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, 631 Park Avenue, King of Prussia, PA 19406.	(215) 337-5000 (FTS) 488-1000
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, 101 Marietta Street, NW, Suite 2900, Atlanta, GA 30323.	(404) 221-4503 (FTS) 242-4503
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	USNRC, 799 Roosvelt Road, Glen Ellyn, IL 60137.	(312) 790-5500 (FTS) 388-5500
Region IV: Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.	USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011.	(817) 860-8100 (FTS) 728-8100
Region IV: Field Office	USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.	(303) 234-7232 (FTS) 234-7232
Region V: Alaska, Arizona, California, Hawaii, Nevada, Oregon, Pacific Trust Territories, and Washington.	USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596.	(415) 943-3700 (FTS) 463-3700

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

3. In § 30.6, paragraph (b)(2)(ii) is revised to read as follows:

§ 30.6 Communications.

* * * * *

(b) * * *

(2) *Submissions* * * *

(ii) *Region II.* With the exception of Federal facilities, the regional licensing program involves the following Region II non-Agreement States and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

4. § 40.5, paragraph (b)(2)(ii) is revised to read as follows:

§ 40.5 Communications.

* * * * *

(b) *Submissions* * * *

(ii) *Region II.* With the exception of Federal facilities, the regional licensing program involves the following Region II non-Agreement states and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment to an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. In § 50.73, paragraph (b)(2)(ii)(F)(*2*) is revised to read as follows:

§ 50.73 Licensee event report system.

* * * * *

(b) *Contents* * * *

(2) * * *

(ii) * * *

(F) * * *

(*2*) IEEE Std 803–1983 has been approved for incorporation by reference by the Director of the Federal Register. A notice of any changes made to the material incorporated by reference will be published in the Federal Register. Copies may be obtained from the Institute of Electrical and Electronics Engineers, 345 East 47th Street, New York, NY 10017. IEEE Std 803–1983 is available for inspection at the NRC's Technical Library, which is located in the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland; and at the Office of the Federal Register, 1100 L Street, NW, Washington, DC.

* * * * *

PART 55—OPERATORS' LICENSES

6. In § 55.5, paragraph (b)(3) is revised to read as follows:

§ 55.5 Communications.

* * * * *

(b) * * *

(3) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II and any inquiry, communication, information, or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region II must be submitted by mail or in person to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323. The Regional Administrator of Region II, or his designee, will transmit to the Director of Nuclear Reactor Regulation any matter which is not within the scope of the Regional Administrator's delegated authority.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7. In § 70.5, paragraph (b)(2)(ii) is revised to read as follows:

§ 70.5 Communications.

* * * * *

(b) * * *

(2) *Submissions* * * *

(ii) *Region II.* With the exception of Federal facilities, the regional licensing program involves the following Region II non-Agreement States and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

8. In Part 73, Appendix A is revised to read as follows:

APPENDIX A.—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

	Addresses	Telephone (24 hours)
NRC Operations Center (via NRC Operator)	USNRC, Office of Inspection and Enforcement, Washington, DC 20555.	(301) 492-7000 (FTS) 492-7000
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, 631 Park Avenue, King of Prussia, PA 19406.	(215) 337-5000 (FTS) 488-1000
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, 101 Marietta Street, NW Suite 2900, Atlanta, GA 30323.	(404) 221-4503 (FTS) 242-4503
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137.	(312) 790-5500 (FTS) 388-5500
Region IV:[1] Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.	USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011.	(817) 860-8100 (FTS) 728-8100
Region IV: Field Office	USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P. O. Box 25325, Denver, CO 80225.	(303) 234-7232 (FTS) 234-7232
Region V: Alaska, Arizona, California, Hawaii, Nevada, Oregon, Pacific Trust Territories, and Washington.	USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596.	(415) 943-3760 (FTS) 463-3700

[1] For calls related to Material Control and Accounting matters, consult the following Regions: Arkansas—II, Colorado—V, Idaho—V, Kansas—III, Louisiana—II, Montana—V, Nebraska—III, New Mexico—V, North Dakota—III, Oklahoma—III, South Dakota—III, Texas—V, Utah—V, and Wyoming—V.

Dated at Bethesda, Maryland, this 30th day of November 1984.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Deputy Executive Director for Operations.

[FR Doc. 84-32002 Filed 12-6-84; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of reducing discount rates. The reduction was taken against the background of growth in M1 and M2 in the lower part of the desired ranges and in the context of distinct moderation in the pace of business expansion, of relative stability in producer and commodity prices in recent months, of the restrained trend of wages and costs, and of the continued strength of the dollar internationally.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

List of Subjects in 12 CFR Part 301

Banks, Banking, Credit, Credit unions, Foreign banks.

Pursuant to section 10(b) and 14(d) of the Federal Reserve Act (12 U.S.C. 347b and 357) Part 201 is amended as set forth below:

PART 201—[AMENDED]

1. Section 201.51 is revised to read as follows:

§ 201.51 Short term adjustment credit for depository institutions.

The rates for short term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Nov. 23, 1984.
New York	8½	Nov. 21, 1984.
Philadelphia	8½	Do.
Cleveland	8½	Nov. 26, 1984.
Richmond	8½	Nov. 21, 1984.
Atlanta	8½	Nov. 23, 1984.
Chicago	8½	Nov. 21, 1984.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Do.
Dallas	8½	Do.
San Francisco	8½	Do.

2. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Nov. 23, 1984.
New York	8½	Nov. 21, 1984.
Philadelphia	8½	Do.
Cleveland	8½	Nov. 26, 1984.
Richmond	8½	Nov. 21, 1984.
Atlanta	8½	Nov. 23, 1984.
Chicago	8½	Nov. 21, 1984.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Do.
Dallas	8½	Do.
San Francisco	8½	Do.

(b) The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8½	Nov. 23, 1984.
New York	8½	Nov. 21, 1984.
Philadelphia	8½	Do.
Cleveland	8½	Nov. 26, 1984.
Richmond	8½	Nov. 21, 1984.
Atlanta	8½	Nov. 23, 1984.
Chicago	8½	Nov. 21, 1984.
St. Louis	8½	Do.
Minneapolis	8½	Do.
Kansas City	8½	Do.
Dallas	8½	Do.
San Francisco	8½	Do.

Note.—These rates apply for the first 60 days of borrowing. A 1 percent surcharge applies for borrowing during the next 90 days, and a 2 percent surcharge applies for borrowing thereafter. Where credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period, the time period in which each rate under the structure is applied may be shortened, and the rate may be established on a more flexible basis, taking into account rates on market sources of funds.

By order of the Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-31926 Filed 12-6-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 541, 545, 549, 561, 563, and 584

[No. 84-580]

Implementation of New Powers; Limitation on Loans to One Borrower

Correction

In FR Doc. 84-28276 beginning on page 43040 in the issue of Friday, October 26, 1984, make the following correction:

On page 43041, second column, line thirteen, "§ 545.345(a)" should read "§ 545.35(a)".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-204 (New Mexico-25); Order No. 397]

High-Cost Gas Produced From Tight Formations; New Mexico; Errata to Final Rule

Issued: November 30, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Correction to final rule.

SUMMARY: This document corrects Order No. 397, a Final Rule designating portions of the Pictured Cliffs Formation in New Mexico as a tight formation. The Final Rule appeared in the **Federal Register** on September 24, 1984 (49 FR 37375) and contained an incorrect description of the delineation of the Pictured Cliffs Formation.

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees, (202) 357-5420 or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The following correction should be made in FR Document 84-25191 appearing on page 37377:

On page 37377, the delineation of the Pictured Cliffs Formation should include all after Township 22 North, Range 2, 3, 4 and 5 and Township 23 North, Range 2 West. Furthermore, Township 25 North, Range 5 West, should include Sections 25 through 36, NMPM. As corrected, § 271.703(d)(179) reads as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(179) *Pictured Cliffs Formation in New Mexico.* RM79-76-204 (New Mexico—25).

(i) *Delineation of formation.* The Pictured Cliffs Formation is located in Rio Arriba and Sandoval Counties, New Mexico, in Township 22 North, Range 2, 3, 4 and 5 West, all; Township 23 North, Range 2 West, Sections 5 through 9, 16 through 21, and 25 through 36; Township 23 North, Ranges 3, 4 and 5 West, all Sections; Township 24 North, Range 3 West, Sections 19, 20, 26 through 35, and S½ of 36; Township 24 North, Range 4 West, Sections 3 through 10 and 13 through 36; Township 24 North, Range 5 West, all Sections; Township 25 North, Range 4 West, Sections S½ of 30, 31 and 32; Township 25 North, Range 5 West, Sections 15 through 23 and S½ of 24, and 25 through 36, NMPM.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31907 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-218 (New Mexico-26); Order No. 398]

High-Cost Gas Produced From Tight Formations; New Mexico; Errata to Final Rule

Issued: November 30, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Correction to final rule.

SUMMARY: This document corrects Order No. 398, a Final Rule designating portions of the Dakota Formation in New Mexico as a tight formation. The Final Rule appeared in the **Federal Register** on September 24, 1984 (49 FR 37378) and contained an incorrect description of the delineation of the Dakota Formation.

FOR FURTHER INFORMATION CONTACT: Kevin R. Rees (202) 357-5420 or Victor H. Zabel (202) 357-8616.

SUPPLEMENTARY INFORMATION: The following correction should be made in FR Document 84-25192 appearing on page 37380:

On page 37380, the delineation of the Dakota Formation should not include sections 19 and 20 W/2 after Township 25 North, Range 9 West. As corrected, § 271.703(d) (180) reads as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(180) *Dakota Formation in New Mexico.* RM79-76-218 (New Mexico—26).

(i) Delineation of formation. The Dakota Formation is located in San Juan County, New Mexico, in Township 25 North, Range 9 West, Section 16, 17 E½, 28 W½, 29 E½ and 30 W½ NMPM; Township 25 North, Range 10 West, Section 25 W½, NMPM.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31908 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 84N-0337]

Antibiotic Drugs; Cefoxitin Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of cefoxitin sodium, cefoxitin sodium injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective December 7, 1984; comments, notice of participation, and request for hearing by January 7, 1985; data, information, and analyses to justify a hearing by February 5, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of cefoxitin sodium, cefoxitin sodium injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 436 and 442 (21 CFR Parts 436 and 442) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 436 and 442 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended by adding new § 436.347 to read as follows:

§ 436.347 High-pressure liquid chromatographic assay for cefoxitin.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A suitable integrator; and

(6) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 micrometers to 10 micrometers in diameter, U.S.P. XX.

(b) *Reagents*—(1) *One percent potassium phosphate buffer, pH 6.0.* Prepare as described in § 436.101(a)(1).

(2) *Mobile phase.* Mix distilled water:glacial acetic acid:acetonitrile (800:10:190). Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 1.0 milliliter per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is least 50 percent of scale. The minimum between peaks must be no more than 2 millimeters above the baseline.

(d) *Preparation of working standard and sample solutions.* Use the working standard and sample solutions prepared as described in the individual monographs for the drug being tested.

(e) *Procedure.* Using the equipment, reagents, and operating conditions as described in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution into the chromatograph. Allow an elution time sufficient to obtain separation of the expected components. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution into the chromatograph and repeat the procedure described for the working standard solution.

(f) *Calculations.* Calculate the cefoxitin content as described in the individual monographs for the drug being tested.

PART 442—CEPHA ANTIBIOTIC DRUGS

2. Part 442 is amended:

a. By adding new § 442.14 to read as follows:

§ 442.14 Cefoxitin sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefoxitin sodium is the sodium salt of 3-(hydroxymethyl)-7α-methoxy-8-oxo-7-[2-(2-thienyl)acetamido]-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid carbamate (ester). It is so purified and dried that:

(i) Its cefoxitin content is not less than 850 micrograms and not more than 1,000 micrograms of cefoxitin per milligram.

(ii) Its moisture content is not more than 2.0 percent.

(iii) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 4.2 and not more than 7.0.

(iv) It gives a positive identity test.

(v) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefoxitin content, moisture, pH, identity, and crystallinity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Cefoxitin content.* Proceed as directed in § 436.347 of this chapter, preparing the working standard and sample solutions and calculating the cefoxitin content as follows:

(i) *Working standard solution.* Dissolve an accurately weighed portion of the cefoxitin working standard with water to obtain a solution containing 1 milligram of cefoxitin per milliliter.

(ii) *Sample solution.* Dissolve an accurately weighed portion of the sample with water to obtain a solution containing 1 milligram of cefoxitin per milliliter (estimated).

(iii) *Calculations.* Calculate the micrograms of cefoxitin per milligram of sample as follows:

$$\text{Micrograms of cefoxitin per milligram} = \frac{A_u \times P_s}{A_s \times C_u}$$

where:

A_u = Area of the cefoxitin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefoxitin peak in the chromatogram of the cefoxitin working standard;

P_s = Cefoxitin activity in the cefoxitin working standard solution in micrograms per milliliter; and

C_u = Milligrams of sample per milliliter of sample solution (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter, using the titration procedure described in paragraph (e)(1) of that section, except add about 25 milliliters of methanol in lieu of solvent A to a dry titrating vessel and proceed as directed in titration procedure 1.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(4) *Identity.* Proceed as directed in § 436.326 of this chapter.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

b. By redesignating § 442.214 as § 442.214a and by adding new §§ 442.214 and 442.214b to read as follows:

§ 442.214 Cefoxitin injectable dosage forms.

§ 442.214a Sterile cefoxitin sodium.

* * * * *

§ 412.214b Cefoxitin sodium injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefoxitin sodium injection is a frozen aqueous solution of cefoxitin sodium with one or more suitable and harmless buffer substances in an isotonic diluent. Each milliliter contains cefoxitin sodium equivalent to either 20 or 40 milligrams of cefoxitin. Its cefoxitin content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of cefoxitin that it is

represented to contain. It is sterile. It is nonpyrogenic. Its pH is not less than 4.5 and not more than 8.0. It passes the identity test. The cefoxitin sodium used conforms to the standards prescribed by § 442.14(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cefoxitin sodium used in making the batch for cefoxitin content, moisture, pH, identity, and crystallinity.

(*b*) The batch for cefoxitin content, sterility, pyrogens, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) The cefoxitin sodium used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.* Thaw the sample as directed in the labeling. The sample solution used for testing must be at room temperature.

(1) *Cefoxitin content.* Proceed as directed in § 436.347 of this chapter, preparing the working standard and sample solutions and calculating the cefoxitin content as follows:

(i) *Working standard solution.* Dissolve an accurately weighed portion of the cefoxitin working standard with water to obtain a solution containing 200 micrograms of cefoxitin per milliliter.

(ii) *Sample solution.* Using a suitable hypodermic needle and syringe, remove an accurately measured representative portion from each container and dilute with sufficient water to obtain a solution containing 200 micrograms of cefoxitin per milliliter (estimated).

(iii) *Calculations.* Calculate the milligrams of cefoxitin per milliliter of sample as follows:

$$\text{Milligrams of cefoxitin per milliliter} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the cefoxitin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the cefoxitin peak in the chromatogram of the cefoxitin working standard;

P_s = Cefoxitin activity in the cefoxitin working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, except inject a sufficient volume of the undiluted solution to deliver 50 milligrams of cefoxitin per kilogram.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

(5) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the cefoxitin working standard.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The regulation, therefore, is effective December 7, 1984. However, interested persons may, on or before January 7, 1985, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before January 7, 1985, a written notice of participation and request for hearing, and (2) on or before February 5, 1985, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the hearing of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may been seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective December 7, 1984.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g)))

Dated: November 30, 1984.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 84-31917 Filed 12-6-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 452

[Docket No. 84N-0351]

Antibiotic Drugs; Erythromycin Ointment

AGENCY: Food and Drug Adminstration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new strength of erythromycin ointment. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective December 7, 1984; comments, notice of participation, and request for hearing by January 7, 1985; data, information, and analyses to justify a hearing by February 5, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Center for Drugs and Biologics (HFN–815), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new strength (20 milligrams per gram) of erythromycin ointment. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 452

Antibiotics, Macrolide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 452.510a is amended by revising the third sentence in paragraph (a)(1) to read as follows:

PART 452—MACROLIDE ANTIBIOTIC DRUGS

§ 452.510a Erythromycin ointment.

(a) * * *

(1) * * * Each gram of ointment contains either 10 milligrams or 20 milligrams of erythromycin.

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The regulation, therefore, is effective December 7, 1984. However, interested persons may, on or before January 7, 1985, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before January 7, 1985, a written notice of participation and request for hearing, and (2) on or before February 5, 1985, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the persons(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective December 7, 1984.

(Secs. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: November 30, 1984.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 84-31918 Filed 12-6-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Polysulfated Glycosaminoglycan

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Luitpold Pharmaceuticals, Inc., for polysulfated glycosaminoglycan for the treatment of noninfectious degenerative and/or traumatic joint dysfunction and associated lameness of the carpal joint in horses. Also, the firm is being added to the list of sponsors of approved NADA's.

EFFECTIVE DATE: December 7, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Luitpold Pharmaceuticals, Inc., Shirley, NY 11967, has submitted NADA 136–383 for Adequan® (polysulfated glycosaminoglycan). The NADA provides for the intra-articular use of polysulfated glycosaminoglycan in horses for the treatment of noninfectious degenerative and/or trumatic joint dysfunction and associated lameness of the carpal joint. The application is approved and the regulations are amended accordingly. Additionally, the list of sponsors of approved NADA's in 21 CFR 510.600(c) is amended to add Luitpold Pharmaceuticals, Inc. The basis for approval is discussed in the freedom of information summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii) (*a*) and (g)) may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 522

Animal drugs, Injectable

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Luitpold Pharmaceuticals, Inc., Animal Health Division, Shirley, NY 11967	010797
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
010797	Luitpold Pharmaceuticals, Inc., Animal Health Division, Shirley, NY 11967.
* * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 522, by adding new § 522.1850 to read as follows:

§ 522.1850 Polysulfated glycosaminoglycan.

(a) *Specifications.* Each 1-milliliter ampule of sterile aqueous solution contains 250 milligrams of polysulfated glycosaminoglycan.

(b) *Sponsor.* See No. 010797 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Indications for use.* It is used in horses. Polysulfated glycosaminoglycan is recommended for the treatment of noninfectious degenerative and/or traumatic joint dysfunction and associated lameness of the carpal joint.

(2) *Amount.* 250 milligrams once a week for 5 weeks.

(3) *Limitations.* For intra-articular use. The joint area must be shaved, cleaned, and sterilized as in a surgical procedure prior to injection. If the joint reacts with excessive inflammation, after intra-articular treatment, cease therapy. Not for use in horses intended for food. Do not use in horses intended for breeding. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. December 7, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 29, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-31919 Filed 12-6-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Morantel Tartrate Cartridge

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc., providing for safe and effective administration to weaned calves and yearling cattle of a morantel-emitting cartridge for control through the summer grazing season of the adult stage of certain gastrointestinal nematodes.

EFFECTIVE DATE: December 7, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed NADA 134-779 which provides for oral administration by balling gun of a morantel tartrate-containing cartridge. The cartridge consists of a stainless steel cylinder having both ends closed with polyethylene, diffusing discs so that there is sustained release of morantel into the stomach fluid of weaned calves and yearling cattle. The drug product is indicated for control of the adult stage of the following gastrointestinal nematodes through the summer grazing season: *Ostertagia* spp., *Trichostrongylus axei, Cooperia* spp., and *Oesophagostomum radiatum.* The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and

redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating existing § 520.1450 as § 520.1450a and by adding new §§ 520.1450 and 520.1450b, to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1450 Morantel tartrate oral dosage forms.

* * * * *

§ 520.1450b Morantel tartrate cartridge.

(a) *Specifications.* The drug product consists of a stainless-steel cylinder having both ends closed with polyethylene diffusing discs and containing a morantel tartrate paste. The paste contains 22.7 grams of morantel tartrate equivalent to 13.5 grams of morantel base.

(b) *Sponsor.* See No. 000069 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.425 of this chapter.

(d) *Conditions of use*—(1) *Amount.* Cattle turned out to pasture in spring: 1 cartridge to each animal at turnout. Cattle that remained on pasture during winter: 1 cartridge to each animal between March 1 and April 1.

(2) *Indications for use.* For control of the adult stage of the following gastrointestinal nematode infections in weaned calves and yearling cattle weighing a minimum of 200 pounds through the summer grazing season: *Ostertagia* spp., *Trichostrongylus axei*, *Cooperia* spp., and *Oesophagostomum radiatum.*

(3) *Limitations.* Administer orally with the balling gun to all cattle that will be grazing the same pasture. Do not administer to cattle within 160 days of slaughter. Consult your veterinarian before administering to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. December 7, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 29, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-31920 Filed 12-6-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-192; Reference Notice Nos. 405, 443]

Madera Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This rule establishes a viticultural area located in Madera and Fresno Counties, California, named Madera. This final rule is the result of a petition submitted by Mr. David B. Ficklin, Ficklin Vineyards in Madera, California, and of written comments and oral testimony received at a public hearing.

The Bureau of Alcohol, Tobacco and Firearms believes the establishment of Madera as a viticultural area and its subsequent use as an appellation of origin in wine labeling and advertising will allow wineries to designate their specific grape-growing area and will help consumers identify the wines they purchase.

EFFECTIVE DATE: January 7, 1985.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Under 27 CFR 4.25a(e)(2), any interested person may petition ATF to establish a grape-growing region as an American viticultural area. Approved American viticultural areas are listed in 27 CFR Part 9.

Petition for Madera

In June 1981, David Ficklin, President of Ficklin Vineyards in Madera, California, petitioned ATF to establish a viticultural area known as Madera. This proposed viticultural area was located in central Madera County between the Chowchilla and San Joaquin Rivers, with an adjacent portion of Fresno County included. The proposed area was 230,000 acres in size of which over 30,000 acres were devoted to grapes.

In response to this petition, ATF proposed the Madera viticultural area in Notice No. 405 on January 26, 1982 [47 FR 3564]. In that notice, ATF solicited comments on alternative boundaries, comments about viticultural and geographic characteristics which distinguish the viticultural area from surrounding areas, and comments concerning the name Madera.

ATF received seven written comments, five of which fully supported the proposed name and boundaries. One comment objected to the proposed boundaries, stating that they should encompass all of western Madera County. The Portuguese government objected to the proposed name Madera and requested a public hearing on the matter.

Public Hearing

In Notice No. 443, December 16, 1982, [47 FR 56369], ATF announced a public hearing to be held in Madera on January 18, 1983, to obtain additional information concerning the proposed area.

Fourteen people presented evidence at that hearing. Representatives of Ficklin Vineyards and Papagni Vineyards testified in favor of the proposed name and boundaries. Eight other persons testified in favor of expanding the viticultural area into western Madera County. One person testified on behalf of the Portuguese government stating their objection to the name Madera.

Seven persons filed post-hearing written comments; all of them favored expanding the viticultural area into part or all of western Madera County.

Boundaries

Western Viticultural Area Boundary

As proposed, the Madera viticultural area extended between the Chowchilla and San Joaquin Rivers. The western boundary was formed by a line from the Chowchilla River south along Road 15 to Avenue 17; east along Avenue 17 to Road 19; south along Road 19 to Avenue 12 [Firebaugh Road]; east on Avenue 12 to Road 22; and south along Road 22 and a line extending south to the San Joaquin River.

The petitioner based this western boundary on soil differences. The petition stated that the proposed viticultural area contains well drained, non-alkali soils well suited to the cultivation of grapes while in the western part of the county, the soils

change to a highly alkali type unsuited for grape growing. During the hearing, Steven Ficklin representing the petitioner stated that a period of several years of soil treatment would be needed to leach the alkali (high sodium) content of this soil to below the rootline of grapes, and that if the soils were not leached, the alkali content would damage grape vines.

Several respondents representing grape growers in western Madera County objected to the exclusion of the western part of the county based on soil. Mr. Robert Smith, a Madera vineyard owner and manager of vineyards in western Madera County, testified that sodium could be leached out of alkaline soils through the application of large amounts of water, such as by irrigation during farming. He also stated this process could be hastened by the application of sulfuric acid or gypsum. Smith testified that the soils in the two vineyards which he manages in western Madera County do not have high sodium levels.

Seven other persons testified during the public hearing that they have grown grapes in the western part of Madera County, some for as long as 25 years. Morgan Johnson, a Madera County grapegrower, testified that some of the soil in the western part of the county is neutral and not alkaline. He also testified that drip irrigation could substantially reduce the alkaline content of some soils in one year's time.

In post hearing comments, one additional person commented that he is growing grapes in western Madera County. The Bisceglia Brothers Wine Company in Madera also stated that they purchase grapes from western Madera County and that they favor extending the viticultural area into the western part of the county.

ATF has examined all the evidence presented in written comments, in oral testimony received at the public hearing, and in post-hearing submissions. On the basis of all available evidence, the western boundary of the viticultural area is established as the San Joaquin River, and all of the western portion of Madera County is included.

Evidence shows that grapes are grown throughout central and western Madera County, although plantings in the western portion of the county tend to be newer. Also, soil differences exist throughout western and central Madera County, based on a soil map submitted by Steven Ficklin during the public hearing. This map shows large areas of free (non alkaline) soil within the western portion of Madera County; these areas are centered along the proposed north-south boundary, and to the north along the Chowchilla River. The same map also shows substantial areas of intermittent free and saline soils in the western part of the county along the San Joaquin River.

Because of these soil types found within western Madera County, it is not possible to characterize all of the soil within this area as highly alkaline. By testimony given during the hearing, vineyards exist in free soils in this area which are identical to soils found in the central part of the county. Therefore, in order to use soils as a basis for the western boundary of the Madera viticultural area, ATF would have to draw very exact boundaries based on soil types. This is impossible due to the lack of any distinguishing geographical features appearing on U.S.G.S. maps covering western Madera County. ATF has thus determined that a geographical feature other than soils should be used to define the western boundary of the viticultural area. This geographical feature is the San Joaquin River, which divides Madera County from Fresno County, and distinguishes the viticultural area from the area to the west which is both drier and has a longer growing season.

Fresno County

As proposed, the Madera viticultural area included a small portion of Fresno County east of the San Joaquin River. This was included because Papagni Vineyards grows grapes in this area from which they produce estate bottled wines, and because it is separated from other wine growing areas in Fresno County by urban areas.

ATF is including this area in the Madera viticultural area. This area enjoys a long historical association with the Madera area due to the Papagni Vineyards there, and the fact that Papagni Vineyards makes wine using grapes both from the Madera and these Fresno County Vineyards. All available evidence shows this area of Fresno County has similar geographic criteria to the Madera area.

Name

The name Madera was well documented in the petition, and supported by written and oral testimony as referring to the viticultural area. Madera is the name of the county and largest city within the viticultural area. Moreover, the name Madera has been associated with local wines since as far back as the 1880's when the Madera Winery shipped wines bearing the Madera label to many parts of the world. Madera is currently being used by Ficklin Vineyards and Papagni Vineyards to label wines made from area grapes.

Mr. Felix Dias, Commercial Counselor to the Portuguese Embassy objected to the designation of Madeira. He pointed out possible confusion with the Portuguese island of Madeira which has produced world famous wines for over 500 years and possible confusion with Madeira wine, a class and type of dessert wine. ATF recognizes Madeira as a class and type of wine, and as a semi-generic wine designation with geographical significance. When used as a class and type designation, Madeira must be qualified with an appellation of origin if the wine is not from the island of Madeira. Mr. Dias stated use of the term "Madera" would mislead and confuse consumers, and would be unfair to the Portuguese wine industry. In its place, Mr. Dias suggested use of "San Joaquin River Valley" or other similar American appellation for the viticultural area.

ATF recognizes the similarity in the names "Madera" and "Madeira." However, all evidence shows that the viticultural area is known locally and nationally as "Madera," thus meeting the requirement of 27 CFR 4.25a(e)(2)(i). Moreover, no evidence was presented that the viticultural area is known as the "San Joaquin River Valley." The term "San Joaquin Valley" refers to a geographical area far larger than the proposed Madera viticultural area. ATF does not see any consumer confusion between Madera and Madeira wines when Madera is used as an appellation of origin on domestic wines. Madera has been used on labels of domestic wines for many years to denote wines from Madera County, California and this has not resulted in consumer confusion. Therefore, ATF is adopting the name Madera for the viticultural area.

Geographical Criteria

Elevation of the Madera viticultural area increases from west to east, from 130' along the San Joaquin River on the west, to 400' on the eastern boundary in Fresno County. Rainfall throughout the viticultural area is sparse, from 5 to 20 inches per year, and averaging 11 or 12 inches per year in the Madera-Fresno area. This differentiates the viticultural area from the west where rainfall averages 7 to 8 inches in the Los Banos-Mendota-Firebaugh areas, and from the east where rainfall is higher averaging 13 to 15 inches per year in the Friant-Auberry area.

In terms of degree days, Madera averages 4259 degree days according to records kept by the Madera Irrigation District. This contrasts with warmer

areas both to the north where Merced averages 4430 degree days, and to the south where Fresno averages 4680 degree days.

The growing season in the Madera viticultural area averages between 260–270 days, with periodic freezing temperatures during the winter which trigger vine dormancy. To the east in the Friant-Auberry area, the growing season is 220 days, while to the west in the Los Banos-Mendota-Firebaugh area, the growing season averages 285 or more days per year. Thus, the Madera viticultural area is distinguished from surrounding areas by the length of the growing season.

Conclusion

ATF is adopting a viticultural area located in Madera and Fresno Counties, California. The boundaries are Sunnyside Road on the west, the San Joaquin River and Shepherd Avenue on the south, the county boundary and Chowchilla River on the north, and Road 26, the Santa Fe Railroad, and Avenue 15 (extended into Fresno County) on the east and northeast. The name is "Madera."

Overall, the Madera viticultural area contains approximately 700 square miles or 448,000 acres, and over 33,000 acres of wine grapes plus substantial acreages of raisin and table grapes. Primary wine grape varieties include Carignane, Barbera, Chenin Blanc, French Colombard, Grenache, Rubired, and Ruby Cabernet. Six bonded wineries have been established within the viticultural area.

Miscellaneous

ATF does not wish to give the impression that by approving Madera as a viticultural area, it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving this area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Madera wines.

Regulatory Flexibility Act

The notice of proposed rulemaking which resulted in this final rule contained a certification under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that if promulgated as a final rule, it would not have a significant impact on a substantial number of small entities. Therefore, the requirement contained in the Regulatory Flexibility Act (5 U.S.C. 603, 604) for a final regulatory flexibility analysis does not apply to this final rule.

Compliance With Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, 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 for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director is amending 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9 is amended by adding § 9.92. As amended, the table of sections reads as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.
9.92 Madera.
* * * * *

Para. 2. Subpart C is amended by adding § 9.92 which reads as follows:

§ 9.92 Madera.

(a) *Name.* The name of the viticultural area described in this section is "Madera."

(b) *Approved maps.* The approved maps for determining the boundary of the Madera viticultural area are eleven U.S.G.S. maps. They are entitled:

(1) "Clovis, Cal.," 7½ minute series, edition of 1964, photorevised 1972;

(2) "Fresno North, Cal.," 7½ minute series, edition of 1965, photorevised 1972;

(3) "Friant, Cal.," 7½ minute series, edition of 1964;

(4) "Lanes Bridge, Cal.," 7½ minute series, edition of 1964, photoinspected 1973;

(5) "Gregg, Cal.," 7½ minute series, edition of 1965;

(6) "Madera, Cal.," 7½ minute series, edition of 1963;

(7) "Kismet, Cal.," 7½ minute series, edition of 1961;

(8) "Raynor Creek, Cal.," 7½ minute series, edition of 1961;

(9) "Fresno, Cal.," scaled 1:250,000, edition of 1962, revised 1971;

(10) "Monterey, Cal.," scaled 1:250,000, edition of 1974; and

(11) "San Jose, Cal.," scaled 1:250,000, edition of 1962, revised 1969.

(c) *Boundaries.* The Madera viticultural area is located in Madera County, California. The beginning point is found on the "Fresno North," 7½ minute series U.S.G.S. map at the point where the San Joaquin River intersects the section line dividing sections 20 and 29, and sections 21 and 28, T. 12 S., R. 20 E.;

(1) Then east approximately 6 miles following the section line and Shepherd Avenue to the intersection with Sunnyside Road;

(2) Then north approximately 7 miles following Sunnyside Road and continuing along the section line to the point of intersection of sections 16, 17, 20, and 21, T. 11 S., R. 20 E.;

(3) Then west approximately 17.6 miles following the section line and continuing along Avenue 15 to the intersection with the Atchison, Topeka and Santa Fe Railroad;

(4) Then northwest following the Atchison, Topeka and Santa Fe Railroad to Road 26;

(5) Then north following Road 26 and continuing north in a straight line to the Chowchilla River in the "Raynor Creek" 7½ minute series U.S.G.S. map, and in the "San Jose" scaled 1:250,000 U.S.G.S. map;

(6) Then west following the Chowchilla River to the point where the Madera County-Merced County boundary diverges from the river;

(7) Then southwest following the Madera County-Merced County boundary to the San Joaquin River;

(8) Then following the San Joaquin River south and east returning to the point of beginning.

Signed: October 24, 1984.

W.T. Drake,

Acting Director.

Approved: November 15, 1984.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 84-32007 Filed 12-6-84; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Permanent Program Amendment From the State of Iowa Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Iowa permanent regulatory program (hereinafter referred to as the Iowa program) under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On May 8, 1984, Iowa submitted proposed program amendments pertaining to public notice of subsidence control, the amount and duration of performance bonds including methodology for determining bond amounts, and the deletion of the 10-acre prime farmland exemption which was inadvertently retained when the Iowa program was approved in 1981.

After providing an opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the amendments meet the requirements of SMCRA and the Federal regulations, with the exception of the provisions discussed below. Accordingly, the Director is approving those amendments which are consistent with SMCRA and no less effective than the Federal regulations there under, and has notified Iowa, pursuant to 30 CFR 732.17, of additional program amendments which are required. Pursuant to 30 CFR 732.17(f), Iowa must respond to this notification within 60 days.

The Federal rules at 30 CFR Part 915 which codify decisions concerning the Iowa program are being amended to implement these actions.

EFFECTIVE DATE: December 7, 1984.

ADDRESSES: Copies of the Iowa program and the Administrative Record on the Iowa program are available for public inspection and copying during business hours at:

Office of Surface Mining, Kansas City Field Office, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240; Telephone: (202) 343–7896.

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319; Telephone: (515) 281–5851.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Field Office Director, Kansas City Field Office, Office of Surface Mining, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION:

I. Background

The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5885). The approval was made effective April 10, 1981. Information pertinent to the general backgound, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register.**

II. Submission of Amendments

By letters dated May 9, 1984, Iowa submitted proposed program amendments consisting of:

(1) An amendment to Iowa subrule 4.523(63), subsidence control; public notice, to adopt by reference 30 CFR 817.122, as promulgated June 1, 1983. The rule concerns notice to surface owners of underground mining activities and would give underground mine operators some flexibility in providing notice;

(2) An amendment to Iowa subrules 4.41(1), 4.42, 4.322(3), and 4.332(3), to provide revised provisions on the amount and duration of performance bonds including a methodology for determining bond amounts; and

(3) An amendment to Iowa subrule 4.322(14) to delete the 10-acre prime farmland exemption which was inadvertently retained when the Iowa program was approved in 1981.

On June 8, 1984, OSM published a notice in the **Federal Register** announcing receipt of the Iowa amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 23872–23873). The public comment period ended July 9, 1984. An opportunity to request a public hearing was provided, but none was requested.

During review of the amendments, OSM identified two concerns:

(1) Iowa's proposed methodology for determining bond amounts does not explicity demonstrate that it represents a good approximation of actual reclamation costs; and

(2) Iowa's proposed maximum bond amount of $10,000 per acre might not be sufficient to assure completion of reclamation in the event of bond forfeiture.

OSM notified Iowa about these concerns by letter dated July 24, 1984, and Iowa responded by submitting clarifying information on August 30, 1984. The clarifying information identified the reasons why the specific methodology was chosen for Iowa and explained why the maximum bond amount will be sufficient.

On September 27, 1984, OSM reopened and extended the comment period for 15 days to solicit public comment on Iowa's clarifying information (49 FR 38150). The comment period closed on October 15, 1984, and no comments were received.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17, that the amendments submitted by Iowa on May 9, 1984, meet the requirements of SMCRA and the Federal regulations with the exception of the provisions discussed below. Only those provisions of particular concern are discussed in the specific findings which follow. Unless specifically stated, the Director approves the revisions to the Iowa subrules. Discussion of only those provisions for which specific findings are made does not imply any deficiency in any provision not discussed. The provisions not specifically discussed are found to be consistent with SMCRA and no less effective than the Federal regulations. All of the provisions involved in the amendment are cited at the end of this notice in the amendatory language in new sections 30 CFR 915.15 and 30 CFR 915.16.

Subrule 4.523(63), subsidence control; public notice

Iowa is adopting by reference 30 CFR 817.122 as promulgated June 1, 1983. The rule concerns notice to surface owners

of underground mining activities and would give underground mine operators some flexibility in providing notice. The Director finds this provision is no less effective than the Federal regulations.

Subrule 4.322(14), prime farmland exemption

Subrule 4.322(14) is amended to delete the 10-acre prime farmland exemption which was inadvertently retained when the Iowa program was approved in 1981. The Director finds that this provision is consistent with the Federal regulations at 30 CFR 785.17 which do not allow an exemption from prime farmland standards for areas of less than 10-acres.

Subrules 4.41(1), 4.42, 4.322(3) and 4.332(3) bonding

Subrules 4.41(1), 4.42, 4.322(3) and 4.332(3) are inconsistent with Federal standards. The Iowa amendments proposed a methodology for determination of bond amounts and established minimum and maximum bond amounts for different types of permitted sites.

Iowa's proposed methodology for determining bond amounts may be an innovative and administratively practicable method of calculating bond amounts. However, the Federal rules at 30 CFR 800.14 require that the bond amount be sufficient to assure completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of forfeiture. Although Iowa subrule 4.42(2) similarly requires the bond to be sufficient to assure completion of reclamation, the proposed methodology, Iowa subrule 4.41(1), does not demonstrate that it represents a good approximation of actual reclamation costs. Iowa's clarifying information was insufficient to answer OSM's concerns.

Iowa's methodology does not consider the cost of several reclamation activities that OSM has found to be major cost generators in reclamation. These activities include final cut backfilling and grading, structure removal, and revegetation activities such as seeding. Iowa's additional information did not provide OSM with actual costs for reclamation compared to the amount of bond on similar sites calculated with Iowa's methodology. OSM is not convinced that this method of determining bond amounts will provide adequate funds in the event of bond forfeiture and third-party reclamation. Because these amendments will not assure adequate bond amounts in the event of bond forfeiture, the Director finds that these amendments are less effective than the Federal regulations at 30 CFR 800.14. Therefore, the Director is requiring a program amendment that will base bond amount determinations on the actual cost of reclamation activities if they had to be carried out by a third-party.

Proposed subrule 4.42(2) provides for a maximum bond amount of $10,000 per acre. The Federal regulations contain no maximum bond amount because the bond must reflect the actual cost of reclamation. At OSM's request, Iowa provided additional rationale for selecting the $10,000 per acre amount. The additional information does not support a maximum per acre bond of $10,000.

Iowa cited Indiana data on abandoned mine land reclamation. On 15 acres of a total of 349 acres, Indiana expended $10,148 per acre. This over-run is covered under the Indiana program's bonding pool scheme. Iowa does not have a similar scheme. The data above indicate that a maximum bond amount of $10,000 per acre will not be adequate to cover the cost of reclamation if a third-party must complete it. Because reclamation costs may exceed the $10,000 per acre maximum bond amount, the Director finds these amendments to be less effective than the Federal regulations. Therefore, the Director is requiring a program amendment to remove the maximum bond amount per acre.

IV. Public Comments

No public comments were received on the proposed subrules.

V. Director's Decision

The Director, based on the above findings, is approving the Iowa subrules on subsidence notification and special permit requirements for prime farmland submitted as amendments to the approved Iowa program. As indicated above, there are a number of provisions which are inconsistent with SMCRA and less effective than the Federal regulations. By separate letter, the Director has notified Iowa, pursuant to 30 CFR 732.17(d), that certain required program amendments will be necessary. The State must reply within 60 days after notification by submitting either the text of a proposed amendment or a description of an amendment to be proposed and a timetable for enactment which is consistent with established administrative procedures in the State. The Federal rules at 30 CFR Part 915 are being amended to implement this decision.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 915 is amended as set forth herein.

Dated: November 26, 1984.

John D. Ward,

Director, Office of Surface Mining.

PART 915—IOWA

30 CFR Part 915 is amended by adding a new § 915.15 as follows:

§ 915.15 Approval of regulatory program amendments.

(a) The following amendments are approved effective December 7, 1984: Iowa subrules 4.523(63) and 4.322(14), pertaining to subsidence control; public notice and prime farmland, respectively submitted May 9, 1984.

(b) [Reserved]

30 CFR Part 915 is amended by adding a new paragraph (b) to § 915.16 as follows:

§ 915.16 Required program amendments.

* * * * *

(b) Pursuant to 30 CFR 732.17(d), Iowa is required to submit either the text for the following program amendment or a description of an amendment to be

proposed and a timetable for enactment which is consistent with established administrative procedures in the State by February 5, 1985.

Amend its program to establish criteria for determining bond amounts that will assure third-party reclamation in the event of bond forfeiture and deleting the existing provisions for a maximum bond amount per acre that may be inadequate to assure third-party reclamation in the event of a forfeiture as required by 30 CFR Part 800.

Authority: Pub. L. 95–87, (30 U.S.C. 1201 *et seq.*).

[FR Doc. 84–31735 Filed 12–6–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AM046MD; A–3–FRL–2732–7]

Approval of a Revision to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today EPA is announcing final approval of a revision to the Maryland State Implementation Plan (SIP). This revision, which was originally submitted to EPA on July 12, 1983, consists of a Plan for Compliance (PFC) for the J.L. Clark Manufacturing Company (the Company) in Havre De Grace, Maryland. The PFC ensures that the Company will come into compliance with Maryland's volatile organic compound (VOC) and visible emission (VE) regulations (COMAR 10.18.21.13B and 10.18.06.02.B).

Compliance is to be achieved by replacing coatings which now have a higher than allowable VOC content with compliance coatings. If replacement coatings cannot be developed by May 30, 1985, the Company will submit an alternative compliance plan. This plan, if accepted by the State, will be based on the alternative method of assessing compliance provided by COMAR 10.18.21.02C and will ensure compliance by October 1, 1985. If this plan is unacceptable, the Company must submit by July 1, 1985 a plan for the installation of control equipment, which will ensure compliance by March 1, 1986.

EFFECTIVE DATE: This action is effective December 7, 1984.

ADDRESSES: Copies of the revision and accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Division (3AM00), Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: James B. Topsale, P.E.

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, Attn: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 201 "M" Street, SW., (Waterside Mall), Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 804, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. James Topsale, P.E. or Mr. Paul Racette at the Region III address stated above or telephone (215) 597–4553 or (215) 597–2746.

SUPPLEMENTARY INFORMATION: On July 12, 1983 the State of Maryland submitted a revision to the State Implementation Plan (SIP) in the form of a Plan for Compliance (PFC) for the J.L. Clark Manufacturing Company in Havre De Grace, Maryland.

The Company is a manufacturer of decorated metal containers and sheets. The coating operations at the Company are subject to the provisions of Sections 10.18.06.02B and 10.18.21.13B of the State of Maryland's Code of Maryland Regulations (COMAR). These regulations govern miscellaneous coating operations and visible emissions.

EPA proposed approval of this revision in a Notice appearing in the **Federal Register** (FR 25251) on June 20, 1984. No comments were received on the proposed Rulemaking for the subject SIP revision.

The revision assures that the Company is placed on a reasonable schedule for achieving compliance with the State of Maryland's VOC and VE regulations. The Company is located in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR), which is a nonattainment area for ozone (O_3). Companies in this O_3 nonattainment area must achieve compliance with Maryland's VOC regulations on or before 1987 in order to assure that the National Ambient Air Quality Standard (NAAQS) for O_3 is met in the AQCR as expeditiously as possible, but no later than the 1987 attainment deadline.

The Company plans to achieve compliance by developing low solvent coating technology. Should this technology fail to achieve compliance, provisions for installing control equipment are included in the PFC. The complete details of this PFC are discussed in the June 20, 1984 **Federal Register** Notice.

EPA Evaluation

Based on our review of the PFC, EPA is today announcing final approval of the PFC as a SIP revision. This approval is based in part on the State's demonstration that Reasonable Further Progress (RFP) in attaining the ozone NAAQS will not be significantly affected by the plan, and on evidence that the plan will achieve compliance as expeditiously as possible. The State has determined that the Company will achieve incremental reductions in VOC emissions over a seven year period. Total VOC emissions of 93.9 tons a year in 1979 will be reduced to 41.0 tons a year by 1986.

Conclusion

This SIP revision meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Cabon monoxide, Hydrocarbons.

(42 U.S.C. 7401–642)

Dated: December 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart V—Maryland

1. In § 52.1070, Identification of Plan, is amended by adding paragraph (c)(73) as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(73) A revision submitted by the State of Maryland on July 12, 1983, consisting of a plan for Compliance for the J.L. Clark Manufacturing Company in Havre De Grace.

[FR Doc. 84-31962 Filed 12-6-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 83-1350; FCC 84-492]

Low Power Television and Television Translator Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's rules to provide for a window period for filing new and major change low power television and television translator applications. The requirement for low power television and television translator applicants to submit a financial showing or certification is eliminated, although such applicants must now certify that they have reasonable assurance of site availability. The action is necessary to simplify and expedite the processing of low power television and television translator applications.

DATES: Rule changes will become effective on December 26, 1984; FCC Form changes will become effective upon approval by the Office of Management and Budget and notice thereof will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Larry A. Miller, Mass Media Bureau (202) 632-3894.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Television broadcasting.

47 CFR Part 74

Low power television, Television translators, Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Low Power Television and Television Translator Service (MM Docket No. 83-1350).

Adopted: October 17, 1984.
Released: November 19, 1984.

By the Commission: Commissioner Quello absent; Commissioner Dawson dissenting in part and issuing a statement at a later date; Commissioner Rivera concurring and issuing a statement.

I. Introduction

1. In this proceeding the Commission is adopting further procedures to streamline and expedite the processing of low power television and television translator applications.[1] The *Notice of Proposed Rule Making* (*"Notice"*), 49 Fed. Reg. 908, released December 23, 1983, proposed three changes in the processing procedures for low power television and television translator applications. The proposals included: (1) Modification of the cut-off rules to provide for a "window" or date certain for filing applications; (2) elimination of the requirement of filing financial information or certification with applications; and (3) the designation of television translator or certain types of television translators as a priority or separate class of service for processing purposes.

2. The Commission is adopting the first two proposals; i.e., to use a series of windows for filing applications and to eliminate the requirement to file any financial information or certification. The new window filing procedure will also apply to applications now properly on file but not cut-off or linked to a cut-off application, in the manner discussed in paragraph 5, *infra*. The changes in the financial requirements will apply retroactively to all pending as well as new applicants. However, for reasons that are more fully detailed herein, the Commission will not separate the processing of television translator applications from low power television applications nor will it afford a priority to television translator applications over low power television applications.

3. A wide variety of comments were received in this proceeding from full-service television station licensees, television translator licensees and applicants, trade associations, educational institutions, low power television applicants and individuals. There was general support for the first two proposals. However, comments on the translator priority proposal were more diverse. Full-service television station licensees generally advocated priorities for fill-in translators:[2] educators generally advocated priorities for noncommercial translators; television translator licensees generally advocated priorities for all television translator applications; and low power television applicants opposed any priority for translators. All comments and reply comments were given careful consideration.[3]

II. Modification of Cut-Off Rules

4. Under the current procedure used by the Commission, applications for low power television and television translator stations which have been found acceptable for filing are placed on an A cut-off list. This Public Notice invites competing applications until a specified cut-off date approximately thirty days later. Due to various factors, including the significant reduction and simplification of the information required in applications and the freeze on the filing of new low power television and television translator applications, almost all applications appearing on recent cut-off lists have generated numerous competing applications. The March 8, 1984, cut-off list, which contained approximately 3,400 applications, generated approximately 25,000 competing applications. This processing procedure entails administrative delay which has impeded the implementation of the low power television service and the expansion of the television translator service. Use of the cut-off lists requires double processing of all applications placed on cut-off lists. First, an application must be processed to determine whether it meets the Commission's technical requirements and whether it will cause interference to licensed or pending but cut-off facilities. If an application passes this initial evaluation, it is then placed on a cut-off list. After the cut-off date, the application must be processed again to determine whether any competing applications were filed by the cut-off date, in order to identify all mutually exclusive applications for lottery. This redundant processing is an inefficient use of the Commission's limited resources.

5. The Commission herein is adopting modified rules which eliminate the use of cut-off lists for the processing of low power television and television

[1] The modified rules are contained in Appendix A.

[2] Fill-in translators are used to provide service to areas within the city grade, Grade A or Grade B contours of a full-service television station, that do not receive adequate service due to terrain shielding.

[3] The comments and reply comments are summarized in Appendix B.

translator applications. As proposed in the *Notice*, filing windows will open no less than thirty days after Public Notice of the window is given by the Commission. The Public Notice will specify how long the filing window will remain open, generally five work days.[4] Windows will be opened as frequently as possible in order to provide various opportunities for filing applications, but consistent with the Commission's need to maintain an orderly processing procedure and our desire to use our resources efficiently. Applications filed during a window will be made available for public inspection after they have been entered into the Broadcast Application Processing data base. Applications filed during a window, which are found acceptable, will be either placed on a proposed grant list pursuant to § 73.3572(f)(4) of the Commission's Rules or grouped for a lottery with other mutually exclusive applications filed during that window and placed on a lottery public notice pursuant to §73.3572(f)(2) of the Commission's Rules. In order to expedite the processing of properly filed pending applications that have been cut-off, such applications will be cut-off on the last day of the first national window filing period. Applicants that intend to file competing applications against these properly filed pending applications that have not been cut-off and are not linked to any cut-off applications, may file during the appropriate window filing period. Although a list of these applications will not be issued by the Commission, they may be identified by reference to the Commission's engineering data base.

6. Filing windows will expedite the processing of applications and will help to reduce the processing delays encountered by both television translator and low power television applicants. Use of filing windows for low power television and television translator applications will do much to eliminate the practice of one applicant copying another applicant's information and submitting it as its own. Filing windows should also eliminate the deliberate creation mutually exclusive situations by over-filing on applications as they appear on cut-off lists. Over-filing has been a source of frustration to applicants who have diligently prepared an application and waited years only to have numerous competing applications filed on the cut-off date. Filing windows will provide an equal opportunity to all potential applicants to file new applications and will not disadvantage the first-filed application as sometimes occurred in the past. In addition, because of the contour overlap rules used to determine interference for low power television and television translator applications, unique and complex linkage situations often develop. Hundreds of applications may be linked together because of potential interference as defined by the Commission's Rules. This extensive linkage is extended by the doctrine of *Kitty Hawk Broadcasting*, 7 FCC 2d 153 (1967), which holds that an applicant must file by a cut-off date even though not mutually exclusive with an applicant on the cut-off list or risk being precluded due to the filing of an intervening application that links the applicant to the cut-off list. Thus, extensive linkage coupled with the holding of *Kitty Hawk Broadcasting* dictates that prudent applicants file on virtually every cut-off list in order to avoid being precluded from filing by other adjacent applications to which they are linked.

7. We have found no legal impediment to the use of filing windows either in legislative provisions or in judicial decisions. Neither section 309(b) of the Communications Act of 1934, as amended, nor *Ashbacker* v. *FCC*, 326 U.S. 327 (1945), requires the Commission to use cut-off lists in processing applications. Section 309(b) requires the Commission to give public notice of the acceptance for filing of an application 30 days prior to its grant. This requirement will remain. Moreover, the Supreme Court in *Ashbacker* v. *FCC*, 326 U.S. at 333, n. 9., recognized that the Commission could establish dates for the filing of conflicting applications. *See also Radio Athens, Inc.*, v. *FCC*, 401 F.2d 398 (D.C. Cir. 1968). In *Century Broadcasting Corp.* v. *FCC*, 310 F.2d 864 (D.C. Cir. 1962), the flexibility of the Commission in fashioning procedural "housekeeping" rules was recognized. While the courts have traditionally required the Commission's cut-off dates to "fairly advise prospective applicants of what is being cut-off by the notice," *Ridge Radio Corp.* v. *FCC*, 292 F.2d 770, 773 (D.C. Cir. 1961), the filing windows being adopted herein meet this requirement. Prospective applicants will be notified by a general Public Notice that they must file their application during the specified filing period in order to receive consideration along with any other mutually exclusive applications filed during the same filing period.

8. Certain parties have commented that use of filing windows will engender a land rush mentality and stimulate the filing of applications by parties with no plans to use the channels for which they have applied. However, once the remaining Tier II and III locations are opened for filing, we anticipate massive filings for available channels regardless of whether cut-off procedures or filing windows are used. It has been argued that cut-off lists have been used by some over-filers to target other applicants that might be willing to buy them out. If this is so, without cut-off lists these frequency speculators will be less inclined to file applications since there will be no readily apparent party with whom to negotiate a settlement or to whom a construction permit may later be sold.

9. Comments were requested on appropriate groupings for given window periods. Of the responsive comments, none presented viable plans for dealing with the prejudice to adjacent groups due to daisy chain effects [5] which would result from any given grouping. In certain areas such as Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands, physical distance may allow for separate windows. However, except in isolated situations where it is apparent that no prejudice will occur to adjacent areas, we will open the filing windows for all available channels throughout all of the country. This procedure will allow many applications in rural areas to be processed expeditiously since they may generally be unopposed. Television translator organizations will be able to apply for the channels which they need to provide service without the fear of inviting competing applications when they appear on a cut-off list. In addition, the filing window can be used by existing stations to file major change amendments. We feel that this approach will do much to eliminate the delay and over-filings that television translator and low power television applicants have faced since the implementation of the low power television service. In addition, we will continue our policy of expediting the processing of applications which are not mutually exclusive.

[4] The Commission intends to retain some discretion as to the timing of the windows and the periods they will be open. This discretion is necessary in order to respond to changing circumstances in the processing of low power television and television translator applications.

[5] Because of the contour overlap interference criteria used for low power television and television translator applications, daisy chains of mutually exclusive applications may extend for hundreds of miles. Daisy chains occur when an application is mutually exclusive, i.e., would cause interference, with an application in an adjacent community, which is mutually exclusive with an application in another adjacent community, and so on.

III. Financial Information

10. For the reasons stated in the *Notice* and for the reasons stated herein, the requirement that an applicant for a low power television or television translator authorization file any information or certification concerning its financial qualifications is being eliminated. Thus, completion of Section III, Financial Qualifications, on FCC Form 346 will no longer be required of low power television and television translator applicants. Because a strict one-year construction period is applied to low power television and television translator authorizations, a mechanism for post-lottery enforcement is in place that will provide for termination of authorizations won without appropriate financial backing. Moreover, since compliance will now be monitored post-lottery, it is in the public interest to have the changes apply retroactively to all pending as well as new applicants.

11. We believe that, in compliance with the statutory mandate of the Communications Act of 1934, as amended, the Commission may refrain from soliciting financial information from an applicant. Pursuant to section 308(b) "all applications for station licenses . . . shall set forth such facts as the Commission by regulation *may* prescribe as to citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station . . . ." 47 U.S.C. 308(b) (1981). (Emphasis added.) The United States Court of Appeals for the District of Columbia has confirmed that the Commission's inquiry into the financial qualifications of its applicants is discretionary.

Also, the provisions of 47 U.S.C. 308(b) authorizing consideration of factors of 'citizenship, character and financial, technical and other qualifications' is not violated because it does not require scrutiny of an applicant's financial fitness. That section leaves it within the discretion of the Commission to decide which facts relating to such factors it wishes to have set forth in applications. Since this leaves the Commission free to have no facts set forth on any of these matters, if it finds such action appropriate, it follows necessarily that the Commission is not required to consider financial fitness if it deems it irrelevant to its regulatory scheme. [*National Association of Regulatory Utility Commissioners* v. *FCC*, 525 F.2d 630, 645 (D.C. Cir. 1976).]

12. We further believe that in the case of low power television and television translator service we no longer need information on the financial qualifications of an applicant, or even a financial certification from an applicant, in order to make the public interest determination whether to grant an application as required by Section 309(a) of the Communications Act of 1934, as amended. 47 U.S.C. 309(a) (1981). Thus, we believe that we can discharge our statutory obligation with a simplified low power television and television translator application form which does not elicit information or a certification on the financial qualifications of an applicant.

IV. Separation and Priority for Television Translators

13. The Commission also requested comments on various alternative proposals to designate television translators as a priority or separate class of service for processing purposes with low power television secondary to it. Since television translator and low power television stations share the same frequencies, and since on a technical basis the operation of the stations is nearly equivalent, they are now processed together.

14. Since the establishment of the low power television service the Commission has attempted to balance two principal goals for the provision of television service. One of these goals is to recognize the contribution that the traditional translator has played in providing television service to areas where direct reception of full-service television stations is hindered by distance or intervening terrain barriers. To promote this goal, we have avoided rules that would make translator service more difficult to provide, especially in isolated rural areas where the need for television service is greatest. A second goal is to provide maximum flexibility for new originating services to come into being, easily and at low cost, and to provide for expansion of existing translator service. *Notice of Proposed Rule Making in Docket 78–253*, 82 FCC 2d 47 (1980) at paragraph 6. Such flexibility allows low power television stations to develop programming tailored to the needs and interests of the local community.

15. The Commission's attempts to balance these sometimes competing goals have included various actions. The Commission first attempted to initiate low power television service while at the same time protecting television translator service by accepting television translator applications with waiver requests to originate programming, under interim processing procedures established in 1980. *Interim Processing Procedures*, 48 RR 2d 291 (1980). These interim processing rules were designed to allow the continued processing of television translator applications while at the same time accepting new low power television applications for filing. It was believed that a total freeze on the acceptance and processing of television translator applications would not be in the public interest. At the same time, processing of only television translator applications during the interim period, when the low power television rule making was pending, would have seriously prejudiced the ability of low power television applicants to compete for available channels upon approval of the service.

16. During the interim period, the overwhelming demand for low power television stations was manifested in the thousands of low power television applications received by the Commission. The large number of applications threatened the ability of the staff to provide orderly and expeditious processing. Therefore, a series of partial and eventually total freezes was implemented in order to reduce the flow of applications to manageable levels. The partial freezes were designed to allow low power television and television translator applications to be filed first in the most rural and underserved areas. This design facilitated the two goals by allowing the continued filing of television translator applications in the areas traditionally served by translators and also allowing for the filing of low power television applications. Although the "total" freeze on new and major change applications which has been in effect since September 15, 1983, has been disruptive to the plans of some potential applicants, it has allowed the Commission to implement the lottery mechanism and make strides in processing both television translator and low power television applications.[6]

17. We have determined, based on our experience and the comments received in this rule making, that the public interest will best be served by the expeditious processing of all applications and not by choosing one group of applicants to favor over another. We have not been persuaded that expedited processing of television translator applications must come at the expense of providing maximum flexibility for existing television translator stations that want to switch to low power television status and new low power television stations, that can

[6] Under the current freeze only applications submitted in response to cut-off lists, or for television translator stations bumped from channels 70 through 83 due to land mobile radio use, may be filed. As noted above, the Commission has received more than 30,000 low power television and television translator applications in response to cut-off lists.

provide a local programming outlet beyond the capability of a television translator. Thus, we will continue to balance these two goals by seeking to accommodate both television translator and low power television applicants.

18. Under the Commission's rules a low power television station may operate as a television translator, rebroadcasting the programming of a full-service television station.[7] Thus, any attempt to give a processing priority to television translators should take into consideration all the low power television applicants that propose to operate as television translators. A provision would have to be made for giving the same priority to these low power television applicants. New restrictions on programming changes for low power television and television translator stations would be necessary to maintain the integrity of this television translator priority. Significantly, restrictions on switching from television translator to low power television status would unduly penalize television translators that desire to do small amounts of local origination programming. The low power television service was initially designed to allow existing translators to provide some local origination programming. This flexibility is still a valid goal and should not be restricted. Since low power television licensees may operate as translators and also originate programming, hybrid systems have become a popular method of operation. Low power television stations are operating as translators for a good part of the time, with the institution of some local origination programming as appropriate for a particular area. Despite the fact that low power television stations are commonly thought of as stations that engage in continuous program origination, many communities, particularly the smaller ones, lack the resources to sustain such a station. However, some of these communities may desire local programming on a limited scale. Local news, sports events and public affairs programs are now carried on an occasional basis by low power television stations that were previously strictly limited to rebroadcasting by the Commission's television translator rules. The elimination of this flexibility, which would be required by priority processing, would be destructive to the further development of these hybrid stations. In addition, relaxation of the origination requirements has permitted former exclusively translator operations to convert to low power television and to establish an economic base in a particular community by selling advertising time. The income so generated is used to finance the translator portion of the operation. Thus, the priority now proposed for translators may be short sighted. Low power television as a broadcast service is in its infancy and should be given an opportunity to develop without further restrictions.

19. In any event, the primary complaint of those parties advocating a priority for television translators is that processing in combination with low power television applications has caused delays in the granting of television translator applications. The rule changes being adopted herein, particularly the use of window filing periods, will substantially reduce the processing time for television translator applications without providing a specific priority for such applications. The use of windows will eliminate the practice of over-filing competing applications on television translator applications. With fewer mutually exclusive situations, the applications which are filed may be processed more expeditiously. Therefore, we believe that expeditious action on television translator applications may be provided without the need to designate television translator applications as a priority.

20. For the most part, the commenting parties have focused on programming related arguments. The parties have attempted to show that television translator stations are entitled to a preference because they rebroadcast the signal of a full-service television station, which has more stringent programming requirements than low power television stations. It is argued that full-service television programming guidelines will insure that the signals rebroadcast by television translators will be superior to low power television programming. However, on June 27, 1984, the Commission adopted *Deregulation of Commercial Television*, 56 RR 2d 1005 (1984), eliminating formal programming guidelines for full-service commercial television stations. In addition, the television translator station will not be able to respond to local community needs unless the primary station, which the translator is rebroadcasting, determines that it will respond to the needs of the translator community.[8] Since the primary station is often located a considerable distance from the translator station, and since a primary station may be carried on many translator stations in many diverse communities, it is impossible to determine that the needs and interests in all of the translator communities will be adequately served by the one primary station.

21. Most importantly, since low power television stations are authorized to do local program origination while television translators can only rebroadcast the signal of a full-service television station, there is a much greater probability that low power television stations will establish a local presence, *e.g.*, a local studio, and be more responsive to community needs and interests. In view of the foregoing, we find no basis for determining that television translator applications are entitled to a preference over low power television applications based on claims of superior programming.

22. It has also been suggested that a priority be afforded to television translators carrying various types of primary stations providing network programming, independent programming, and public television or noncommercial programming. Certain parties suggest that each community should be served by the three television networks, two independent stations and public television before low power television applications are accepted. However, support of a priority system based on a preference for certain types of programming runs counter to past Commission decisions. For example, in the reconsideration of the *Low Power Television Report and Order*, 53 RR 2d 1267 (1983) ("*Reconsideration*"), the Commission stated:

> [T]here is no basis for preferring Neighborhood's programming proposals over any others. The *Report and Order* imposed a minimum of program content regulations on low power television stations so that they may be responsive to marketplace conditions. *Report and Order*, at 21490. Since we favor no particular programming, we cannot favor Neighborhood's plan over other proposals. [*Reconsideration*, 53 RR 2d at 1277.]

Just as it was not appropriate to take certain programming proposals into consideration in the *Reconsideration* it

[7] The basic distinction between low power television and television translator stations is that television translators are limited to rebroadcasting the signals of full-service television stations and cannot do more than 30 seconds of local origination programming per hour. Low power television stations may carry any type of broadcast programming and do any amount of local origination programming.

[8] Some of the commenting parties are UHF licensees that transmit subscription programming for a significant portion of their broadcast time. Under these licensees' proposal, television translators carrying this subscription programming would be entitled to the same processing priority as any other television translator carrying non-subscription programming.

would also not be appropriate now to grant priorities to translator applications based on programming proposals. By affording a priority to translators the Commission would, in effect, be stating that the rebroadcast of programming by a translator should be preferred over the local origination outlet of a low power television station. We believe that this decision is more appropriately made in the marketplace and not by the Commission.

23. In addition to the above, there are procedural difficulties in providing for a priority for television translators. If television translator applications were now given a processing priority, applicants for low power television stations might file for television translators in order to secure the priority.[9] This would only exacerbate processing delays. Even if the Commission made the change from television translator to low power television service a major change, it may not be sufficient to deter mass filings of applications for television translator service. Since, as suggested in the comments, speculative filers often have no intention to utilizing the channels for which they apply, a limitation on the use of the channel would not be an effective deterrent. The speculator still would have various options including: (1) Being paid to dismiss its application by a legitimate translator applicant; (2) selling its authorization to a legitimate translator operator; and (3) retaining its authorization on the channel anticipating that the Commission will again change its rules. Proposals such as requiring a television translator applicant to submit written authority to rebroadcast the proposed primary station signal or requiring a television translator station to operate as a translator for a fixed number of years, also would not appear to solve the processing delays.

24. Designating certain classes of television translator applicants as a priority for processing purposes presents even more problems. Various commenters have suggested providing an absolute priority for translator applications to fill in the City Grade, Grade A or Grade B contour of full-service television stations. However, the Commission would be required to develop standards for determining whether certain areas within a specified contour of a full-service station were in fact not served. These technical quantification standards would be difficult, if not impossible, to develop and administer. Such priorities would require manual staff processing of applications and consideration of terrain shielding, which the Commission has previously rejected. No commenters advocating a translator priority addressed these difficult problems. Additionally, no comments were filed as to how to deal with the equally difficult situation where the unserved area is on the edge of the primary station's specified contour, and the priority translator is used to extend coverage rather than fill in unserved areas. Most commenters also advocated use of a full-service station's Grade B contour as the relevant coverage area. Under the proposed procedure a full-service television station would be entitled to an absolute preference for a television translator station that would serve any unserved area within the station's Grade B contour even if the television translator significantly extended the full-service station's signal into areas outside the Grade B contour and even if it extended the coverage of the full-service station into totally new communities. Full-service television stations might find some areas within their Grade B contours that would qualify for a television translator priority, but that would be used primarily to extend coverage into new areas. Grants of such applications would, of course, preclude the filing of conflicting low power television applications in those areas.

25. The arguments of the various educational institutions, and noncommercial broadcasters echo the previous claims of the National Association of Public Television Stations ("NAPTS") in its Petition for Further Reconsideration of the *Low Power Television Report and Order*, 51 RR 2d 476 (1982), and *Reconsideration*, 53 RR 2d 1267 (1983). The Commission, in its *Memorandum Opinion and Order*, FCC 83-486 (released October 27, 1983), considered the argument that elimination of the priority previously accorded television translator rebroadcasts of noncommercial programming seriously impairs the ability of noncommercial television to extend its services to remote areas of the country. Noncommercial broadcasters previously had an absolute priority for television translators on channels reserved for full-service noncommercial applicants in the Commission's table of television assignments. The Commission's rationale for eliminating the former noncommercial translator priority applies with equal vigor to the present proposal to give a priority to noncommercial applicants on all translator channels. We are not persuaded that there is an immediate risk of spectrum shortages which will curtail expansion of public television service to remote and unserved areas of the country. We also would note that numerous low power television applicants have proposed noncommercial service. Moreover, as explained in paragraph 6, the use of filing windows should also reduce processing delays and mutally exclusive situations for noncommericial translator applicants.

26. After giving careful consideration to the various proposals for affording television translator applicants a processing priority over low power television applicants, we have reached the conclusion that the public interest will be served by maintaining our present balance between the goals of maintaining television translator service and encouraging new low power television service. Adoption of television translator priorities would require the formulation of new regulatory restrictions that would severely impair the present flexibility for providing originating services. The ability of licensees, including television translator licensees, to respond to marketplace conditions would be significantly curtailed. Finally, implementation of the low power television service would be substantially delayed.

V. Terrain Shielding and Site Availability

27. The *Notice* invited comments on any other procedures that would effectively expedite consideration of low power television and television translator applications. The most frequently proposed procedural change was for the Commission to take into consideration terrain shielding when calculating anticipated interference. It was contended that consideration of terrain shielding would eliminate many situations of apparent mutual exclusivity. Many commenters argued that the Commission's policy does not fully take into account all terrain factors and has inhibited the development of television translator and low power television service in many mountainous areas of the country. It was contended that processing applications without consideration of terrain shielding causes an inefficient use of radio spectrum since it precludes the use of many channels in locations where the Commission's theoretical analysis indicates interference would occur. Although we are sympathetic to the

[9] Currently a television translator station may change to a low power television station by filing a letter of notification with the Commission.

concerns of the commenting parties, we will not make the procedural changes requested. As stated in the *LPTV Report and Order* and *Reconsideration*, there is no universally accepted method of predicting the effects of terrain shielding. Moreover, it is far beyond our staff capacity to evaluate individually thousands of terrain shielding claims. We continue to believe that for Commission to become embroiled in terrain shielding disputes at this time would frustrate our efforts to expedite grants of television translator and low power television applications. However, when the flow of applications diminishes it may be appropriate to reconsider the terrain shielding issue.

28. Another proposal which was made by many commenting parties is to require that some evidence of site availability be submitted with all applications for low power television and television translator service. It was suggested that the requirement to file some evidence of site availability would limit the number of frivolous applications filed with the Commission. Some commenters suggested that applicants be required to submit written authorization from the site owner evidencing a willingness to make the site available. Other commenters suggested that an applicant be required to certify that it has contacted the site owner and has obtained reasonable assurance of the site availability.

29. The Commission has held that although an applicant need not have a binding agreement or absolute assurance of a proposed site, an applicant must show it has obtained reasonable assurance that its proposed site is available. Some indication by the property owner that he is favorably disposed toward making an arrangement is necessary. A mere possibility that the site will be available will not suffice. *William F. Wallace and Anne K. Wallace*, 49 FCC 2d 1424 (Rev. Bd. 1974). The specification of a site is an implied representation that an applicant has obtained reasonable assurance that the site will be available. A failure to inquire as to the availability of a site until after the application is filed is inconsistent with such a representation. See *William F. Wallace, supra*. In view of this longstanding Commission requirement we are adding a question to FCC Form 346 which will require an applicant to certify that it has obtained reasonable assurance from the property owner that the site will be available.[10] The certification will include a reference to the name and location of the person contacted.

30. The certification and related information is necessary for applications in the low power television and television translator service for several reasons. It appears that a significant number of applicants may submit that the site will be available. This situation creates processing delays for all applicants because the staff must consider and process many applications that are not compete since they do not have reasonable assurance of a site. To date, approximately 29 percent of the low power television lotteries have drawn petitions to deny against the tentative selectee. Excluding the petitions to deny filed by Neighborhood TV Company based on its court appeal,[11] 65 percent of the petitions to deny raise issues of site availability. In 40 percent of the cases were site availability is raised we have found the tentative selectee's application deficient in this respect and dismissed its application. Another 20 percent of the cases have raised site issues that require the solicitation of further information by the staff. Thus, site availability is the major basis for challenging lottery winners and results in the dismissal of a significant number of lottery winners. Further, when a construction permit is granted to an applicant that does not have a site and thus does not build a station, service to the public is delayed and a qualified applicant may be prevented from obtaining an authorization and providing a needed service.[12] Therefore, in order to maintain the integrity of the applications process and in order to expedite processing of qualified applicants, we are adopting this site certification requirement. We feel this action will not be burdensome on applicants, since our current policy already requires that they obtain reasonable assurance that the proposed site is available. The only new requirement is that the applicant now verify this action on the application form.

VI. Other Matters

31. We are also adopting various "housekeeping" rule changes herein which are necessary to clarify and conform various rule sections and delete inapplicable rules. All of the rule changes adopted herein are reflected in Appendix A.

32. Section 73.3516(c) is being modified to remove a provision which provided for the filing of a television translator application on a channel on which a UHF full-service station had been authorized but not yet placed into operation. This section, which was inadvertently not changed at the time the low power television rules were adopted, eliminates an inconsistency in the Commission's Rules.

33. In § 73.3572(f)(2), certain minor clarifications are being made concerning the 30-day Public Notice announcing lotteries. Minor changes are made in §§ 73.3580(d)(1) and 74.784 distinguishing the local public notice and station identification requirements for low power television licensees that are locally originating programming as defined by § 74.701(h) of the Commission's Rules. Section 73.3584(c) is modified to make it clear that 30 days is allowed for filing petitions to deny applications which appear on a proposed grant list. Section 74.735(c)(4), requesting certain technical information, is being deleted since the information requested is no longer necessary. Section 74.780 is being updated to specify correctly the various broadcast regulations which apply to low power television and television translator stations. Section 74.763(b) is added to conform to the full-service television requirements for reporting discontinuance of operation. A minor clarification is being made in § 73.3564 to reiterate the complete and sufficient standard for acceptance of low power television and television translator applications and conform this section with § 73.3591 and the *Low Power Television Report and Order*, 51 RR 2d 476, 502 (1982). Various other minor

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[10] The applicant certifies that it has contacted an authorized spokesperson for the owner of the rights to the proposed transmitter site and has obtained reasonable assurance that the site will be available for its use it this application is granted. —— Yes —— No The person is ———— who can be contacted at the following address and telephone number ————.

[11] The *LPTV Report and Order*, which promulgated the low power television rules, was appealed by Neighborhood TV Company, Inc. Neighborhood TV Company, Inc. argued that television translator applications should have been processed separately from low power television applications. Appellant maintained that applications that were on file at the time the low power television service was initiated were prejudiced by the Commission's decision to process low power television and television translator applications together. The Court of Appeals recently denied Neighborhood's appeal. *Neighborhood TV Company, Inc.* v. *FCC*, No. 83–1635 (D.C. Cir. Aug. 17, 1984).

[12] Based upon our experience, applicants without the site specified in the application often request to move to another site after grant of the construction permit. This is usually a major change. Pursuant to § 73.3572 of the Commission's Rules, a major change requires the assignment of a new rule number to an application and reprocessing of that amended application which, as far as the technical proposal is concerned, entails the same processing as a new application.

references and inconsistencies[13] have been corrected in the following: §§ 73.3540(c)(1), 74.765(b), and 74.783.

34. Pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Commission certifies that the action proposed will not have a significant economic impact on a substantial number of small entities. The rule revisions are designed to simplify and expedite processing procedures.

VII. Conclusion

35. In view of the foregoing and pursuant to sections 1, 3, 4 (i) and (j), 303, 308, 309 and 403 of the Communications Act of 1934, as amended, it is hereby ordered that the action taken herein and the amendment of the Commission's Rules as set forth in Appendix A, are effective December 26, 1984.

36. It is further ordered, that revised FCC Form 346 is amended, effective upon approval by the Office of Management and Budget.

37. It is further ordered that this proceeding is terminated.

38. For further information concerning this proceeding contact Larry A. Miller, Mass Media Bureau, (202) 632–3894.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—RADIO BROADCAST SERVICES

1. 47 CFR 73.3516 is amended by revising paragraph (c) to read as follows:

§ 73.3516 Specification of facilities.

* * * * *

(c) An application for a construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit or license, will not be accepted for filing.

* * * * *

§ 73.3540 [Amended]

2. 47 CFR 73.3540 is amended by removing paragraph (c)(1).

3. 47 CFR 73.3564 is amended by revising paragraphs (a) and (c) and adding new paragraph (d) to read as follows:

§ 73.3564 Acceptance of applications.

(a) Applications tendered for filing are dated upon receipt and then forwarded to the Mass Media Bureau, where an administrative examination in made to ascertain whether the applications are complete. Except for low power TV and TV translator applications, those found to be complete or substantially complete are accepted for filing and are given file numbers. In the case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications that are not substantially complete will be returned to the applicant. In the case of low power TV and TV translator applications, those found to be complete and sufficient are accepted for filing and are given file numbers. Low power TV and TV translator applications that are not complete and sufficient will be returned to the applicant.

* * * * *

(c) At regular intervals the FCC will issue a Public Notice listing all applications and major amendments thereto which have been accepted for filing. Pursuant to §§ 73.3571(c), 73.3572(c) and 73.3573(d), except in the case of low power TV and TV translator applications, such notice shall establish a cut-off date (no less than 30 days from the date of issuance) for the filing of mutually exclusive applications and petitions to deny. However, no application will be accepted for filing unless certification of compliance with the local notice requirements of § 73.3580(h) (Local public notice of filing of broadcast applications) has been made in the tendered application.

(d) Notwithstanding the provisions of the section and § 73.3572, new and major change applications for low power TV and TV translator stations will be accepted only on the date(s) specified by the FCC in a Public Notice.

4. 47 CFR 73.3572 is amended by revising the introductory text of paragraph (a), (a)(1), introductory text of (f), (f)(1), (f)(2) and (f)(4) to read as follows:

§ 73.3572 Processing of TV broadcast, low power TV, and TV translator station applications.

(a) Applications for TV stations are divided into two groups:

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or community of license which is in accord with a present allotment contained in the Table of Assignments (§ 73.606). Other requests for change in frequency or community of license for TV stations must first be submitted in the form of a petition for rulemaking to amend the Table of Assignments. In the case of low power TV and TV translator stations authorized under Part 74 of this chapter, a major change is any change in:

(i) Frequency (output channel) assignment;

(ii) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line;

(iii) Antenna height;

(iv) Antenna location exceeding 200 meters; or

(v) Authorized operating power.

However, if the proposed modification of facilities, other than a change in frequency, will not increase the signal range of the low power TV or TV translator station in any horizontal direction, the modification will not be considered a major change. Provided further that the FCC may, within 15 days after the acceptance of any other application for modification of facilities advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

* * * * *

(f) *Processing of applications for low power TV and TV translator stations.* (1) Applications for low power TV and TV translator stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. The FCC will specify, by Public Notice, a period for filing low power TV or TV translator applications. The filing period will open no less than 30 days after release of the Public Notice and remain open for an least five work days.

(2) Subsequently, the FCC will release a Public Notice: (i) Establishing a date, time, and place for a public lottery; (ii) accepting for filing mutually exclusive applications which were timely filed during the filing period previously specified by the FCC; (iii) designating the listed mutually exclusive applications for public lottery pursuant to the procedures set forth in § 1.1601 *et seq.*; and (iv) describing each applicant's certified perferences and selection probabilities and assigning to each applicant a number block. (It will be the applicant's responsibility to notify the FCC, within 30 days of the release of the

[13] A further inconsistency in paragraph 47 of the *Reconsideration of the LPTV Report and Order*, 53 RR 2d 1267 (1983), is hereby corrected. Major changes include substantial changes in an applicant's ownership as defined in § 73.3572.

Public Notice, or any omissions of applications or clerical or mathematical errors in preferences or probabilities. The FCC will not entertain appeals involving these matters if timely notification to the FCC has not been made.) If necessary, the FCC will release subsequent Public Notices correcting only clerical or mathematical errors and including any previously omitted mutually exclusive applications. The public lottery pursuant to the procedures set forth in § 1.1601 *et seq.*, will be held no less than 30 days subsequent to the initially released Public Notice announcing the lottery. Subsequent to the lottery, the FCC will release a Public Notice announcing the selection of a tentative selectee resulting from the lottery and providing and opportunity for the filing of Petitions to Deny pursuant to the requirements of § 73.3584(c). If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of a tentative selectee's application, the same will be granted. Those applications which, due to the lottery, are no longer mutually exclusive with other applications will be announced in a Public Notice proposing the grant of those applications and providing an opportunity for the filing of Petitions to Deny pursuant to § 73.3584(c). Groups of mutually exclusive applicants remaining after a lottery will be designated for lottery. Applications which are are not grantable due to mutual exclusivity with the permittee selected by lottery will be dismissed.

* * * * *

(4) The FCC will periodically release a Public Notice accepting for filing and proposing for grant those applications which were timely filed during the filing period specified by the FCC in a Public Notice for filing low power TV or TV translator applications, but which are not mutually exclusive with any other application, and providing an opportunity for the filing of Petitions to Deny pursuant to § 73.3584.

5. 47 CFR 73.3580 is amended by revising the introductory text of (d), (d)(1), introductory text of (g), introductory text of (g)(1), and (g)(1)(i) read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) The licensee of an operating broadcast station who files an application or amendment thereto which is subject to the provisions of this section must give notice as follows:

(1) An applicant who files for renewal of a broadcast station license, other than a low power TV station license not locally originating programming as defined by § 74.701(h), FM translator station, FM booster station or a TV translator station license, must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required. An applicant who files for renewal of a low power TV station license not locally originating programming as defined by § 74.701(h), FM translator station, FM booster station or a TV translator station licensee will comply with (g) below.

* * * * *

(g) An applicant who files for an authorization, major modification, assignment, transfer or renewal, or a major amendment thereto, for a low power TV, TV translator, FM translator, or FM booster station must give notice of this filing in a daily, weekly or biweekly newspaper of general circulation in the community or area to be served. (An applicant who files for renewal of a low power TV station locally orginating programming as defined by § 74.701(h) must give notice pursuant to (d)(1) of this section.) The filing notice will be given immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that public notice is required pursuant to §§ 73.3572, 73.3573, or 73.3578.

(1) Notice requirements for these applicants are as follows:

(i) In a newspaper at least one time; or

* * * * *

6. 47 CFR 73.3584 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 73.3584 Petitions to deny.

* * * * *

(c) In the case of applications for new low power TV or TV translator stations, or for major changes in the existing facilities of such stations, any party in interest may file with the FCC a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to § 73.3572(b)) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed within 30 days of the FCC Public Notice proposing the application for grant (applicants may file oppositions within 15 days after the Petition to Deny is filed); but where the FCC selects a tentative permittee pursuant to § 1.1601 *et seq.*, Petitions to Deny shall be accepted only if directed against the tentative selectee and filed after issuance of and within 15 days of FCC Public Notice announcing the tentative selectee. The applicant may file an opposition within 15 days after the Petition to Deny is filed. In cases in which the minimum diversity preference provided for in § 1.1623(f)(1) has been applied, an "objection to diversity claim," and opposition thereto, may be filed against any applicant receiving a diversity preference, within the same time period provided herein for Petitions and Oppositions. In all pleadings, allegations of fact or denials thereof shall be supported by appropriate certification. However, the FCC may announce, by the Public Notice announcing the acceptance of the last-filed mutually exclusive application, that a notice of Petition to Deny will be required to be filed no later than 30 days after issuance of the Public Notice.

* * * * *

7. 47 CFR 73.3591 is amended by revising paragraph (b) to read as follows:

§ 73.3591 Grants without hearing.

* * * * *

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the FCC will not consider any other application, or any application if amended so as to require a new file number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete, or, in the case of low power TV and TV translator stations, complete and sufficient, and tendered for filing by:

(1) The close of business on the day preceding the day designated by Public Notice as the day the listed application is to be available and ready for processing;

(2) The date prescribed in § 73.3516(e) in the case of applications which are mutually exclusive with applications for renewal of license of broadcast stations; or

(3) The close of business on the day designated by the FCC pursuant to § 73.3564(d) as the date(s) for filing low power TV or TV translator applications.

* * * * *

PART 74—[AMENDED]

8. 47 CFR 74.701 is amended by revising paragraph (h) to read as follows:

§ 74.701 Definitions.

* * * * *

(h) *Local origination.* Program origination if the parameters of the program source signal, as it reaches the transmitter site, are under the control of the low power TV station licensee. Transmission of TV program signals generated at the transmitter site constitutes local origination. Local origination also includes transmission of programs reaching the transmitter site via TV STL stations, but does not include transmission of signals obtained from either terrestrial or satellite microwave feeds or low power TV stations.

9. 47 CFR 74.732 is amended by revising paragraph (d) to read as follows:

§ 74.732 Eligibility and licensing requirements.

* * * * *

(d) The FCC will not act on applications for new low power TV or TV translator stations or for changes in facilities of existing stations when such changes will result in a major change until the applicable time for filing a petition to deny has passed pursuant to § 73.3584(c).

* * * * *

§ 74.735 [Amended]

10. 47 CFR 74.735 is amended by removing paragraph (c)(4) and redesignating paragraphs (c)(5) and (c)(6) as (c)(4) and (c)(5).

11. 47 CFR 74.763 is amended by adding paragraph (b) to read as follows:

§ 74.763 Time of operation.

* * * * *

(b) In the event that causes beyond the control of the low power TV or TV translator station licensee make it impossible to continue operating, the station may discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

* * * * *

12. 47 CFR 74.765 is amended by revising paragraph (b) to read as follows:

§ 74.765 Posting of station and operator licenses.

* * * * *

(b) The licenses or permits of operators employed at low power TV stations locally originating programs (as defined by § 74.701(h)) shall be posted in accordance with the provisions of § 73.1230(b).

* * * * *

13. 47 CFR 74.780 is revised to read as follows:

§ 74.780 Broadcast regulations applicable to TV translator and low power TV stations.

The following rules are applicable to TV translator stations and low power TV stations:

Section 73.653—Operation of TV aural and visual transmitters.

Section 73.658—Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

Part 73, Subpart G—Emergency Broadcast System (for low power TV stations locally originating programming as defined by § 74.701(h)).

Section 73.1201—Station identification (for low power TV stations locally originating programming as defined by § 74.701(h)).

Section 73.1205—Fraudulent billing practices.

Section 73.1206—Broadcast of telephone conversations.

Section 73.1207—Rebroadcasts.

Section 73.1208—Broadcast of taped, filmed or recorded material.

Section 73.1211—Broadcast of lottery information.

Section 73.1212—Sponsorship identifications; list retention; related requirements.

Section 73.1216—Licensee conducted contests.

Section 73.1510—Experimental authorizations.

Section 73.1515—Special field test authorizations.

Section 73.1615—Operation during modifications of facilities.

Section 73.1635—Special temporary authorizations (STA).

Section 73.1650—International broadcasting agreements.

Section 73.1680—Emergency antennas.

Section 73.1940—Broadcasts by candidates for public office.

Section 73.2080—Equal employment opportunities (for low power TV stations only).

Section 73.3500—Application and report forms.

Section 73.3511—Applications required.

Section 73.3512—Where to file; number of copies.

Section 73.3513—Signing of applications.

Section 73.3514—Content of applications.

Section 73.3516—Specification of facilities.

Section 73.3517—Contingent applications.

Section 73.3518—Inconsistent or conflicting applications.

Section 73.3519—Repetitious applications.

Section 73.3521—Mutually exclusive applications for low power TV and TV translator stations.

Section 73.3522—Amendment of applications.

Section 73.3525 (a), (b), (d), (f), (g), (h) and (i)—Agreements for removing application conflicts.

Section 73.3533—Application for construction permit or modification of construction permit.

Section 73.3534—Application for extention of construction permit or for construction permit to replace expired construction permit.

Section 73.3536—Application for license to cover construction permit.

Section 73.3538(a) (1) (3) (4), (b)(2)—Application to make changes in existing station.

Section 73.3539—Application for renewal of license.

Section 73.3540—Application for voluntary assignment or transfer of control.

Section 73.3541—Application for involuntary assignment or transfer of control.

Section 73.3542—Application for temporary authorization.

Section 73.3544—Application to obtain a modified station license.

Section 73.3545—Application for permit to deliver programs to foreign stations.

Section 73.3561—Staff consideration of applications requiring Commission action.

Section 73.3562—Staff consideration of applications not requiring action by the Commission.

Section 73.3564—Acceptance of applications.

Section 73.3566—Defective applications.

Section 73.3568—Dismissal of applications.

Section 73.3572—Processing of TV broadcast, low power TV, and TV translator station applications

Section 73.3580—Local public notice of filing of broadcast applications.

Section 73.3584—Petition to deny.
Section 73.3587—Informal objections.
Section 73.3591—Grants without hearing.
Section 73.3593—Designation for hearing.
Section 73.3594—Local public notice of designation for hearing.
Section 73.3597—Procedures on transfer and assignment applications.
Section 73.3598—Period of construction.
Section 73.3599—Forfeiture of construction permit.
Section 73.3601—Simultaneous modification and renewal of license.
Section 73.3603—Special waiver procedure applicable to applications.
Section 73.3612—Annual employment report (for low power TV stations only).
Section 73.3613—Filing of contracts (network affiliation contracts for low power TV stations only).

14. 47 CFR 74.783 is amended by revising the introductory text of paragraph (a) and paragraph (c) to read as follows:

§ 74.783 Station identification.

(a) Each TV translator station and low power TV station not originating local programming as defined by § 74.701(h), over 0.001 kw peak visual power (0.002 kw when using circularly polarized antennas) must transmit its station identification as follows:

* * * * *

(c) A low power TV station shall comply with the station identification procedures given in § 73.1201 when locally originating programming, as defined by § 74.701(h). The identification procedures given in paragraphs (a) and (b) are to be used at all other times.

* * * * *

Appendix B

List of Commenters

1. American Christian Television System, Inc. (ACTS)
2. Association of Independent Televison Stations, Inc. (ITS)
3. Association of Maximum Service Telecasters, Inc. (MST)
4. Sandi Barrio (Barrio)
5. Blair Broadcasting of Oklahoma, Inc. (Blair)
6. Blue Mountain Community College (BMCC)
7. Blue Mountain Translator District (BMTD)
8. Civic Light Television (Civic)
9. Cohn and Marks
10. Colby-Bates-Bowdoin Educational Telecasting Corporation (CBB)
11. Daly, Joyce and Borsari (DJ&B)
12. Milt Davis (Davis)
13. Dow, Lohnes and Albertson (DL&A)
14. Frontier Broadcasting Companies (Frontier)
15. Greater Willamette Vision, Ltd. (Willamette)
16. Gunnison County Metropolitan Recreation District (Gunnison)
17. Hubbard Broadcasting, Inc. (Hubbard)
18. International Broadcasting Network (IBN)
19. John S. Jacobson (Jacobson)
20. KNME-Television (KNME)
21. Lake of the Woods County (Lake)
22. Local Power Television, Inc. (Local)
23. May Broadcasting Company (May)
24. National Association of Broadcasters (NAB)
25. National Association of Public Television Stations (NAPTS)
26. National Hispanic Broadcasters Association (NHBA)
27. National Institute of Low Power Television (NILPTV)
28. National Translator/LPTV Association (NTA)
29. North Fork Television Systems (North Fork)
30. OKTV Translator System (OKTV)
31. Oregon Translator Association (Oregon)
32. Pappas Telecasting of the Carolinas (Pappas)
33. Progressive Communications, Inc. (Progressive)
34. Ralph C. Wilson Industries, Inc. (Wilson)
35. Rocky Mountain Corporation for Public Broadcasting (Rocky Mountain)
36. Fred Alan Ross (Ross)
37. Salmon Television Translator District (Salmon)
38. Satech Associates (Satech)
39. Schwartz, Woods and Miller (SW&M)
40. Scripps-Howard Broadcasting Company (Scripps-Howard)
41. Six-County Commissioner's Organization (Six County)
42. State of Alaska Division of Telecommunications Systems (Alaska)
43. Stuart B. Mitchell and Associates (Mitchell)
44. Television Station KOOD (KOOD)
45. Television Technology Corp. (TTC)
46. University of North Carolina (UNC)
47. University of Utah (U of U)
48. Villareal Broadcasting Co., Inc. (Villareal)
49. Honorable Barbara Vucanovich, M.C.
50. WPIX, Inc. (WPIX)
51. WSTE–TV, Inc. (WSTE)
52. Western Slope Communications, Inc. (Western Slope)
53. Winnebago Cooperative Telephone Association (Winnebago)

Reply Comments

1. American Christian Television System, Inc. (ACTS)
2. Association of Independent Television Stations, Inc. (ITS)
3. Blue Ridge Electric Membership Corp. (Blue Ridge)
4. Honorable James T. Broyhill, M.C.
5. Honorable James McClure Clarke, M.C.
6. Frontier Broadcasting Companies (Frontier)
7. Greater Willamette Vision, Ltd. (Williamette)
8. Hubbard Broadcasting, Inc. (Hubbard)
9. May Broadcasting Company (May)
10. National Association of Broadcasters (NAB)
11. National Translator/LPTV Association (NTA)
12. Honorable Stephen L. Neal, M.C.
13. North Platte Television, Inc. (North Platte)
14. Aracelis Ortiz (Ortiz)
15. Ralph C. Wilson Industries, Inc. (Wilson)
16. Schwartz, Woods and Miller (SW&M)
17. State of Alaska Division of Telecommunications Systems (Alaska)
18. Television Technology Corporation (TTC)
19. Western Carolina University (WCU)
20. Western North Carolina Associated Communities (WNCAC)
21. Western North Carolina Tomorrow (WNCT)

1. In this summary, an attempt was made to note all relevant comments on the proposals in the *Notice of Proposed Rule Making* (*"NPRM"*). Except where necessary to the context of the commentary, whether a statement was made in comments or reply comments is not indicated. Neither all the details nor the identity of every proponent of each suggestion are included, both for the sake of brevity and in recognition of the fact that the entire record is available for examination in the Dockets Branch at the Commission. An effort was made to include all relevant details of counter proposals.

2. Virtually all of the commenting parties supported processing procedures which would expedite the processing of applications in the television translator and low power television service. In general, the proposals set forth in the *NPRM* were supported by a majority of the comments. However, there were many variations suggested on the specific procedures to be used in implementing the general proposals. Comments were filed by a diverse group of entities including: television translator licensees and applicants; full-service television stations; low power television applicants; educational institutions; trade associations; and individuals.

3. *Modification of Cut-Off Procedures.* The majority of comments supported the general concept of filing windows for low power television and television translator applications. Some commenters such as Cohn and Marks supported a window approach only if television translator applications were not given a priority as suggested in the third proposal in the *NPRM.* Commenters supporting the idea of a filing window generally cite the prevention of misappropriation of application materials prepared by others and the reduction of systematic overfiling on applications appearing on cut-off lists; thus, resulting in the expedited processing of applicants as the main benefits of such a system. See DL&A, Civic, Hubbard, Local, NAB, NTA, and Alaska. However some commenters thought that windows would prompt the filing of more

applications (NAPTS, ACTS) because it would encourage a now or never approach (Hubbard) or gold rush attitude (IBN).

4. There was much disagreement about how the windows should be structured. Many commenters suggested that the windows should be open to both low power television and television translator applications on an equal basis. Most commenters that supported a priority for television translator applications and also supported filing windows, proposed separate filing windows for television translator applications (NAB). It was generally indicated that windows should be open on a national basis due to the potential for daisy chains prejudicing applicants in locations adjacent to the open window areas (NTA). In order to avoid a deluge of applications some commenters advocated that the present tiered system be used for opening windows (ACTS). DL&A also supported use of the current tiered system for windows with all translator applications proposing to institute, expand or maintain a first public television service to be treated as Tier I applications. Local advocated the continued use of tiers with the window approach but suggested reducing the existing 55 mile radius around ranked television markets to 35 miles. Alaska proposed splitting the country into less than 10 geographic regions. The initial regions to be opened for filing would be those where there is a high percentage of rural, underserved areas such as the Rocky Mountain regions, the midwest and, of course, Alaska. Hubbard proposed that windows be opened by channel but only after a proposed applicant filed a rudimentary petition, indicating an interest in applying for a specific channel. This approach would be similar to an allocation plan. None of the commenters that proposed the use of tiers or regions suggested procedures for dealing with the resulting prejudice to adjacent window areas. Moreover, as noted by NTA, the use of tiers will merely paint a bulls eye on specific filing areas for mass filers with the resulting large number of applications delaying service to the areas which need service the most.

5. The frequency of windows was proposed as daily (Civic), weekly (Civic), every six months (DL&A), or as needed as determined by the Commission (NTA). Alaska supported the proposal to provide 30 days or less notice of an open window. Likewise, the proposal to open a window for five work days or less was supported (DL&A). The minimum window period suggested was one day (Civic).

6. Commenters opposing a window filing approach generally indicated that this approach would not be sufficient to give translators the priority which the commenters were advocating (ITS, Cohn & Marks and Rocky Mountain). It was also suggested that limited windows would encourage the filing of applications by entities that were not prepared to provide service because of the fear of forever losing a chance at an available channel (IBN and KNME). NAPTS suggested that the use of windows would not reduce the number of applications filed nor diminish the likelihood of competing applications. NHBA opposed windows because it felt that this procedure would restrict the applicant field to big business concerns and would hinder the ability of minorities to compete in the application process.

7. *Elimination of Financial Requirements.* Comments on the proposal to eliminate the requirement that applicants file any financial information or certification were more evenly divided. Commenters supporting the elimination of the financial questions indicated that the questions were relatively useless now since they alleged the financial standards were being virtually ignored by the Commission. Since construction costs for low power television and television translators are minimal and since uncertainty concerning the source of financing at the time of filing is understandable, it would be more realistic to eliminate the financial questions (Civic). Cohn and Marks notes that if financial information is no longer deemed of value to the Commission for either an absolute or comparative analysis, it should no longer be required. Speculation as to the tendency to increase or decrease the number of applicants is irrelevant (Cohn and Marks). IBN notes that letters of financial commitment are generally equivocal and not legally binding and thus do not in fact demonstrate financial ability although they satisfy Commission requirements. Since the present financial questions do little if anything to ensure that an applicant is financially qualified, they should be eliminated and the Commission's resources devoted to other areas (NTA).

8. Most commenters supporting elimination of the financial questions also advocated strict enforcement of the one year period to construct the proposed station (NTA). However, Cohn & Marks stated that a hard and fast one year limit would not be appropriate in all circumstances. With respect to educational or state agencies, there may be valid reasons why construction is not completed in one year. Since governmental agency budgeting processes are generally limited to one year and since applications may languish at the Commission for years, it is difficult to authorize expenditures immediately upon grant of an application. Also weather and delays in equipment delivery may cause construction delays beyond the control of the permittee.

9. Many commenters opposed elimination of the requirement to file financial information or certification with an application. The general consensus was that elimination of this requirement would open the floodgates for fraudulent (BMTD), speculative (Pappas) applications and engender a land rush mentality (DL&A). Elimination of this requirement will also sanction mass filers since they will no longer need to consider their ability to finance any or all of their proposals. The NAB notes that although the Communications Act does not mandate consideration of financial qualifications, it is a sound and well reasoned policy. Consideration of financial qualifications reflects a policy that the allocation of scarce resources under government control should not be done casually and that construction permits should not be given to those not having the financial resources to utilize the assignment (NAB). Moreover, the use of a strict one year construction period to enforce financial requirements is shortsighted and inefficient in terms of administrative costs and delays in the implementation of low power television and television translator service. The public interest in implementing a procedure which will cause delay is questionable (NAB). Rocky Mountain suggested that lowering the financial requirement will result in increased numbers of applications being filed and will cause further delays in processing. Furthermore, Public Telecommunications Facilities Program applicants will be disadvantaged since they must still certify their financial ability. ACTS recommends that rather than eliminating consideration of financial qualifications, the Commission should more strictly enforce its existing financial criteria. Such action, it is contended, would significantly reduce the backlog of applications and do much to prevent speculative filings. This action would be especially effective against mass filers. Financial scrutiny, even on a random basis, would do much to expedite the processing of applications

10. *Separation and Priority for Television Translator Applications.* The proposal to separate the processing of low power television and television translator applications and to give television translators or certain types of television translators a priority drew more comments than any of the other proposals. The majority of the commenters supporting this proposal were television translator licensees and applicants, educational institutions and full-service television licensees. Numerous commenters supported absolute priorities across the board for television translator applications. Commenters indicated that since the percentage of pending applications which are for television translators is small (1000 out of 12,000) it would not be disruptive or burdensome to afford them a priority. Lake states that the primary goal of the television translator service is to bring the signals of full-service televisions stations to rural areas. Low power television stations do not necessarily contribute to this Commission goal. Also low power television stations have no obligations to provide any local programming nor are they required to directly serve the needs and interests of their licensed communities. Lake states that, based on its experience, residents of rural areas generally prefer television translator service over low power television service when given a choice. Many would also give an absolute priority to television translator applications but only after a threshold showing of need for the facility was made. Such a showing would demonstrate that the translator was necessary to fill gaps in existing service areas, to provide service to shadowed areas or to bring programming to rural or underserved markets. NAB would have an absolute priority for all traditional television translators which would exclude stations retransmitting satellite-fed programming outside the State of Alaska. It is argued that full-service television stations, which are rebroadcast by television translator stations, have public interest obligations that are absent for low power television stations. Several commenters suggested that processing priorities be made retroactive to apply to all pending applications (ITS).

11. Many educational and public television licensees supported priorities for educational or public television translators only. SW&M on behalf of numerous public broadcast clients has renewed its request to create a reservation system for public broadcast television translators which the Commission denied in the *Reconsideration* of the *Low Power Television Report and Order*, 53 RR2d 1267 (1983). SW&M further requests a priority for any public broadcast applicant proposing conventional translator operation on any channel. It is contended that such a priority is necessary in order to offset the present priority given to new commercial applicants under the Commission's lottery procedures. SW&M pointed out that an applicant for a new translator which is also the licensee of other translators or a full-service station is at an automatic disadvantage under the Commission's diversity preference scheme for lottery purposes. Separate processing is necessary in order to allow the orderly planning and implementing of state wide noncommercial educational and public television systems. KNME would give noncommercial applicants an absolute priority if only one channel is available for assignment and if the area currently receives no public television translator service. Rocky Mountain would also give an absolute preference to translators forced to change channels because of the commencment of operation of a full-service television station. Cohn & Marks, filing on behalf of a group of educators, would prefer the priority to be limited to noncommercial educational and non-satellite fed applicants.

12. Many licensed full-service stations supported a priority to fill in their coverage contours. ITS would limit the processing preference to television translators seeking to fill in the full-service station's area of dominant influence (ADI) or to extend service to underserved communities (*e.g.*, those with two or fewer full-service television stations). This would require the submission of more detailed engineering and coverage contours. MST would effectuate its proposed priority for fill-in television translators by providing for a separate window for fill-in translator applications followed by a window for all other television translator and low power television applications. Cohn & Marks would also change the present diversification disadvantage that a full-service station has when trying to obtain a translator license within its coverage area. Cohn & Marks would give the same diversity preference to a fill-in translator applicant as to an applicant for new low power television service. CBB recommends a priority for all television translator applications but especially for those located within the primary station's Grade B contour. DL&A on behalf of various licensees of noncommercial educational television stations (PTV) suggested that priority processing should be given to television translator applications which would provide or maintain a first PTV service to an area, or which would fill in a problem reception area within a service area of an existing PTV station. These favored applications would be moved to the head of the processing line. PTV translator applications would also receive a priority in the selection process, but this priority would not apply retroactively. Williamette would afford a retroactive priority to all fill-in translator applications. A licensee which was granted authority due to a fill-in priority could not change programming service without subjecting its license to competing applications. Ross proposed separate priority processing for applications to construct television translators to fill in the Grade B service contour of the primary station, where the intended service area of the proposed translator is within the Grade B contour of no other full power facility. WPIX would designate as a priority all pending and future new or major change television translator applications which seek to provide service to presently underserved areas (two or less full-service stations) or to fill in gaps in the coverage contours of existing full-service stations. WSTE would provide a priority for television translator applications to fill in the Grade B contour of the originating full-service station and for all television translators in Puerto Rico. Western Slope would give a priority to all television translator applications proposing service to communities that are located within the predicted Grade B contour of less than three full-service stations. OKTV would even go so far as to require licensed television translator stations to be notified of all pending applications for low power television service in their area, and be given a priority on that channel. Also all licensed television translators would be grandfathered for new applications on other channels at the same site.

13. Various methods were proposed by advocates of television translator priorities in order to maintain the integrity of the processing priority. Many commenters agreed that a subsequent change to low power television service by a television translator that had been licensed with a processing priority, should be classified as a major change and subject to competing applications (MST and NAB). Others would require the television translator to operate as a translator for a specific period of years; generally a

one (Lake) to five year period (May). BMTD suggests that television translators seeking a priority be required to submit written consent of the station to be rebroadcast. Commenters advocating priorities for fill-in translators generally recommended the use of detailed engineering studies or engineering affidavits to support the applicants' claims (DL&A).

14. Commenters opposing separation or a priority for television translator applications generally cited the Commission's own pronouncement in the Low Power Television Rule Making as supporting the need for and public interest in developing the low power television service. Low power television furthers the Commission goal of increased diversity and provides a unique opportunity for increased local television service (ACTS). The public policy objective of promoting diversity is deeply engrained in the infrastructure of electronic media regulation and is grounded on the Constitution itself (DJ&B). The large number of low power television applications which have been filed is further evidence of the tremendous unsatisfied demand for this service (DJ&B). If the Commission designates television translators as a priority service a large number of low power television applicants would merely switch to designate their applications as television translators. This action would occur even if a change from a low power television to television translator was a major change or other limitations applied. Applicants would still apply as television translators in anticipation of a later Commission change in policy or as mere speculators. The net effect would not be a reduction in the number of total applications but merely a change in their designation from low power television to television translator (ACTS). IBN argues that separate priority processing for television translators is merely a way for the large established broadcasters to expand and prevent new low power television applicants from competing in their markets. Local suggests that the proposals designed to speed up the processing of applications will benefit both low power television applicants and television translator applicants. To separate these two services would be an admission by the Commission that its processing procedures are a failure. If any priority is afforded by the Commission, it should be for low power television service which is more flexible and responsive to public needs than is television translator service (Local). NILPTV contends that affording a processing preference for television translators would thwart two major Commission goals: encouraging local origination programming and encouraging minority and female ownership in broadcasting. NTA states that no special priority for television translator applications is necessary if the Commission adopts a national window filing period. Alaska also feels that a window approach will expedite the processing of applications without the need for processing priorities. Alaska suggests that if it is the rebroadcast of the signal of a full-service station which is the key to its priority, then low power television stations that are involved in rebroadcast should be entitled to the same preference. The question then becomes how much rebroadcasting of conventional programming is necessary to entitle an applicant to a preference. Alaska contends that the Commission should not discriminate against one kind of programming over another. Moreover, separation of services would cause an applicant to choose between the expedited processing and absolute priority of a television translator and the flexibility to respond to programming interests of a low power television station. Mitchell urges the Commission to adopt a priority for the processing of low power television applications.

15. The *NPRM* also solicited other possible alternatives to the various proposals. The most frequently requested proposal from translator associations was for the Commission to take terrain shielding into consideration when calculating interference caused by low power television and television translator applications (NTA). It was contended that the Commission's so called "flat earth" policy has contributed greatly to the problems that beset television translator applicants, especially in the mountainous regions of the country. It is claimed that the Commission's refusal to consider terrain shelding prevents the licensing of television translators in many locations where interference in fact will not occur. Some parties would have the Commission individually consider each claim of terrain shielding. Oregon would have regional frequency coordination committees determine when interference would occur. None of the commenting parties submitted objective criteria for determining the effects of terrain shielding.

16. Another frequently suggested proposal was that all applicants be required to submit evidence of site availability. KNME would require that a written agreement with the owner of an existing tower be submitted with the application. Local would require a certification that authority from the site owner has been obtained. It is contended that if evidence of site availability would be required of all applicants, the number of applications filed would be greatly reduced with a resulting increase in the speed of processing.

17. Another suggestion was that all applicants be required to submit an affidavit of publication indicating that notice of the filing of the application has been published in a local newspaper. Although the current form contains a certification that the applicant will comply with § 73.3580 of the Commission's Rules which requires publication, it is apparent from the comments that many parties do not publish as required (BMTD). Some applicants do not publish until after they have been chosen in a lottery. Others may never publish, since the Commission no longer requires proof from the applicant (NTA).

18. Other comments concerning the classification of major and minor changes to low power television and television translator stations were filed in MM Docket No. 83–1377 which dealt with major changes to certain broadcast licenses and applications. The *Report and Order* in MM Docket No. 83–1377 indicated that to the extent these comments addressed issues in MM Docket No. 83–1350, they would be associated with that docket. We have reviewed these comments and they do not persuade us that our previous determination of what constitutes a major change should be reconsidered. Moreover, we find that these comments are outside the scope of this rule making.

19. No comments were received on the *Initial Regulatory Flexibility Analysis* which was attached as Appendix B to the *NPRM*.

Statement of Commissioner Henry M. Rivera Concurring in Part

October 17, 1984.

Re: Low Power Television and Television Translator Service

I reluctantly concur in that part of this decision that does not designate translators as a priority or separate class of service for processing purposes.[1]

Since the Commission authorized the low power television service, it has had several opportunities to provide translator service to areas of the country

[1] *See Report and Order*, paras. 13–26.

that lack television reception.[2] The Commission has taken the position that providing a priority for translators, would, among other things, greatly diminish origination flexibility for translators.[3] Such a position reflects a lack of sensitivity to the fact that to the rural citizen with no television service, any service now is much more useful than service later that might be superior because of origination capacity.

In any event, the Commission has now procrastinated to such an extent that anything we could do now will not make up for the years of service to rural areas that was lost. To the contrary, the *Report and Order* states that attempting now to give translators priority will only exacerbate the delay.[4] Given that statement, the commitment I have received from the Mass Media Bureau that it will process single applications which come from rural areas first and the Bureau's assurances that rural translator applicants will be less likely to be subject to mutually exclusive applications under the new processing system, I feel the best course is to concur. If I were writing on a clean slate, I certainly would have done things differently.

[FR Doc. 84-31737 Filed 12-6-84; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte No. MC-43 (Sub-15)]

Elimination of Thirty Day Leasing Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts final rule modifying Part 1057 of the Commission's vehicle leasing regulations by eliminating the requirement that equipment be leased for a minimum duration of 30 days when operated by its owner. The Motor Carrier Act of 1980 promotes increased competition to meet a number of important goals, among them fair wages and working conditions, productive use of equipment, and meeting the needs of shippers, receivers, and consumers. Permitting lessors to lease equipment for less than 30 days will offer the potential for increased earnings by lessors who now find themselves party to a 30-day lease with no freight to haul. Such lessors could trip-lease to other carriers.

EFFECTIVE DATE: This decision is effective on January 7, 1985.

FOR FURTHER INFORMATION CONTACT:
Robert G. Rothstein, (202) 275-7912
or
Mary Kelly, (202) 275-7292.

SUPPLEMENTARY INFORMATION: Proposed rules were published at 48 FR 39251, August 30, 1983; comment period extended for 30 days at 48 FR 44590, September 29, 1983.

Additional information is contained in the full Commission decision which is available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, or may be purchased from TS Infosystems, Inc., Room 2227, Interstate Commerce Commission Building, 12th St. and Constitution Ave., NW., Washington, DC 20423; or call toll free (800) 424-5403, or (202) 289-4357 in the Washington, DC, metropolitan area.

Environmental and Energy Considerations

We adopt the preliminary finding in the notice that this action will have no significant impact on the quality of the human environment or conservation of energy resources. No specific comments were submitted on any matter indicating that a contrary position is warranted. We reaffirm our earlier position that this rule modification will improve operating efficiency.

Regulatory Flexibility Analysis

The rules modifications adopted here will confer a significant, beneficial economic impact upon lessors of equipment by allowing more efficient equipment utilization during periods when their equipment might not otherwise be used. Authorized carrier lessees will realize a benefit in that they can augment their equipment with that leased for less than 30 days, thus offering improved service to the public. At the same time, they will be responsible for controlling equipment only for the precise time needed. These advantages to the lessee should benefit the public in the form of improved service and lower rates. The rules modification address the congressionally-mandated goal of efficient and productive utilization of equipment and energy resources, and reaffirm the agency's responsibility to encourage safe, adequate, and efficient transportation.

List of Subjects in 49 CFR Part 1057

Motor carriers.

Adoption of Rules

Accordingly, we adopt the revisions to Title 49, Part 1057, of the Code of Federal Regulations as described in Appendix B to this decision.

This action is taken under the authority of 49 U.S.C. 10321 and 11107 and 5 U.S.C. 553.

Decided: November 27, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

James H. Bayne,
Secretary.

Appendix

PART 1057—[AMENDED]

Part 1057 of the Code of Federal Regulations, Title 49, is amended as follows:

1. Section 1057.2 is amended as follows:

a. Paragraph (d) is revised to read as follows:

§ 1057.2 Definitions.

* * * * *

(d) *Owner*—A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.

* * * * *

b. Paragraphs (f) and (g) are removed.

c. Paragraphs (h), (i), (j), (k), (l), (m), (n), and (o) are redesignated as paragraphs (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

2. Section 1057.11 is amended as follows:

a. Paragraph (d)(1) is revised to read as follows:

§ 1057.11 General leasing requirements.

* * * * *

(d) * * *

(1) The authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly

[2] For example, tiered processing could have included evaluation of Tier I (rural) applications without regard to Tier II and Tier III (urban) applications; additionally, at several points, various commenters pled with the Commission to maintain a processing distinction between translator and LPTV applicants.

[3] *See e.g., Report and Order*, paras. 5, 14 and 17-26.

[4] *Report and Order*, para. 23.

indicating that the transportation is under its responsibility. These papers shall be preserved by the authorized carrier as part of its transportation records. Leases which contain the information required by the provisions in this paragraph may be used and retained instead of such documents or papers.

* * * * *

b. Paragraph (d)(2) is removed and reserved for future use.

3. Section 1057.12 is amended as follows:

a. Paragraph (c) is removed.

b. Paragraph (g) is revised to read as follows:

§ 1057.12 Written lease agreements.

* * * * *

(g) *Payment period*—The lease shall specify that payment to the lessor shall be made within 15 days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to log books required by the Department of Transportation and those documents necessary for the authorized carrier to secure payment from the shipper. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment. Payment to the lessor shall not be made contingent upon submission of a bill of lading to which no exceptions have been taken. The authorized carrier shall not set time limits for the submission by the lessor of required delivery documents and other paperwork.

* * * * *

c. Paragraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n) are redesignated as paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

d. The reference to "paragraph (d)(1)" in the newly redesignated paragraph (c)(3) is revised to read "paragraph (c)(1)".

e. The reference to "paragraphs (e)–(l)" in the newly redesignated paragraph (m) is revised to read "paragraphs (d)–(k)".

4. Section 1057.22 is amended as follows:

a. The heading and paragraph (6) are revised to read as follows:

§ 1057.22 Exemption for private carrier leasing and leasing between authorized carriers.

* * * * *

(b) The lessor must own the equipment or hold it under a lease.

* * * * *

§ 1057.23 [Removed]

5. Section 1057.23 is removed.

§ 1057.24 [Removed]

6. Section 1057.24 is removed.

§ 1057.25 [Removed]

7. Section 1057.25 is removed.

[FR Doc. 84-31996 Filed 12-6-84; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 49, No. 237
Friday, December 7, 1984

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

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561, 563, 570, 571, and 584

[No. 84-681]

Net-Worth Requirements of Insured Institutions

Dated: November 30, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to amend its regulations pertaining to the minimum net-worth requirements applicable to all institutions the accounts of which are insured by the FSLIC ("insured institutions"). The proposed rule would result in the elimination, through a straight-line amortization over five years, of the authority to (1) calculate the net worth on a five-year-average basis (except for institutions having $100,000,000 or less in assets and that increase their liabilities at a rate not exceeding 15 percent) and (2) phase in the requirement over a twenty-year period. The determination of the net-worth requirement would be changed from an annual basis calculated at the beginning of the year to a quarterly basis calculated at the end of each calendar quarter. Institutions would be required to have the minimum necessary amount at the end of the quarter rather than at the end of the year. The proposal would also impose a net-worth requirement equal to a percentage of any quarterly increase in liabilities, with the percentage varying with the amount of growth: three percent of any liability growth would be required if an insured institution grew at an annual rate of fifteen percent or less, measured from the corresponding calendar quarter of the preceding year; four percent would be required on quarterly growth if the growth was at an annual rate between fifteen percent and twenty-five percent; and five percent would be required on quarterly growth if the growth was at an annual rate in excess of twenty-five percent. The proposal would permit an institution to reduce the amount of its net-worth requirement to reflect a quarterly decrease in liabilities. Minimum net worth would continue to include two percent of recourse liabilities plus twenty percent of scheduled items. An additional amount equal to ten percent of certain direct investments would also be included in minimum net worth under the proposal. The Board is also proposing to eliminate the requirement to calculate "statutory reserves" as a percentage of insured deposits. Instead, compliance with the net-worth requirement would be considered sufficient. The Board is also proposing to require institutions with assets in excess of $100,000,000 to obtain prior approval before increasing liabilities in any quarter at an annual rate in excess of twenty-five percent. This proposal is in furtherance of the rulemaking pertaining to the Board's net-worth requirements initiated by the proposal issued by the Board on February 15, 1984, Resolution No. 84-81 (49 FR 6501, February 22, 1984) and as such, supersedes that proposal.

The Board is proposing to impose a marginal net-worth requirement on the quarterly growth in liabilities because the Board believes that the ability to leverage new liabilities beyond 33 to 1 is excessive. The Board is also concerned that the excessive growth of thrift institutions' liabilities, unsupported by additional net worth, increases the risk to the FSLIC. The proposed regulation would not necessarily require associations to generate new net worth to support net additions to liabilities. To the extent that institutions have net worth above current regulatory minimums, they can use this net worth to support additions to liabilities. The Board believes that a principal problem faced by the thrift industry is the rapid growth of thrift institutions which do not have adequate levels of capital to support that growth. This problem is seriously exacerbated by current regulations which permit thrifts to use a five-year averaging formula in calculating their minimum net-worth requirements, as well as a twenty-year phase-in of required net worth for new institutions. Further, the Board is concerned that the current lag between the date of calculation and the date upon which the requirement is to be met hampers the Board's supervisory abilities. If the proposed amendments are adopted substantially as proposed, they would become effective for any calendar quarter beginning January 1, 1985, and thereafter calculated and required to be met at the end of such quarter.

DATE: Comments must be received by December 31, 1984.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Public comments received on this proposal and materials referred to in the preamble of this document will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Robert S. Monheit, Attorney, Office of General Counsel, (202) 377-6448; Edward Taubert, Deputy Associate Director, Policy Development, Office of Examinations and Supervision, (202) 377-6484; or Robert J. Pomeranz, Policy Analyst, Office of Policy and Economic Research, (202) 377-6209, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: The Garn-St Germain Depository Institutions Act of 1982 ("DIA"), Pub. L. 97-320, amended section 403(b) of the National Housing Act ("NHA"), 12 U.S.C. 1726(b), by deleting the language that limited the FSLIC's regulatory authority concerning adequate reserves to requiring reserves in an amount no greater than 6 percent nor less than 3 percent of all insured accounts within a reasonable time, not exceeding twenty years. The DIA requires all insured institutions to "provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation", 12 U.S.C. 1726(b). Thus, the DIA eliminated (1) the reference to insured accounts as the basis of the calculation, (2) the percentage range that previously limited the Board's discretion to set reserve requirements, and (3) the direction to phase in the requirement over not more than twenty years, and it granted the FSLIC explicit broad authority over reserve requirements for all insured institutions.

Current regulations. Section 563.13 of the insurance Regulations (12 CFR 563.13 (1984)) sets forth a "statutory reserve" requirement and a "minimum net worth" requirement which the Board has used, in part, to gauge capital adequacy. The minimum net-worth requirement differs from the statutory-reserve requirement in that net worth is calculated as a percentage of total liabilities rather than as a percentage of insured accounts, and the calculation of minimum net worth includes two percent of recourse liabilities and twenty percent of scheduled items. Both the minimum net-worth requirement and the statutory-reserve requirement permit institutions to calculate liabilities and deposits, respectively, by averaging the past fiscal year with the preceding four fiscal years (a procedure known as "five-year averaging"). Also, institutions that have not reached their twentieth anniversary of insurance are permitted to phase in the net-worth and statutory-reserve requirements by multiplying three percent of liabilities and deposits, respectively, by a fraction the numerator of which is the number of consecutive years of insurance and the denominator of which is twenty (a process known as the "twenty-year phase-in").

In the rulemaking proceeding concerning reserve requirements and other policies pertaining to insurance of accounts of de novo institutions (proposed: Board Res. No. 83-608, 48 FR 51,270 (Nov. 10, 1983); final: Board Res. No. 83-653, 48 FR 54,320 (Dec. 2, 1983)), the Board found sufficient cause to require de novo institutions to have statutory reserves and net worth equal to at least seven percent of insured deposits and liabilities, respectively, for the first full fiscal year, with the requirement gradually decreasing to three percent of deposits and liabilities, respectively. The Board noted in the preambles of both the proposed and final rules that it would continue to review the statutory-reserve and net-worth requirements and other areas of concern relating to existing institutions.

February proposal. On February 15, 1984, the Board proposed a revision of the statutory-reserve and net-worth requirements of insured institutions other the *de novo* institutions (Board Res. No. 84-81, 49 FR 6,501 (February 22, 1984), hereafter referred to as the "February proposal"). The Board expressed concern that the recent rapid growth of many insured institutions had markedly reduced the capital coverage in an industry that has experienced chronic capital deficiencies. Further, the Board noted that recent changes in federal and many state laws had significantly widened the investment powers of federal and state-chartered institutions, permitting investment in areas in which insured institutions have little experience. The Board concluded that the ability of insured institutions to increase significantly their liability base without adequate capital, combined with the increased risks as a result of the DIA and changes to a number of state laws, had materially increased the risk exposure of the FSLIC. Therefore, the Board proposed a number of revisions to strengthen the capital adequacy of thrift institutions insured by the FSLIC.

Specifically, the February proposal incorporated three major changes to address there concerns. First, a requirement was proposed to maintain net worth at three percent on any increase in liabilities incurred after December 31, 1983. This action would limit leveraging of new liabilities to 33 to 1. All institutions (other then *de novo* institutions) would multiply increases in liabilities between December 31, 1983, and the date of calculation by three percent. *De novo* institutions that had not reached the three-percent requirement would continue to calculate minimum net worth as required under the existing rule, which does not permit five-year averaging. Institutions experiencing no growth in liabilities would not be adversely affected by the proposal. Institutions experiencing a decrease in liabilities after December 31, 1983, would be treated as if they had experienced no growth.

Second, the February proposal would gradually eliminate five-year averaging and the twenty-year phase-in. Five-year averaging would be eliminated by gradually reducing the number of fiscal years which could be averaged. For example, assuming that an institution chose to use this technique, it would average, in the first fiscal year following September 30, 1984, the liabilities in fiscal years 1983, 1982, 1981, 1980, and 1979. In the next fiscal year, the institution would average fiscal years 1983 through 1980. In the third year, it would average fiscal years 1983 through 1981. Finally, in the fourth year, the institution would average fiscal years 1983 and 1982. Thereafter, averaging would not be permitted. The twenty-year phase-in would be gradually eliminated by permitting qualified institutions to apply this procedure only to pre-December 31, 1983, levels of liabilities. Any increase in liabilities after that date would be multiplied by three percent. An institution having received approval for insurance of accounts prior to November 3, 1983, however, would continue to multiply three percent of pre-December 31, 1983, liabilities by a fraction the numerator of which is the number of consecutive years of insurance and the denominator of which is twenty, unitl the institution reaches the twentieth anniversary of insurance of accounts. Once all institutions insured prior to November 3, 1983 reach the twentieth anniversary of insurance of accounts, the phase-in would be entirely eliminated.

Third, the Board proposed to eliminate the "statutory reserve" test of 12 CFR 563.13(a) The DIA amendment indicates that Congress no longer intends to restrict the Board to imposing a capital adequacy standard based upon insured deposits. The Board believes that the minimum net-worth standard is a more reliable guage of capital adequacy because it is calculated upon total liabilities, not merely insured deposits. This amendment would also alleviate the burden of calculating two measures of capital adequacy that are largely duplicative. Therefore, the Board proposed to make compliance with the minimum net-worth requirement sufficient for compliance with the reserve requirement of 403(b) NHA. State requirements tied to the reserve requirement of 403(b) would be met by compliance with the proposed net-worth requirement.

Comments on Net-Worth Proposal

The Board received 199 public comments in response to its proposal. The majority (143) of the comments were submitted by thrift institutions. Of the remaining comments, seventeen comments were received from trade associations, one each from a state regulator, a member of Congress, a law firm, and a federal financial regulatory agency, two letters were received from other entities, including financial groups, and 33 letters were received from interested individuals. Most (184) of the commenters opposed the Board's proposed rule. However, 158 commenters did express the view that the net worth of insured institutions should be increased, but indicated reservations regarding the timing or approach of the proposal and suggested alternatives. The Board has carefully reviewed these comments on the net-worth proposal, which are discussed more fully below.

Discussion of Issues Raised by Commenters. Many commenters indicated that the net-worth proposal would effectively eliminate a substantial amount of the "excess" net worth of the thrift industry, and adversely affect a substantial number of thrifts. While the

Board is cognizant of these concerns, it has become obvious that the relative laxity of the present net-worth requirements actually encourages tremendous growth supported by inadequate levels of reserves or capital. Several years ago, the Board lowered the regulatory net-worth requirements to encourage and support the restructuring of asset/liability portfolios of thrifts in order to reduce the sensitivity of the industry to interest-rate fluctuations. That approach was appropriate when interest-rate risk was the predominant concern of the industry. However, the recent deregulation of both assets and liabilities of thrift institutions has removed the traditional limitations on risk-taking and has made adjustable-rate mortgages widespread. In this new environment, it has become increasingly obvious that credit risk is at least as serious a concern to the industry as interest-rate risk. Accordingly, insured institutions and the FSLIC must take steps to obtain and retain sufficient capital to offset this exposure.

Growth, Profitability, and Viability. Several commenters argued that the changes in the proposed regulation would limit the growth and profits of a majority of institutions, since all new growth would have to be earned, and most institutions would not be able to generate a sufficient spread to cover the increased net-worth requirement. Additionally, a few commenters believed that thrifts would lose their customer base if they had to stop growing. While the Board is sensitive to these concerns, it is persuaded that an increase in the capital base, in fact, supports well-planned growth and prosperity of the industry, and that institutions weakened by growth without an adequate reserve cushion present inordinate risks. Numerous economic and financial studies indicate that capital serves five functions for financial institutions: (1) Absorbs losses so that an institution can continue to operate in times of financial difficulty; (2) supports growth, (3) serves as a barrier to imprudent investment decisions, (4) acts as a source of additional protection to depositors during less favorable economic periods, and (5) enhances public confidence. Further, capital serves as additional protection to the FSLIC by offsetting losses which would otherwise have to be borne by the FSLIC. Thus, the establishment and maintenance of an adequate net-worth base for the thrift industry promotes long-term profitability and prudent growth. Only with a sufficient capital base can the thrift industry continue to manage effectively its asset/liability mismatches and simultaneously improve its position in the financial arena.

Several commenters expressed concern that the proposal would present an insurmountable obstacle to growth in a rising interest-rate scenario because an institution with net worth at or below the current regulatory level would be required not only to earn the requisite three percent on "new liabilities" but also to offset any "drag" that the rise in rates would impose upon pre-existing liabilities. The Board believes that inadequacy of the present capital requirements mandates the prudent and gradual increase of regulatory net-worth requirements to mitigate the additional credit risk caused by the exercise of expanding investment authority and any increased interest risk if inflation increases. Moreover, the "marginal net worth" approach is sensitive to the difference between the increased sophistication in the management of interest-rate spread (which should be part of every plan for acquisition of new assets and liabilities being placed on a thrift's books) and the management decisions made prior to deregulation. In sum, the Board recognizes the inflexibility in part of the existing thrift portfolio, but believes that an increase in the net-worth base of the industry is necessary to provide additional protection to the FSLIC insurance fund, to serve as a cushion against losses incurred by institutions, and to maintain public confidence. Taken in conjunction with the Board's recent actions directed at improved asset/liability management, the industry as a whole should be in a better position to exist in a volatile interest-rate environment.

Restructuring Effects. Many commenters, primarily thrift institutions, supported a delay in implementation to accommodate the restructuring taking place in the industry. Proponents of delayed implementation stressed that by limiting growth, the proposal would hinder restructuring which is essential to mitigate thrift maturity mismatch problems. A number of comments emphasized that more time was necessary to utilize the new asset flexibility provided by deregulation, ultimately enabling insured institutions to meet increased net-worth requirements at a later date. Still others suggested that recent regulatory actions, such as the new requirements for *de novo* institutions, may negate the need for the proposed regulation. Finally, commenters indicated that the proposed regulation would shift the emphasis from restructuring to maintaining current earnings to meet net-worth requirements and would require extensive amendment of business plans. In this regard, commenters contended that the proposal would result in increased service fees and an undue emphasis is on maximizing returns on investments in order to generate the net return on assets to meet the proposed net-worth requirements, thereby increasing the level of risk to the institution and ultimately the FSLIC.

While the Board recognizes that institutions in existence prior to 1980 need some growth in order to restructure their interest-rate gap and to build a new asset base, the proposed regulation will allow prudent growth. It is well documented that not all institutions are using growth to restructure in a prudent, safe and sound manner. In fact, some institutions are growing so rapidly that the management of such institutions is unable to make prudent investment decisions or to implement proper underwriting techniques in order to ensure the acquisition of sound assets. An institution that cannot support its growth with an accompanying increase to net worth is not really curing its asset-structure problems, but merely deferring them by front-loading the income associated with growth, to the longterm detriment of the institution. The Board's review indicates that the new asset base of thrift institutions, attained through rapid growth over the past few years, has not necessarily deceased the risk to the insurance fund but, in fact, has often increased that risk.

Moreover, the Board believes that the proposed tightening of net-worth requirements and the linkage of an acceptable level of net worth to growth would not inhibit or delay institutions from using prudent growth to restructure their asset portfolio. The Board's research (described in detail below) indicates that substantial restructuring (from fixed-rate mortgages to adjustable-rate mortgages) can be accomplished within the next five years utilizing a growth rate of 15 percent.

Accordingly, while the Board supports the restructuring efforts of the industry as a whole and recognizes that interest-rate gap management is an effective tool to protect insured institutions and ultimately the FSLIC from interest-rate spread risks, it has preliminarily concluded that such restructuring without adequate capital does not adequately protect the FSLIC from increasing credit risk as a consequence of thrifts operating in a deregulated environment. The restructuring efforts of many rapidly growing institutions have resulted in investments of a highly

speculative nature, greatly increasing the credit risk to the FSLIC. The Board believes that increasing the capital requirement for thrift institutions would provide the FSLIC with necessary additional protection in a deregulated environment. Furthermore, matching the expansion of an institution's asset and liability portfolio, regardless of size, with a marginal contribution to net worth establishes a realistic equity stake by the owners in the institution, and therefore serves as an important form of market discipline.

Effect on Housing Role. Other concerns raised by the comments focused on the likelihood that thrifts would be forced to focus on non-housing-related investments such as real estate, commercial and consumer lending to support the requirement that all growth must be matched by higher capital levels. As discussed more fully below, this contention ignores the fact that (1) the regulation would allow prudent growth, and nondirect investments (e.g., ARMs) can fund growth without undue risk, (2) a significant majority of thrift institutions possess substantial "excess" net worth which can offset increases in liabilities, (3) additional net worth can be obtained through access to the capital markets, and (4) an institution which cannot support its growth with prudent reserves should not grow. The Board believes that a profitable, well-managed, appropriately diversified and sufficiently capitalized thrift institution is better able to provide a substantial and stable source of home financing to the public than an institution that does not have sufficient capital to cushion potential losses.

Disparate Effect on Mutual and Stock Institutions. Some commenters suggested that the proposal would have a particularly significant effect on mutual institutions, presumably because of a lack of access to the capital markets, and thus would encourage more stock conversions. The Board, however, is not persuaded by that argument. First, earning can support prudent growth. Second, for institutions that require substantial capital infusions to support their growth, conversions are appropriate. While the Board continues to take steps to facilitate the mutual-to-stock conversion process, it also realizes that mutual institutions are a significant element of the thrift industry and comprise approximately 65 percent of all insured institutions. Third, mutuals can use the capital markets through the issuance of subordinated debentures and mutual capital certificates. Moreover, while stock institutions have raised substantial amounts of capital during the last few years, the Board's supervisory experience indicates that many stock institutions have employed that capital to grow to or past the levels which can be adequately supported by their net worth. Board studies demonstrate that stock institutions with a net worth greater than three percent grew more than 60 percent between June, 1983, and June, 1984, as compared to a growth rate of approximately 11 percent for mutuals during the same period. Stock institutions with net worth of less than three percent grew approximately 50 percent between June, 1983, and June, 1984, while mutual institutions with similar net-worth levels grew approximately 16 percent. Another study shows that approximately the same percentage of mutual and stock institutions have relatively equivalent levels of net worth up to five percent of liabilities. Accordingly, the Board has concluded that the proposal is not particularly inimicable to the interests of mutual institutions.

Other commenters expressed concern about the effect of higher net-worth requirements on the raising of capital by stock institutions in the public market since the proposal limits a thrift's leveraging possibilities. The leveraging factor was labeled "the most attractive feature of stock thrift institutions to investors." In response, the Board believes that this approach toward investment in thrift institutions leads to the use of institutions to fund speculative and risky ventures in which the FSLIC, rather than individuals contributing risk-capital, is intended to absorb the losses. This is supported by studies which have indicated that capital in financial institutions should serve as a barrier to imprudent investment decisions. Thus, to the extent that the proposal would discourage those investors seeking only highly leveraged investment opportunities, the Board believes that the proposal is appropriate. Adequately capitalized, well-managed thrift institutions should be considered an attractive and sound investment in the public market.

Industry Consolidation. Several commenters expressed the view that more mergers between thrifts with net-worth problems and institutions with excess net worth would occur as the result of the proposal. Although the Board does not anticipate a greater number of voluntary or supervisory mergers as a result of the promulgation of a higher net-worth requirement, it welcomes the submission of any empirical data by commenters on the revised proposal addressing this contention. One commenter requested that the Board provide some type of forbearance for a limited period of time for the resulting institution in a merger involving purchase accounting, since the net worth of the acquired institution disappears. The Board has addressed this point in its revised proposal, which is discussed below.

Competitive Concerns. Other commenters opined that the proposal would interfere with the ability of thrift institutions to compete with commercial banks and other financial institutions. The Board believes that this comment ignores several obvious factors and is, therefore, without merit. At present, commercial banks are subject to a much more stringent capital requirement, so that those institutions have far more limited leveraging possibilities than insured institutions. In fact, the federal bank regulatory agencies have proposed regulations or guidelines which would increase those levels (see later discussion). Further, commercial banks are required to utilize generally accepted accounting principles, rather than the more permissive regulatory accounting principles that insured institutions may use. Finally, it should be noted that the thrift industry aggregate growth rate from June, 1983 to June, 1984 was 19 percent, whereas domestic-chartered commercial banks during this period had an annual growth of approximately 11.3 percent. Given these considerations, the Board does not believe that the relatively modest tightening that would be imposed by either the initial proposal or the reproposal (see later discussion) would adversely affect the ability of thrifts to compete with commercial banks.

With respect to other financial institutions that are not federally insured, thrifts do have some competitive advantages. Thrift institutions are partially insulated from free-market discipline with respect to obtaining funds for investments. For instance, a thrift institution, unlike non-federally-insured institutions, may borrow on a long-term basis for up to 20 years from its Federal Home Loan Bank at market rates and can attract insured deposits at or below market rates, regardless of its financial condition or net-worth level.

The Board agrees with the other federal regulators of financial institutions that the capital base of federally insured financial institutions must be increased in order to maintain public confidence during times of intense competition for financial services, to offset risks resulting from

deregulation and to counter the FSLIC's losses from defaulting financial instituions.

Factual Basis. Several commenters suggested that the proposal inappropriately penalized all thrifts, especially those with a conservative asset/liability management strategy, because of a relatively small number of problem institutions whose troubles resulted from the imprudent investment of brokered funds. The Board, however, disagrees with that contention. For example, the FSLIC reserves-to-deposit ratio, which peaked at 2.12% in 1970, has declined to 0.92 percent by September, 1984. When the shrinking reserves-to-deposit ratio is coupled with the heightened risks to the industry emanating from increased participation, for example, in acquisition, development and construction lending, as well as other high-yield/high-risk ventures, a gradual program to upgrade required levels of net worth is entirely appropriate for all insured institutions.

Some commenters contended that thrift institution failures are the result of maturity mismatches of assets and liabilities and not from asset problems. However, data developed by the Board's staff indicate that there is a disturbing increase in number and correlation of failures due to imprudent credit risks fueled by excessive growth. For example, of 21 assistance cases handled by the FSLIC in 1984, 13 have been categorized as asset-quality problems.

Alternative Solutions

As noted above, several of the comments to the Board's proposal also included approaches to address the capital inadequacy of thrift institutions.

1. *Case-by-Case Supervision.* A few commenters suggested that the problems addressed by the proposed regulation could best be resolved on a case-by-case basis utilizing existing or possibly expanded supervisory authority. These commenters argued that attention should be focused specifically on abusive practices and supervisory cases. The regulation was seen as unfair to those operating in a safe and sound manner. It was generally felt that growth could be controlled by increased supervisory and monitoring programs, including the possible use of monthly reporting. The Board has, in fact, taken several steps to strengthen its ability to supervise and monitor the activities of insured institutions and to modernize the examination process. Additionally, the Board developed legislation to increase its enforcement powers, which was introduced in the last Congressional session. The Board believes, however, that these efforts alone are insufficient to deal with the tremendous growth of the industry as the result of the deregulation of interest rates and broader investment powers and concomitant increased risk to the FSLIC.

2. *Limited Focus on Fast-Growing Institutions.* Some commenters suggested that the scope of the regulation should be restricted to institutions that represent a risk to the industry and, accordingly, increased net-worth requirements should apply only to institutions experiencing rapid growth. Several commenters noted that the rapid growth of the thrift industry has resulted in a decrease in public confidence in the industry and the overpricing of deposits and underpricing of mortgage loans. These practices can unfortunately have the undesirable effect of forcing otherwise conservative thrifts to match those rates or realize a loss of their market share. In response, the Board reiterates its view that all growth should be earned or supported by an adequate net-worth base, but notes that its new proposal would tailor net-worth requirements to levels of prospective liability growth.

3. *Variable-Rate Premiums.* A few commenters recommended that the Board raise the FSLIC insurance premiums or implement a variable-rate insurance premium based on risk-based insurance-premium structure in its recent legislative proposal. In order to address the immediate concerns about the inadequacy of the industry's capital base, however, the Board supports a net-worth requirement linked to growth.

4. *Modifications to Board Proposal.* One state regulator recommended that the Board increase the overall net-worth requirement to four or five percent of total liabilities and eliminate the provisions for five-year averaging and the twenty-year phase-in period. In response, the Board continues to believe at this time that a marginal net-worth requirement tied to future growth in liabilities and the gradual elimination of five-year averaging and the twenty-year phase-in period would (1) provide a sufficient capital base to protect the FSLIC insurance fund from the risks resulting from the currently deregulated environment, (2) enhance public confidence in thrifts, and (3) reduce the inequities in capital requirements between thrifts and commercial banks.

Another commenter, while endorsing the marginal net-worth concept, objected to the proposed timetable set for achieving compliance with the higher net-worth standards, characterizing them as insensitive to the restucturing efforts of the industry, the current economic condition of the industry and the possibility of rising interest rates. This commenter recommended an alternative that would retain the current net-worth requirement on existing liabilities for two years and provide for a four-percent unlimited "credit" to a new five-percent marginal net-worth requirement resulting from qualifying balances (12 CFR 563.13(b)(4)), which would be expanded to encompass additional interest-rate-sensitive assets and liabilities. Several commenters endorsed this approach, and several others suggested that the qualifying-balance deduction be increased from its current three-percent level and the items eligible for inclusion in the deduction be expanded.

Although the Board is sensitive to the concerns of the thrift industry with respect to restructuring, it continues to believe that both the risks arising from undercapitalized thrift institutions coupled with the increase in instances of failures due to credit risk and the decline in the ratio of FSLIC reserves to deposits mandate that a marginal net-worth requirement be imposed on future growth.

Several commenters suggested that the Board should not require additional net worth for growth of liabilities resulting from the crediting of interest and dividends on existing savings. These commenters stated that institutions need growth from savings to restructure their portfolios of fixed-rate loans and that any additional reserves would necessitate lowering the market rate paid on savings or increasing service charges either to prevent growth or to obtain a sufficient profit margin in order to generate the required net worth. The Board, however, maintains that any growth in liabilities regardless of the source, e.g., the crediting of interest on deposits and outstanding Federal Home Loan Bank advances, should be supported by a marginal increase in net worth.

It was also suggested that the Board exclude arbitrage transactions from the proposed minimum net-worth requirement because such transactions are fully collateralized and present an insignificant risk to the FSLIC. The Board believes, however, that a marginal net-worth requirement is necessary to safeguard institutions and the FSLIC from losses resulting from credit risk as well as interest-rate risk.

Finally, it was recommended that the net-worth requirement be based only on deposit liabilities, stating that all liabilities outside the FSLIC insurance category should be considered an enhancement to the system and provide some latitude of protection to the FSLIC. Other suggestions from commenters

addressed the calculation of the reserves for scheduled items, the provision for a credit against the net-worth requirement resulting from the reduction in a thrift's losses, and the extension of the appraised-equity-capital program through 1992. The Board considered these and other alternative proposals but has determined at this time that the approach detailed in the revised proposal best serves the needs of the industry and the FSLIC.

According, after review of the comments and consideration of additional data and staff studies, the Board has determined, for the reasons set forth below, to revise the proposed rule and request further public comment.

Reasons for revising the proposal. The Board continues to be concerned that the recent rapid growth of many insured institutions has significantly reduced the capital coverage in an industry that has experienced chronic capital deficiences. Rapidly growing institutions have been able to achieve their high growth rates and still meet required capital levels in part due to the use of five-year averaging and twenty-year phase-in. For example, an institution that became an insured institution just prior to November, 1983, would be required to have net worth and statutory reserves equal to only 0.15 percent of liabilities and 0.15 percent of insured accounts, respectively. This, in effect, places no limit on the rate of growth of institutions since it permits a debt-to-equity ratio as high as 666 to 1. These factors thus enable institutions to increase significalty the risk exposure of the FSLIC without supporting the new liability base with adequate capital.

Data before the Board indicate that insured institutions are growing at a rapid rate. During the period from June 30, 1982, to June 30, 1984, retail deposits have increased 31.2 percent ($475.1 billion to $623.5 billion) and "jumbo" deposits (over $100,000) have increased 104.8 percent (from $51.3 billion to $105 billion). Other borrowings increased 90.8 percent (from $29.3 billion to $55.9 billion). As a result, total liabilities grew 36.4 percent while assets grew 36.6 percent. Since 1981, industry assets have increased from $640 billion to an estimated $947 billion at the end of October, 1984. Data also demonstrate that, at the rate of growth experienced between June, 1983, and June, 1984, the Board can expect 770 institutions, with $353 billion in assets, to double in size within the next four years.

This rapid growth has been accompanied by steady deterioration in the FSLIC reserves-to-total-deposits ratio. The current reserve ratio is approaching the range which in 1962 prompted Congress to impose a costly secondary-reserve assessment on institutions. However, in 1962, the ratio of net worth to liabilities for all insured institutions was 7.6 percent; today, the net-worth ratio is only 4.0 percent. To the extent that insured institutions' net worth provides a cushion to absorb losses prior to resorting to the FSLIC, these trends indicate the imperative need both to foster increased net worth in the thrift industry and slow the rate of growth of insured institutions in order to protect the FSLIC.

As the Board noted in its February proposal, deregulation as a result of the DIA and changes to a number of state laws also increase the FSLIC's risk exposure and increase the need for additional reserves and net worth. In the past, detailed regulation functioned as a substitute for capital. An institution's need for a significant cushion against losses was decreased because risks were limited through regulation. Deregulatory changes in recent years have significantly widened the investment powers of federal and state-chartered institutions, permitting investment in areas in which insured institutions have little experience. In some states, statutory limtis on the percentage of assets that an institution may commit to these new powers may not effectively require a prudent mix of new, riskier investments with traditional, secured investments. The industry has not yet had much experience with broadened investment authority under state law. Many of the investments made under these laws are too recent to have resulted in profit and loss. Many of the losses suffered by the industry and by the FSLIC resulted from investments that took the form of loans, but in economic reality were direct investments, and would be covered by the proposed regulation. Such investments were difficult to study statistically, because they cannot be differentiated in reports to the Board from true loans. Such investments are nonetheless responsible for the failure of a number of institutions and have resulted in significant losses to the FSLIC in recent years.

The possibility of rapid growth of deposits and other liabilities has led some institutions to embark on ill-conceived plans of asset expansion, including high-risk investments. A staff study indicates, in general, that faster-growing institutions have both riskier asset portfolios and less stable funding sources than do more slowly growing institutions. Joseph A. McKenzie, "Recent Deposit Growth and Asset Allocation of FSLIC-Insured Institutions," Federal Home Loan Bank Board, November 28, 1984. The study compares institutions that grew above the industry average of 19 percent (June, 1983, to June, 1984) to those growing more slowly than the industry average. The study demonstrates that, on the average, the faster-growing institutions have an acquisition, development and construction (ADC) loan ratio to total assets over four times that of other institutions; a construction loan ratio to total assets four times larger than other institutions; direct real estate investments as a percentage of assets six times larger; and a ratio of non-mortgage loans to total assets over one and one-half times larger than all other institutions. The study notes that these types of investments have an inherently higher degree of credit risk than residential mortgage loans and are, ultimately, a significant risk to the FSLIC. (*See* later discussion of higher-risk investment activity.)

The study further indicates that, on the average, faster-growing institutions had jumbo certificates of deposit equal to 15.25 percent of their liabilities while all others had only 5.46 percent; brokered deposits of 8.15 percent compared to 0.68 percent; and a ratio of borrowed funds to total liabilities twice that of more slowly growing institutions. These types of funds are frequently volatile and are more likely to be involved in "runs" on institutions. These funds also remove the growth constraint implied by the local retail market and thus enable the rapid acquisition of high-risk assets. Faster-growing institutions are exposed to only slightly less interest-rate risk, having a 32.8 percent six-month maturity-gap-to-total-asset ratio as opposed to 33.7 percent for all other institutions. The data also indicate that faster-growing institutions had less net worth than slow-growth institutions (4.08 percent of assets to 4.42 percent of assets) and are experiencing a faster decline in their net-worth ratio (–0.74 to –0.11).

Given that rapid-growth institutions have riskier asset portfolios, less stable sources of funds, lower net worth and experience faster deterioration of net worth, the increasing risk to the FSLIC becomes apparent. Rapid growth is also a factor in many of the past and current supervisory and problem institutions. The correlation between rapid growth and riskier investment and between rapid growth and FSLIC losses is not coincidental. Supervisory experience has shown that, in order to sustain rapid deposit growth, savings and loan management has repeatedly turned to higher-risk investments. Such investments may, at least on paper,

provide higher returns that are needed in some instances to cover the cost of jumbo certificates. Faced with exponential deposit growth, institutions often lack the time or opportunity to locate sound investments, and instead make riskier investments, without proper underwriting. Staff has reviewed such individual cases in which either the institution, or ultimately the FSLIC, has experienced, or will experience, losses due to these practices. Because of these riskier investments, the FSLIC in recent years has experienced many of its largest losses from such rapid-growth institutions over $100,000,000 in size. Staff analysis has shown that the greatest percentage of the losses suffered by the FSLIC from problem institutions in 1983 and 1984 have involved rapid-growth institutions with high-risk assets. Staff studies of the recent FSILC caseload show that institutions that have growth more than 25 percent have been responsible for a disproportionate share of expected FSLIC losses. The actual losses to be suffered may be even greater because the FSLIC's experience often has been that high-risk loans or investments will not show losses on paper until long after the underlying project has gone bad, thus understating the losses incurred by the institution.

The Board is not alone in its concern regarding capital adequacy of federally-insured depositories. Subsequent to the Board's issuance of the February proposal, the federal bank regulatory agencies all issued proposed rules or guidelines to increase the minimum required capital of the entities that they regulate. Federal Deposit Insurance Corporation, 49 FR 29399 (July 20, 1984); the Board of Governors of the Federal Reserve System, 49 FR 30317 (July 30, 1984); and Office of the Comptroller of the Currency, 49 FR 34838 (September 4, 1984). These agencies collectively regulate commercial banks that, as noted above, are growing at a slower rate than thrift institutions regulated by the Board. The effect of these proposals, in summary, would be to require a minimum "primary" capital of 5.5 percent of assets and total capital of 6.0 percent for banks and bank holding companies that are well-managed and have no material weakness. All three agencies recognized the important function of capital in the industries they regulate to absorb fluctuations in income, to bolster public confidence in individual entities and in the system as a whole, to support growth while restraining imprudent expansion, and to provide protection to depositors in the event of a threatened insolvency. These agencies noted that the maintenance of stability of the financial system and protection of depositors are critical to their regulatory mission and acknowledged that capital adequacy plays a key role in their programs.

Description of the Revised Proposal

"Statutory reserve" test. Like the February proposal, the revision also proposes eliminating the "statutory reserve" test of 12 CFR 563.13(a). The Board believes that the minimum net-worth standard is a more reliable gauge of capital adequacy because it is calculated upon total liabilities, not merely insured deposits. The DIA amendment indicates that Congress no longer intends to restrict the Board to imposing a capital adequacy standard based upon insured deposits. Therefore, the Board continues to propose to make compliance with the minimum net-worth requirement sufficient for compliance with the reserve requirement of section 403(b) NHA. State requirements tied to the reserve requirement of section 403(b) would be met by compliance with the proposed net-worth requirement.

Calculation period. The revised proposal would significantly change the time in which insured institutions must calculate and meet the minimum net-worth requirement. The current regulation requires the establishment of the net-worth requirement as of the opening of business of the first day of each fiscal year and allows insured institutions to wait until the end of that fiscal year to meet the requirement, 12 CFR 563.12(b)(1) (1984). The effect of this significant lag has been to permit institutions to operate a full year without sufficient net worth before the Board could take enforcement and supervisory action to correct the deficiency. The current lack of supervisory constraints on growth has permitted small problem institutions to become large problems. When an institution can grow by 300 percent in a year, losses to the FSLIC can grow by the same factor. In addition, growth at that rate not only makes it difficult for an institution to locate prudent investments, it also makes it difficult, if not impossible, to examine and supervise institutions adequately. Examination occurs, by necessity, after the fact. When growth is not controlled, problem assets may grow exponentially between examinations. The damage is done before any supervisory action can be taken.

The February proposal did not address these problems. The Board is revising that proposal to change the calculation period in two ways. First, institutions would be required to calculate their minimum net worth as of the end of each calendar quarter. This would provide management with significantly more current, and therefore more useful, information throughout the year. This change would also bring the net-worth calculation in line with the Board's quarterly reporting program, thus providing the Board with better ability to monitor and, where necessary, take appropriate supervisory action. Secondly, the revision would require insured institutions to meet the minimum net-worth requirement on the date it is required to be calculated. This will eliminate the lag and thereby increase the Board's ability to respond quickly and to take appropriate action before an institution's condition deteriorates further. The Board is proposing to eliminate this lag in recognition of management's responsibility to plan an institution's growth and the technical methodologies that have become available to assist management in such planning.

Computation of the minimum net-worth requirement. The proposed revision would use a combination of "factors" in place of the algebraic expression used in the February proposal to calculate the net-worth requirement. The minimum net-worth requirement would be comprised of a "base factor" (essentially the dollar amount of the minimum net-worth requirement as of the last calculation); an "amortization factor" (by which five-year averaging and twenty-year phase-in would be eliminated); a "growth factor" (which would vary the marginal increase in the minimum net-worth requirement in a manner dependent upon the amount of liability growth); and a "contingency factor" (including the current requirements of 2 percent of recourse liabilities and 20 percent of scheduled items plus an amount equal to 10 percent of direct investments). The Board is not proposing to alter the calculation or use of the "qualifying balance deduction or "appraised equity capital" currently permitted by 12 CFR 563.12(b)(4) and (c) (1984). The only proposed change in the treatment of *de novo* institutions would be to require them to use the calculation period proposed in the revision and to use all of the "factors" to determine their minimum net-worth requirement after their "phase-down" is completed.

Five-year averaging and twenty-year phase-in. The revised proposal would eliminate five-year averaging and twenty-year phase-in, for the reasons stated earlier, but by a method different than that set forth in the February proposal. The February proposal would

gradually eliminate five-year averaging by reducing the number of fiscal years which could be averaged each year over a five-year period. The twenty-year phase-in would be gradually eliminated by permitting qualified institutions to apply this procedure only to pre-December 31, 1983, levels of liabilities after that date multiplied by three percent. Once all institutions insured prior to November 3, 1983, have reached the twentieth anniversary of insurance of accounts, the phase-in would be entirely eliminated.

"Amortization factor". Under the new proposal, both factors would be eliminated by using a straight-line amortization method over a five-year period. An insured institution would be required to calculate the amount of minimum required net worth as of December 31, 1984, by multiplying its total liabilities by 3 percent. It would then calculate the minimum required net worth as of that date using the five-year averaging and twenty-year phase-in method, if appropriate. The difference between these calculations (referred to as the "amortization factor") would be amortized over five years by adding one-twentieth of that amount to its minimum net-worth requirement each quarter.

The Board believes that this method is operationally easier for institutions to use than the method set forth in the February proposal. The revised method requires an institution to calculate the amortization factor only once, rather than requiring different calculations each year. Board research indicates that the revised method will have either virtually the same impact or will impose a lower requirement than the February proposal for 2,629 institutions in the first year, but impose a higher requirement for 480; equal or lower for 1,947 institutions in the second year, but higher for 1,162; equal or lower for 1,407 institutions in the third year, but higher for 1,702; equal or lower for 1,536 institutions in the fourth year, but higher for 1,573; and equal or lower for 2,554 institutions the last year, but higher for 555. The major impact of the change from the February proposal is that the twenty-year phase-in method would be eliminated in five years, rather than continuing to be applied to the level of pre-December 31, 1983, liabilities by institutions until they reach the twentieth anniversary of insurance of accounts by the FSLIC. To the extent that the twenty-year phase-in method contributes to the ability of institutions to expand rapidly both their liabilities and the potential risks to the FSLIC, the Board believes that this change is an improvement over the February proposal.

Marginal growth. The proposed revision would also change the method by which marginal growth in liabilities is considered when determining the minimum net-worth requirement. The February proposal would require all institutions (other than *de novo* institutions) to multiply increases in liabilities between December 31, 1983, and the date of calculation by 3 percent. Institutions experiencing no growth in liabilities or experiencing a decrease in liabilities after December 31, 1983, would not be affected. Studies prepared for the Board demonstrate, however, a greater need to restrain rapid levels of growth.

Rapid growth is not necessary for an institution to restructure its portfolio. Current information indicates that at a moderate growth rate of 15 percent per year an institution (having an asset composition based upon the June 30, 1984, industry aggregates) can within five years decrease its percentage of fixed-rate mortgage loans from 56 percent of assets to 17 percent, by reinvesting both new funds and cash flows from existing assets in interest-rate sensitive assets. In fact, an institution could reduce its fixed-rate mortgage loans from 56 percent of assets to 33 percent in 5 years without any growth in liabilities, merely by funding new interest-rate sensitive assets with the cash-flows from principal repayments on existing assets. This demonstrates that liability growth is not essential to restructuring.

As described above, Board studies indicate that institutions growing at annual rates in excess of 19 percent have both riskier portfolios and less stable funding sources. The fixed-rate, marginal net-worth requirement in the February proposal does not take into account differences resulting from faster rates of growth. However, a minimum net-worth requirement tied to a variable rate based on an institution's growth rate would better reflect (1) the capital requirements appropriate for such growth, and (2) the risks posed to the FSLIC by excessive growth. This approach would also permit each institution to determine its own level of marginal net worth by controlling its rate of growth.

"Growth factor". Based on the foregoing considerations, the revision proposes to require an institution to add to its "base factor" a "growth factor" corresponding to a varying percentage of the growth in liabilities that occurred during the quarter. The percentage would be determined by the rate of growth from the corresponding quarter of the preceding year. Using this measure for determining the growth rate should make allowances for seasonal variations in growth. An institution growing at an annual rate of 15 percent or less since the corresponding quarter of the preceding year would be required to add a "growth factor" in an amount equal to 3 percent of the increase in liabilities during the quarter for which the minimum net-worth requirement is being calculated; an institution growing from the corresponding quarter of the preceding year at an annual rate between 15 and 25 percent would add 4 percent of that quarter's increase in liabilities; and an institution growing in excess of 25 percent from the corresponding quarter of the preceding year would be required to add to its minimum net-worth requirement an amount equal to 5 percent of the growth during the quarter. However, to avoid the impact of growth made prior to this proposal, growth during calendar year 1985 would be measured from January 1, 1985.

This proposal (as well as the February proposal) does not necessarily require institutions to increase the amount of net worth that they hold. Institutions having net worth in excess of the minimum requirement can use that excess to offset any increased minimum requirement resulting from liability growth. Approximately 73 percent of insured institutions already hold net worth equal to at least 3 percent of their liabilities and 55 percent have net worth in excess of 4 percent of their liabilities. Thus, most institutions already hold enough net worth to enable them to grow at a rate below 15 percent and comply with the proposed revision.

Mutual institutions will not be significantly affected by the change in approach from the February proposal because on the average, mutual institutions have grown less than 15 percent from June, 1983, to June, 1984. (Mutual institutions with less than 3 percent net worth grew at 16 percent and those with more than 3 percent grew at 11 percent.) Stock institutions have grown on the average at excessively greater rates (approximately 50 percent for those with less than 3-percent net worth and 60 percent for those with greater than 3-percent net worth). Thus, most mutual institutions would be required to increase their minimum net-worth requirement at a 3-percent marginal rate similar to that of the February proposal, while most stock institutions would be required to increase their minimum net-worth requirement by 5 percent of the increase

in liabilities. This resulting difference in treatment is not inappropriate given the greater average rate of growth of stock institutions, their easier access to capital markets, and the fact that stock institutions tend to have more net worth in excess of 5 percent of liabilities than do mutual institutions (and can thus absorb increases better without going to the capital markets).

The proposed revision contains two refinements not included in the marginal net-worth requirement of the February proposal. First, an institution that decreases its liabilities during a calendar quarter would be permitted to decrease its required minimum net worth. The decrease would be multiplied by a factor equal to the institution's previous minimum net-worth ratio (i.e. its "base factor" divided by its total liabilities). This amount would be the "growth factor" to be deducted from the base factor when computing the net-worth requirement for the quarter in which the decrease occurred. While the minimum net-worth ratio would stay the same, the dollar amount of required net worth would decrease in a manner corresponding to the decrease in liabilities. The February proposal did not provide for a decrease and thus would have penalized institutions that reduced their liabilities.

Second, the revised proposal addresses the issue of the effect of mergers, acquisitions, purchases of assets and liabilities, and consolidations (collectively referred to as "combinations"). The revised proposal would treat all such combinations as if they were a pooling of interests in which the resulting institution's net worth and liabilities are equal to the combined net worth and liabilities of the two institutions. Combinations accomplished through purchase accounting would be recalculated on a pooling-of-interest basis for the purpose of determining the minimum net-worth requirement. Any increase in liabilities resulting from a combination would not be included as a quarterly increase in the calculation of the "growth factor". This approach would avoid discouraging institutions from undertaking such combinations.

Exception for small institutions. The revised proposal would provide an exception to the net-worth computation, described above, for any institution that, at the end of a calendar quarter, has $100,000,000 or less in total assets and that has grown (from the corresponding calendar quarter of the preceding year) at an annual rate not exceeding 15 percent. These institutions would not be required to compute the "base factor", the "growth factor", and the "amortization factor" that would be computed by institutions not qualifying for the exception. Institutions qualifying for the exception would be permitted to continue using five-year averaging (although calculated on a quarterly basis), but would not be permitted to continue using the twenty-year phase-in. The average of amount of liabilities at the end of the calendar quarter and on the corresponding calendar quarter(s) of one or more of the four immediately preceding fiscal years (provided all such dates were consecutive) would be multiplied by 3 percent. This does not permit twenty-year phase-in and, but for the effect of five-year averaging, requires the same percentage of liabilities on the margin that would be required by an annual rate of growth of 15 percent or less. Since the use of the twenty-year phase-in would be discontinued for both qualifying and non-qualifying institutions, it is appropriate to amortize the effect of this change in the same manner. Thus, an "amortization factor" would be added, equal of 1/20th of the difference between calculating the net-worth requirement as of December 31, 1984, with the use of both five-year averaging and twenty-year phase-in, and calculating the requirement on that date using only five-year averaging. The "contingency factor" would also apply to institutions qualifying for the exception and would be added to compute the minimum net-worth requirement. If an institution grows at an annual rate exceeding 15 percent, it would not qualify for the exception and would use the general computation rule. If in a subsequent quarter the institution's growth rate permitted it to qualify for this exception, it could resume using five-year averaging. Similarly, if an institution decreased its assets to an amount below $100,000,000, it could qualify for this exception (assuming it did not exceed the stated growth rate) even if in any previous quarter it had more than $100,000,000 in assets. The Board requests commenits on the appropriateness of permitting small institutions to leave and then re-enter this exception. Mergers would effectively be treated in the same manner as mergers involving large institutions, by using pooling-of-interest accounting in determining the minimum net-worth requirement.

The Board recognizes that relatively higher rates of growth by small institutions may be necessary to permit them to achieve operational efficiency. Studies show that economies of scale exist over a broad range of asset sizes. The most dramatic improvement in operating efficiencies accrues to growth of smaller institutions. Data indicate a slower improvement in operating efficiency once an institution reaches an asset size between $40,000,000 and $60,000,000. Given this data, and to take into consideration future inflation, the Board believes it is appropriate to except institutions whose assets are $10,000,000 or less. This would exclude 55 percent of all insured institutions. The exception, however, would not exclude institutions having approximately 91.6 percent of the assets in the industry, and would therefore provide an effective mechanism for supervising those institutions presenting the greatest potential risk to the FSLIC.

"Contingency factor". As did the February proposal, the revised proposal would continue the current requirement that the minimum net worth of an insured institution also includes amounts equal to 2 percent of recourse liabilities and 20 percent of scheduled items. This requirement acts, in effect, as a reserve for contingencies (i.e. the possible required repurchase of loans sold with recourse and the possible losses from loans currently categorized as "slow" loans). The revised proposal combines these elements of the net-worth requirement into a "contingency factor" which would be determined quarterly and added along with the other factors. The contingency factor, unlike the growth factor, is not intended as a marginal requirement. Thus, when determining the "base factor" for the next quarter's requirement, the contingency factor of the preceding quarter is excluded and is, instead, recalculated and added to the base factor at the end of the new quarter.

Direct investment "contingency factor". The revised proposal would add a third component to the two existing parts of the contingency factor. This component would be an amount equal to 10 percent of the amount that an institution has invested in certain real estate, service corporation and equity securities, referred to collectively as "direct investments". The Board has proposed to regulate insured institutions' direct investments (Board Res. No. 84-227, 49 FR 20719, (May 10, 1984)), and the Board notes that a number of commenters on that proposal took issue with the connection posited between such investments and increased risk to the FSLIC. While the specific points raised by those comments will be addressed in connection with that rulemaking, research conducted for the Board clearly indicates the risks associated with direct investments.

For several months, the Board has engaged in considerable research to evaluate the nature of the risk of direct investment to the FSLIC and to determine whether an additional net-worth requirement is appropriate. The research suggests that returns from direct investments and service corporations are inherently more variable than most other forms of investment undertaken by thrift institutions, and that allowing such institutions to engage in unlimited amounts of direct investment could result in those institutions taking on unacceptably large levels of risk without adequate reserves and thereby posing a threat of substantially increasing losses to the FSLIC.

Board staff conducted an extensive examination of the economic and financial literature on rates of return and risk levels for various general asset categories (see *Examining Historical Returns and Risk for Debt and Equity Assets*, Office of Policy and Economic Research, 1984). The examined studies measured both rates of return and economic risks for real estate, common stocks, government and corporate bonds, and Treasury bills. These studies clearly show that equity investments such as common stocks are riskier investments than debt securities when variation in return is used as a measure of risk. The risk posed by real estate investment reflected a less solid consensus, with some studies indicating that the returns to real estate are riskier than both common stock and debt securities, others showing real estate is less risky than stocks but riskier than debt, and still others finding real estate to be less risky than either stocks or bonds.

The overall conclusion of Board staff is that the findings of these studies, when applied to actual situations where thrift associations possess different levels of competence and face different investment decisions, suggest that real estate investment will prove generally riskier than straight debt obligations. The studies surveyed implicitly assumed a geographically diversified real estate portfolio, since they used national data. In most cases, however, insured institutions are unlikely to be able to achieve complete geographic diversification. Relatively few institutions have interstate branch and lending networks, and thus the area they know best is relatively compact. Although attempts at geographic diversification can be made through joint ventures, this will often involve dealing with new and unknown partners in areas outside the institution's normal lending territory. Moreover, participations in such joint ventures can expose institutions to huge partnership liability that is totally disproportionate to the potential returns from the joint ventures. Finally, most real estate development occurs in fast-growing areas, and such areas can be prone to speculative over-building and resulting losses to developers.

It is not surprising that most economic and financial studies suggest that equity investments over a long period of time will prove riskier than debt investments. Claims of equity investors on the assets underlying their investments are generally subordinate to those of all other claimants. This implies that equity investors share disproportionately in both the losses and profits realized on the assets underlying investments. In contrast, the investor in debt obligations receives payments of interest on principal even after an equity investor's claim on cash flow has reached the zero level. Not surprisingly, average returns on equity investment are higher than those on debt investment because in a market of risk-averse investors there will be a positive trade-off between return and risk. Generally, economic and financial studies confirm the theoretical premise that investors may only obtain a higher expected rate of return by incurring additional risks. Investors also require a higher expected rate of return to incur additional risk. The staff has reviewed decisions by federal rate-making bodies and found that they consistently provide for substantially greater returns for equity versus debt because they have found that equity investments are substantially riskier than debt.

Another study by Board staff examined rates of return and the variability of savings institution investments in service corporations between 1979 and 1983 (see *Rates of Return from S&L Investments in Service Corporations, 1979–1983*, Donald G. Edwards, Office of Policy and Economic Research, 1984). Because service corporation data are reasonable proxies for the rates of return and the variance of rates of return on direct real estate investment by thrifts and are available to both Board staff and other researchers, the study used data from investments in service corporations to measure returns on direct investment. Data from over 1,000 institutions with investments in service corporations during the period 1979–83 were analyzed to obtain estimates of returns and variability of returns from these investments. Sample institutions were selected on the basis of consistent reporting of service corporation investment and net income in their semiannual reports of condition to the Board.

The rates of return reported by the sample institutions were found to have a mean of 17.4 percent over the period 1979 to 1983. The distribution of returns was extremely wide, with many associations reporting either large losses or large profits on their investments. The estimated median rate of return for the period 1979–83 was only 8.9 percent. The large difference between the mean rate of return and the median, coupled with the wide distribution of returns, demonstrates the general conclusion that savings institutions realized both high average rates of return and high average degrees of risk with investments in service corporations.

The distribution of rates of return reported by the sample of associations indicates that many investments performed very poorly. In the 1979–83 sample, 13 percent reported negative returns, 54 percent reported returns below the industry's average cost of funds (9.71 percent) for the period, and 67 percent reported returns below the industry's average interest rate on conventional single-family mortgage loans closed (13.35 percent). This large dispersion of service corporation returns, coupled with the high mean rate of return, suggest that the Board is correct in proposing to require an additional reserve requirement for institutions engaging in these riskier direct investments.

Another Board staff study analyzed how different hypothetical portfolios—consisting of fixed-rate mortgages, adjustable-rate mortgages, commercial loans, common stocks, and real estate—would have performed under the actual market conditions existing over the period 1978 to mid-1984. (See *Deriving a Thrift Institution's Efficient Frontiers in Constrained and Unconstrained Environments*, G. Stacy Sirmans, Office of Policy and Economic Research, 1984). The study concluded that, in general, while savings institutions could have increased their average expected return by increasing direct investments, this would also have entailed a major increase in the level of total portfolio risk for a broad range of portfolios.[1]

[1] The study found that fixed-rate mortgages behaved quite poorly during the same period, but also confirmed that well structured adjustable-rate mortgages would have performed very well. The relevant comparison, of course, is at the *margin;* e.g., would it be riskier for an association to invest its funds in direct investments, adjustable-rate mortgages, or other loans. The studies confirm the

Continued

While these conclusions must be examined with the restraint appropriate to any conclusion drawn from a hypothetical economic study, they clearly suggest that a required reserve for direct investment is a reasonable protection against additional risk.

In order to address the effect that different forms of investment may have on the total risk of an institution's portfolio, a Board survey examined the correlation coefficients between various equity and debt investments. The results generally show that the correlations between different forms of equity and different forms of debt are either positive or only moderately negative.

A further Board study (see *An Analysis of Service Corporation Investment and Direct Real Estate Investment by FSLIC-Insured Savings Institutions*, Joseph A. McKenzie, Office of Policy and Economic Research, 1984), based on June 30, 1984, data indicates that institutions with significant service corporation and/or direct real estate investment are growing far more rapidly, have asset portfolios with significantly more potential credit risk, have liability structures that are potentially less stable, and originate significantly lower proportions of permanent 1- to 4-family home mortgages than the average savings institution.

Forty-seven of the 2,953 institutions (all having assets of $10,000,000 or more as of June 30, 1983) in this study had combined direct investment of 10 percent or more of assets. Those 47 institutions had an average 181 percent asset growth for the year ending June 30, 1984, compared with a 21 percent growth rate for institutions with combined direct investment of less than 10 percent. Because it is in general very difficult to evaluate adequately investments that grow at such high annual rates, this dramatic disparity in growth rates between savings institutions with direct investment above and below 10 percent indicates that those heavily involved in direct investment, at least on average, are hardly risk-minimizers. Compared with the group with combined investment of less than 10 percent of assets, the 47 institutions also had, on average, significantly higher ratios to assets of acquisition, development, and construction loans, traditional construction loans, and nonresidential mortgages. The Board's supervisory experience is that these asset categories traditionally have a significantly higher demonstrated credit risk than residential mortgage lending. Institutions with a combined direct investment of 10 percent or more of assets also exhibit significantly greater reliance on jumbo certificates than the group with combined direct investment of less than 10 percent. As recent events have shown, deposits of more than $100,000 can prove extremely unstable when a financial institution confronts problems that are publicly recognized.

The Board's supervisory experience confirms these theoretical and empirical demonstrations of the relatively riskier nature of direct investment. Severe losses have occurred, or will occur, in many institutions that have invested most heavily in direct investments (including investments that are, in economic reality, direct investments even though recorded as purported loans). Moreover, available data may seriously understate losses that have already occurred as a result of direct investments. Losses resulting from poor asset quality do not automatically appear on institutions' books. A loss may not be realized until the examiner has ordered a reappraisal of the asset. Examiners may have difficulty in identifying problem assets, particularly if they are investments such as ADC loans, which may take the form of loans but in economic reality are direct investments that would, under the proposed regulation, require a 10 percent reserve. These "loans" will appear current on an association's books only because the institution has funded reserves for the payment of interest. Often, the "loan" amount also funded high loan fees, further boosting the institution's balance sheet. These factors, however, distinguish direct investments from scheduled items that can be more readily identified as potential losses due to the actual performance of the loans.

A 1982 Board study (that evaluated the asset investment powers of Texas thrifts in connection with the Board's request that Congress broaden the powers of federally chartered thrifts) found that the state chartered thrifts had substantially higher average net returns on investments made through their broadened asset powers than they did on their conventional mortgage portfolios. These broadened asset powers included commercial and personal loans and direct investments. The study also found that the pre-tax return on assets for Texas state-chartered stock institutions was significantly higher than for federally chartered mutual institutions (see *The Contribution of New Asset Powers to S&L Earnings: A Comparison of Federal- and State-Chartered Associations in Texas*, Research Working Paper No. 110, Office of Policy and Economic Research, July 1982).

There have been suggestions that this 1982 study demonstrated that direct investments were no riskier than other investments. In fact, that study did not examine direct investments, but rather included the entire package of new equity *and debt* investment powers granted by Texas. Moreover, the study did not examine the *risk* posed by direct real estate investments. The study confirmed only what is widely known and accepted—that the package of new asset powers can yield higher *average* returns than traditional investments—but did not deal with the issue of the *riskiness* of these investments, and the possible consequences of that riskiness for both institutions themselves and the FSLIC. During 1981, the time period over which the study's data are derived, the average ratio of direct investment to assets in Texas chartered thrifts was 0.56 percent and the maximum was 7.97 percent. Given the context in which the study was conducted—a period in which direct investment accounted for relatively miniscule percentages of most institution assets—it is not surprising that the study did not evaluate this risk.

While the study did note that direct real estate investment had a higher return than the *historical* mortgage portfolio, it also noted that the appropriate comparison would have been between the returns on direct real estate investment and returns associated with new mortgage lending. A comparison was not made in the study itself. Using this more appropriate comparison, the yield advantage of direct real estate would have proven far smaller. The authors of this study understood this limitation, and acknowledged it by pointing out that "because mortgages have longer maturities than other assets, during a period of rising interest rates, the average mortgage yield is likely to be further below market rates that the average yield * * * and yields on new conventional mortgages would probably be closer to the yield on alternative assets."

An argument has been made that direct investments in real estate and equity securities are short-term assets and therefore provide a good "match" with liabilities of thrift institutions. The entire notion of assets/liability matching rests on the principle that a "good match" results when the fluctuations in the rate paid on a liability closely follow the fluctuations in the return on the

rationality of the thrift industry making over 70 percent of new mortgages in the form of adjustable-rate mortgages.

asset that the liability is funding. Adjustable-rate mortgages provide an excellent match for thrift institution deposits since both rates paid and rates received tend to follow closely in tandem Conversely, as the Board's studies cited above have shown, there is no reason to expect a close correlation between the cost of institution deposits and the returns received from any particular form of direct investment. The large distribution of service corporation rates of return demonstrates conclusively that funding direct investments through savings deposits results in an extremely poor asset/liability match. If anything, a need for close asset/liability matching by thrift institutions argues strongly in favor of requiring additional net worth for institutions engaging in greater direct investments.

Given the risk of these investments, a direct investment component of the contingency factor similar to those for recourse liabilities and scheduled items is appropriate. The traditional activities of insured institutions have consisted primarily of secured lending (such as home mortgage loans), in which the security property is appraised and the amount of the loan is limited in accordance with the value of the property, thus providing a cushion in the event of losses from default. Contingency "reserves," however, have been required for scheduled items and recourse liabilities because they provide an additional offset for potential losses. It is thus appropriate to provide an additional cushion for these riskier direct investment activities that often are not secured and that do not provide institutions with a cushion similar to that provided by traditional investments.

The substantially greater risk of loss posed by direct investment supports a greater net-worth requirement. For scheduled items, however, there is specific information that a particular asset is performing badly and may default. No such specific information is available at the *outset* in making a direct investment. Thus, while some reserve is appropriate, the Board believes that the percentage should be less than the percentage required for scheduled items. Therefore, the revised proposal would require the "contingency factor" to include an amount equal to 10 percent of direct investments. The Board requests comments on the appropriateness of this level of reserves.

The direct-investment contingency factor references definitions of three components of direct investment contained in the proposed regulation on direct investments. The Board intends to clarify those definitions for purposes of the revised net-worth proposal.

Proposed § 563.9–8(f)(2) (49 FR 20719) defines an "investment in real estate" to mean the direct or indirect ownership of an equity interest in real property (other than office buildings and foreclosures) as determined in accordance with generally accepted accounting principles ("GAAP"). The Board has since proposed standards reflecting GAAP for classifying real estate investment and for reporting them in financial statements. *See* 49 FR 43557 (October 30, 1984). If these standards are not adopted in final form, it is the Board's intention that for the purposes of the net-worth proposal, each institution should determine whether particular real estate investment constitutes an equity interest in real estate in accordance with GAAP. The Board notes that the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants has published a notice to practitioners that sets forth certain characteristics for an auditor to consider in evaluating the institution's determination. *See Journal of Accountancy* 51 (November 1983).

The Board wishes to clarify that investments of institutions in finance subsidiaries pursuant to § 545.82 of the Board's Federal Regulations are not intended to constitute "direct investment" for purposes of proposed § 563.9–8, and thus would not constitute direct investments for purposes of the revised net-worth proposal. The Board declared the inapplicability of the direct investment threshholds to investments made by institutions in finance subsidiaries in the preamble to its final rule regarding finance subsidiaries of federal associations. Board Resolution No. 84–369, 49 FR 29357 (July 19, 1984).

Proposed § 563.9–8(g)(1) (49 FR 20719) defines "equity security" broadly to include, among other things, any interest or instrument commonly known as an equity security or a certificate of interest or participation in any profit-sharing agreement, as well as any warrant or right to subscribe for or purchase any such security, and any debt security convertible into any such security. Enumerated securities, including equity securities issued by a service corporation, were excluded from the definition. The Board believes that equity securities issued by an institution's own finance subsidiaries, as defined in 49 FR 29357 (July 19, 1984), should be excluded from the definition for purposes of the reproposed net-worth rule. The Board is not persuaded, however, that further narrowing the definition would be productive of the ends sought by the reproposed net-worth regulation. Specifically, concerns regarding the safety and soundness of insured institutions would not be alleviated by excluding from the definition of "equity security" investments in limited partnerships or joint ventures, equity securities acquired in "foreclosure" situations, investments in closed-end investment companies, or Sallie Mae securities. Convertible securities would be deemed to be "equity securities" if accounted for as such under GAAP.

In order to avoid "double reserves" on investments in service corporations when an institution is consolidated with its service corporation, the revised proposal would permit an institution to exclude the amount of its investment in the service corporation from the total amount of direct investments in calculating the contingency factor. However, once consolidated, any direct investment made by the service corporation would be included in the total amount of direct investments made by its parent institution.

Approval for growth in excess of 25 percent. Finally, to address more effectively the Board's concern with excessive growth by insured institutions, discussed above, the Board is proposing to require institutions to obtain prior written approval from the appropriate Principal Supervisory Agent before growing at an annualized rate in excess of 25 percent per quarter. As stated previously, the Board's research demonstrates that institutions that have increased their liabilities by an annual rate of more than 19 percent have significantly riskier asset portfolios and less stable funding sources than institutions growing at a lesser rate. For the reasons set forth in the above discussion of the exception for small institutions, the Board believes that it is appropriate to exempt institutions whose assets are $100,000,000 or less from the prior-approval requirement.

Institutions to which the prior-approval requirement would apply would submit information necessary for the Principal Supervisory Agent to determine the institution's ability to manage the resulting increase in activities, to determine the stability of the funding sources and the risks of potential runs, and the interest-rate and credit risks posed by the planned uses of the funds. This would also ensure that the management of an institution carefully considers the potential impact of various marketing practices such as (1) paying a fee to a third party for marketing, underwriting or soliciting

liabilities; (2) utilizing a listing service to make its rates known in any market for liabilities; (3) engaging in marketing practices including off-site media advertising and direct or indirect solicitation by employees of the institution by mail, telephone, or other means; or (4) utilizing the services of, or marketing deposits through, a deposit broker.

Sunset provision. The Board intends to examine the issues presented by the implementation of this proposal, if adopted as a final rule. The Board is therefore proposing that the revision, if adopted as a final rule, would expire on January 1, 1987, unless further action is taken by the Board prior to that date.

Studies and data cited in the preamble are available for public inspection along with comments received on the proposal.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC, except that institutions whose assets do not exceed $100,000,000 and which increased liabilities by 15 percent or less would not be required to eliminate the use of five-year averaging. Also, the prior-approval requirement for institutions to increase liabilities in excess of 25 percent would not apply to institutions having $100,000,000 or less in assets.

3. *Impact of the proposed rule on small institutions.* The proposed rule would limit the leveraging ability of rapidly growing small institutions by imposing a variable, marginal net-worth requirement on any quarterly increase in liabilities and by gradually eliminating five-year averaging and twenty-year phase-in in the calculation of minimum net-worth requirements. An exception, however, would permit those small institutions that increase their liabilities by 15 percent or less to continue to use five-year averaging.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* There are no alternatives to the elimination of techniques that understate the capital adequacy of small institutions that would be less burdensome than the proposal in addressing the concerns expressed in the supplementary information set forth above.

The Board has determined to provide less than a 60-day comment period (with comments due by December 31, 1984) because (1) this is a reproposal in which a number of issues were addressed, and comments received, in the February proposal, and (2) the need to avoid undue disruption of institutions' financial planning for fiscal year 1985. Further, the Board advises that, should the amendments be adopted in substantially the form proposed herein, it is the Board's intention that they take effect for the calendar quarter beginning January 1, 1985.

Lists of Subjects

12 CFR Parts 561 and 563

Insurance of accounts; Savings and loan associations.

12 CFR Part 570

Savings and loan associations.

12 CFR Part 571

Accounting, Bank deposit insurance, Savings and loan associations.

12 CFR Part 584

Holding companies, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561 and 563, Subchapter D, Chapter V of title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

§ 561.13 [Amended]

1. Amend § 561.13(a) by removing the phrase "statutory-reserve or"; and amend § 561.13(c) by changing "§ 563.13(c)" to read "§ 563.13(d)". [If § 561.13 is amended as proposed by Board Resolution No. 84–680, then § 561.13(c) will become § 561.13(d) and will be amended accordingly.]

PART 563—OPERATIONS

§ 563.7–4 [Amended]

2. Amend § 563.7–4[l)(2)(iv) and (v) by removing the phrase "statutory-reserve requirement or".

§ 563.8–1 [Amended]

3. Amend § 563.8–1(d)(1)(iv) by removing the phrase "or Federal insurance reserve".

4. Amend § 563.13 by revising paragraph (a); by redesignating paragraph (b)(4) as paragraph (b)(5); by revising paragraphs (b)(1), (2) and (3), and adding new paragraph (b)(4); by removing paragraph (f); by redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e) and (f), respectively; by adding new paragraph (c); by removing the phrase "reserve requirements of paragraphs (a) and (b)" in the first sentence of new paragraph (d)(1) and substituting the phrase "requirement of paragraph (b)"; by removing the phrase "*statutory reserve or*" in the heading of new paragraph (e); by removing the phrase "the statutory reserve requirement set forth in paragraph (a) of this section or" in the first sentence of new paragraph (e), by removing the phrase "paragraph (b)(2) of this section or the statutory reserve requirement set out in paragraph (a)(2) of this section" from the first sentence of new paragraph (f) and substituting the phrase "paragraph (b) of this section"; by revising paragraph (g); and by adding new paragraphs (h) and (i); as follows:

§ 563.13 Regulatory net-worth requirement.

(a) *Scope.* (1) This section sets forth the requirements for the maintenance of regulatory net worth by all insured institutions. Compliance with the requirements of this section shall be considered to be compliance with the reserve requirements of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)).

(2) Items previously credited to the predecessor Federal Insurance Reserve Account shall be designated "restricted retained earnings" in the list of items comprising the net-worth account, and shall be used only for absorption of losses. Items earmarked or otherwise designated but not credited to that Account may be designated as restricted retained earnings.

(b) *Minimum required amount*—(1) *General rule.* Except as provided in paragraphs (b)(2) and (3) of this section, the minimum net-worth requirement for any calendar quarter shall be the sum of the following:

(i) The base factor;

(ii) 1/20 of the amortization factor as defined in paragraph (h)(5)(i) of this section;

(iii) The growth factor; and

(iv) The contingency factor.

(2) *Exception for de novo institutions.* (i) *De novo* institutions shall have a minimum net worth equal to the sum of the contingency factor plus seven percent of all liabilities of the institution, which shall decline by 100 basis points for each year following the beginning of the first full fiscal year until equal to five percent; thereafter, upon the approval of

the Principal Supervisory Agent pursuant to paragraph (b)(2)(iii) of this section, the minimum net worth shall be equal to the amount specified by paragraph (b)(1) of this section.

(ii) *De novo* institutions which elect to have their applications for insurance of accounts processed in accordance with the policy set forth in § 571.6(a)(2) of this subchapter but which do not additionally qualify under § 571.6(a)(3), shall have, for the period between the commencement of operations and the beginning of the first full fiscal year and for three years following the beginning of the first full fiscal year, a minimum net worth equal to the sum of the contingency factor plus seven percent of all liabilities; thereafter, upon the approval of the Principal Supervisory Agent pursuant to paragraph (b)(2)(iii) of this section, the minimum net worth shall equal the amount specified by paragraph (b)(1) of this section.

(iii) The Principal Supervisory Agent of the institution's Federal Home Loan Bank district has delegated authority to approve a change in the minimum net-worth requirement for a *de novo* institution from the amount specified by paragraph (b)(2) of this section to the amount specified by paragraph (b)(1) of this section: *Provided,* that the Agent does not take supervisory objection to the probable effect of such reduction on the institution's safe and sound operating condition. If approval is withheld, the institution may seek review and final decision by the Corporation.

(3) *Exception for institutions with not more than $100,000,000 in assets.* Except as provided in paragraph (b)(2) of this section, any institution whose total assets at the end of a calendar quarter do not exceed $100,000,000 and which did not increase its total liabilities measured from the corresponding quarter of the preceding year (or, during calendar year 1985, from January 1, 1985) at an annual rate in excess of 15 percent.

(i) Shall have a minimum net-worth-requirement that shall be the sum of the following:

(*a*) Three percent of the average amount of liabilities at the end of that calendar quarter and on the corresponding quarter(s) of one or more of the four immediately preceding years (provided all such years are consecutive);

(*b*) 1/20 of the amortization factor as defined in paragraph (h)(5)(ii) of this section; and

(*c*) The contingency factor;

(ii) Shall calculate any merger, consolidation, or purchase of assets and assumption of liabilities by using pooling-of-interests accounting without regard to the actual method of accounting used; and

(iii) Shall not include any increase in liabilities resulting from a merger, consolidation, or purchase of assets and assumption of liabilities in determining whether the institution increased its liabilities at an annual rate in excess of 15 percent.

(4) *Maintenance requirement.* Institutions shall maintain until the end of the next calendar quarter net worth at least equal to the dollar amount required at the last calendar quarter.

* * * * *

(c) *Calculation period.* The minimum net-worth requirement shall be calculated as of the end of each calendar quarter and shall be met as of such date.

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(g) *Charging of losses to reserves.* Losses charged to reserves shall exhaust all net-worth accounts before constituting a charge against mutual capital certificates.

(h) *Definitions.* For purposes of this section:

(1) "Total liabilities" means the total assets net of loans in process, specific reserves and deferred credits other than deferred taxes, minus net worth as defined in § 561.13 of this subchapter.

(2) "Base factor" means:

(i) The minimum required net worth for the preceding calendar quarter (except that for the calendar quarter ending March 31, 1985, the minimum required net worth for the beginning of the most recent fiscal year), exclusive of the contingency factor and before reduction for qualifying balances; or

(ii) For any institution involved during a calendar quarter in a merger, consolidation, or purchase of assets and assumption of liabilities, the minimum net-worth requirement (net of the contingency factor and before deductions for qualifying balances) at the end of the preceding calendar quarter, calculated as if the merger, consolidation, or purchase of assets and assumption of liabilities had occured at that date using pooling-of-interests accounting without regard to the actual method of accounting used.

(3) "Growth factor" means:

(i) During a calendar quarter when the institution's total liabilities have increased—

(*a*) Three percent of the increase in total liabilities during the calendar quarter for institutions whose growth in total liabilities measured from the corresponding quarter of the preceding year (or, during calendar year 1985, from January 1, 1985) is at an annual rate of 15 percent or less;

(*b*) Four percent of the increase in total liabilities during the calendar quarter for institutions whose growth in total liabilities measured from the corresponding quarter of the preceding year (or, during calendar year 1985, from January 1, 1985) is at an annual rate greater than 15 percent but not more than 25 percent; or

(*c*) Five percent of the increase in total liabilities during the calendar quarter for institutions whose growth in total liabilities measured from the corresponding quarter of the preceding year (or, during calendar year 1985, from January 1, 1985) is at an annual rate in excess of 25 percent.

(ii) During a calendar quarter when the institution's total liabilities have declined—a negative amount determined by multiplying the decrease in total liabilities during that quarter by a fraction of which the numerator is the "base factor" as of the end of the preceding quarter and the denominator is the "total liabilities" as of the end of the preceding quarter.

(iii) Increases in liabilities resulting from a merger, consolidation, or purchase of assets and assumption of liabilities, shall not be included as an increase in liabilities for purposes of determining the growth factor during that quarter.

(4) The "contingency factor" is the sum of:

(i) Two percent of all loans sold with recourse as that term is defined in § 561.8 of this subchapter;

(ii) Ten percent of investments specified in § 563.9–8(a) of this subchapter made after December 1, 1984, except that investments in service corporations may be excluded if an institution elects to calculate its net-worth requirement on a consolidated basis including that service corporation: *Provided,* that any investments specified in § 563.9–8(a) made by the service corporation shall be included in the total of such investments of the parent institution; and

(iii) 20 percent of the institution's scheduled items.

(5)(i) "Amortization factor" means the amount by which three percent of total liabilities as of December 31, 1984, exceeds

(*a*) Three percent of the average amount on that date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive); or

(*b*) For all insured institutions (other than *de novo* institutions) that have not

reached the twentieth anniversary of accounts, the amount specified in paragraph (h)(5)(i)(*a*) of this section multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty.

(ii) For any institution whose total assets at the end of a calendar quarter do not exceed $100,000,000 and which did not increase its total liabilities as measured from the corresponding quarter of the preceding year at an annual rate in excess of 15 percent, the "amortization factor" means the amount by which—

(*a*) The amount equal to 3 percent of the average of total liabilities as of December 31, 1984, and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) exceeds.

(*b*) The amount specified in paragraph (h)(5)(ii)(*a*) multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty.

(6) "*De novo* institution" means any savings and loan association, homestead association, cooperative bank or savings bank which has filed with the appropriate Federal Home Loan bank an application for insurance of accounts, or an application to organize a Federal association, which was not approved prior to November 3, 1983, and the business of which has not been conducted previously under any charter.

(i) *Expiration date.* This section shall expire on January 1, 1987.

5. Add a new § 563.13–1, as follows:

§ 563.13–1 Liability growth.

(a) No insured institution having total assets in excess of $100,000,000 shall increase its total liabilities within any three-month period at an annual rate greater than 25 percent without prior approval of the institution's Principal Supervisory Agent.

(b) To obtain the prior written approval of the Principal Supervisory Agent, an institution shall submit a written growth plan. A groth plan shall cover a period of time not to exceed one year, and shall include the following information:

(1) The institution's net worth as of the end of the preceding calendar quarter;

(2) The amount of liabilities the institution expects to obtain;

(3) A listing of the proposed sources from whom, and methods by which, the liabilities will be obtained;

(4) The costs, rates, and maturities of liabilities sought to be obtained; and

(5) The planned uses of any liabilities obtained.

(c) No institution shall alter a written growth plan upon which approval has been granted or materially diverge from such a plan without the prior approval of its Principal Supervisory Agent.

(d) A deposit growth plan filed in accordance with paragraph (b) of this section shall be deemed to be approved by the Corporation 30 calendar days after the Principal Supervisory Agent sends written notice to the institution that the plan is complete, unless the Principal Supervisory Agent takes objection to the plan. In determining whether to take objection to a completed growth plan, the Principal Supervisory Agent shall consider the following factors:

(1) The impact of the plan upon the institution's net worth;

(2) The risk of the corresponding investments, the likelihood of obtaining the projected return, and the ability of the institution to underwrite the incremental volume of investments;

(3) The relative maturities of the liabilities and corresponding investments;

(4) The extent to which the liabilities are derived from or through a single source;

(5) Whether the interest to be paid on the liabilities corresponds with generally prevailing rates for similar liabilities;

(6) The financial strength of the institution, including the level of its net worth which shall not be less than 3 percent of total liabilities;

(7) The stability of the institution's earnings over the six preceding calendar quarters; and

(8) The extent to which the institution's policies are consistent with economical home financing.

(e) *Expiration date.* This section shall expire on January 1, 1987.

6. Revise § 563.14 as follows:

§ 563.14 Payment of dividends

No insured institution which has recognized losses of any kind chargeable to its net-worth account may pay dividends to insured members or other account holders, unless (a) its net-worth account, after deduction of such losses, is at least equal to the amount required under § 563.13(b) of this part, or (b) prior written approval is obtained from the Corporation. The Corporation hereby approves for any insured institution which, prior to the charging of such losses, has met the requirement of § 563.13(b), the declaration of dividends to insured members or other account holders, if the insured institution applies not less than 25 percent of its net income (as defined in § 563c.12 of this subchapter) for the affected distribution period to the restoration of its reserve capacity.

PART 570—BOARD RULINGS

§ 570.5 [Removed]

7. Remove § 570.5.

PART 571—STATEMENTS OF POLICY

§ 571.6 [Amended]

8. Amend § 571.6(a)(2) removing the phrase "§ 563.13(a)(2)(ii)(*b*) and (b)(2)(iii)(*b*)" and by substituting the phrase "§ 563.13(b)(2)(ii)".

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

§ 584.4 [Amended]

9. Amend § 584.4(g)(1)(iv) by removing the phrase "statutory reserve and".

(Secs. 401, 402, 403, 405, 48 Stat. 1225, 1256, 1257, as amended; 12 U.S.C. 1724, 1725, 1726, 1728, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84–31936 Filed 12–6–84; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 571

[No. 84–679]

Mortgage-Backed Securities

November 30, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed statement of policy.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), is proposing to issue a statement of policy concerning the accounting for reverse repurchase agreements, dollar reverse repurchase agreements, dollar reverse repurchase agreements which are rolled forward, and the rollover of forward commitments to acquire mortgage-backed securities for all financial statements submitted to the Board or to the Corporation. The intention of the Board in the proposed statement of policy is to eliminate confusion and inconsistent accounting treatment in this area.

DATES: Comments are due by December 31, 1984. Proposed effective date: December 31, 1984.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Douglas J. McEachern, Professional Accounting Fellow, Office of Examinations and Supervision (202–377–6392), or James H. Underwood, Corporate and Securities Division, Office of the General Counsel (202–377–6649), at the above address.

SUPPLEMENTARY INFORMATION: Institutions whose accounts are insured by the Corporation ("insured institutions") have become increasingly active in transactions involving the sale and repurchase of mortgage-backed securities. Since the accounting standard-setting bodies have not addressed some of the aspects of these transactions, there currently exists considerable confusion and controversy regarding the distinction between the accounting for reverse repurchase agreements, dollar reverse repurchase agreements, dollar reverse repurchase agreements which are subsequently rolled or extended, and the rollover of forward commitments to purchase mortgage-backed securities. As a result, inconsistent accounting treatment is being applied to similar transactions, which is of concern to the Board. The Board has therefore decided to address this issue, taking into consideration the desirability of consistent accounting treatment as well as the need to retain a potentially economically sound financial tool for the thrift industry.

The Board' staff held numerous meetings with representatives of the accounting profession, investment banking firms and other informed persons during the development of the proposed statement of policy. The purpose of these meetings was twofold: (1) To develop criteria that could be used to assess whether dollar reverse repurchase agreement transactions involved securities that were substantially the same; and (2) to discuss objective criteria that could be used to assess speculative rather than investment intent.

The criteria preliminarily decided upon to assess whether the security sold in a dollar reverse repurchase agreement and the one that is reacquired are substantially identical generally emanate from either the proposed statement of position prepared by the AICPA Committee on Savings and Loan Associations entitled *Accounting for Dollar Repurchase—Dollar Reverse Repurchase Agreements by Sellers-Borrowers* dated April 14, 1982, or the Board's OES staff memoranda R–48 ("Securities Transactions") and R–49 ("Reciprocal Sales of Mortgage Loans").

The Board believes that the criteria used in this proposed policy statement reflect the marketplace assessment of the similarity of mortgage-backed securities and criteria generally used as a result of the publication of the AICPA's proposed statement of position. However, commenters are encouraged to point out any perceived inconsistencies with the marketplace realities in order to assist the Board in the establishment of the appropriate criteria.

The assessment of whether an institution consummates a dollar reverse repurchase agreement transaction as an interest-rate speculation or as part of a financing transaction requires consideration of many complex factors. In discussing objective criteria to be used in the assessment of the intent of the management of an insured institution (as to whether a specific transaction was a speculative or a financing transaction), the Board has preliminarily concluded that the requirement for an initial holding period of a security prior to the execution of a dollar reverse repurchase agreement and a periodic holding requirement would serve to demonstrate management's intent to hold a particular security for investment purposes. The Board concluded that a 35-day holding period would be a reasonable requirement that would not place an unnecessarily artificial requirement on an institution's operating flexibility. The Board solicits comments on this proposed requirement and specific examples that would support a different holding period.

In arriving at this proposed policy, the Board has considered existing accounting literature, as noted above, that it believes to be relevant to the transactions at hand and existing practices of the thrift industry and the marketplace in general. The accounting for these transactions is expected to be reviewed in the near future by authoritative accounting bodies. Generally accepted accounting principles ("GAAP") may be affected by those deliberations. The necessity of a Board policy statement in this area will be reassessed at such time.

The mortgage-backed securities most commonly utilized for these transactions are Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation (FHLMC), and Federal National Mortgage Association (FNMA) securities. The reference to these securities is not, however, intended to restrict application to this proposed policy to those specific securities as it also would apply to other similar mortgage-backed security issues.

The Board has determined that a short comment period is appropriate because prompt action is in the public interest. Many insured institutions use a fiscal year that ends on December 31, and thus are required to prepare financial statements for the year ending December 31. Expeditious consideration of this proposed statement of policy is necessary so that the standards, if adopted in final form, can be in place with a minimum of delay where relevant to the preparation of these year-end statements, and can be effective for transactions occurring in the fiscal year beginning January 1, 1985. Therefore, the Board is further advising the public of its intention to use December 31, 1984, as the date of effectiveness of the statement of policy if the statement of policy is adopted in final form substantially as proposed. An exception would, however, be made for open forward-commitment dollar rolls entered into before December 31, 1984, that are not extended beyond their settlement dates, except in the case of settlement dates subsequent to March 31, 1985; dollar rolls in the latter instances would be required to be marked to market after March 31, 1985. The Board believes that a 90-day period would be adequate to enable institutions with such investments to restructure their positions, but requests comments on this issue.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been discussed elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The rules would apply to all insured institutions.

3. *Impact of the proposed rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping or conflicting federal rules.* There are no federal rules which

duplicate, overlap, or conflict with the proposed rules.

5. *Alternatives to the proposed rules.* No other alternative would provide for consistency in accounting treatment of the covered activities.

List of Subjects in 12 CFR Part 571

Savings and loan associations.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 571—STATEMENTS OF POLICY

Accordingly, the Board hereby proposes to amend Part 571, Subchapter D, Chapter V, Title 12 of the *Code of Federal Regulations,* as set forth below.

Add a new § 571.16 as follow:

§ 571.16 Mortgage-backed-securities transactions.

(a) *General.* (1) The accounting treatment hereafter described for Reverse repurchase agreements, dollar reverse repurchase agreements, dollar reverse repurchase agreements—with rollovers or extensions, and rollovers or extensions of forward commitments to purchase mortgage-backed securities ("forward commitment dollar rolls"), is to be used by: (i) All insured institutions in connection with all applications submitted to the Board or Corporation; (ii) all federally chartered and/or insured institutions and all savings and loan holding companies and their subsidiaries and affiliates, in connection with all reports submitted to the Board or Corporation; (iii) independent public accountants in determining whether mortgage-backed-securities transactions have been properly recorded and reported; and (iv) Board examiners when preparing reports for the Board.

(2) The proper accounting treatment for mortgage-backed-securities transactions depends on whether the transactions are, in substance, sales and purchases of securities, financing transactions, or the rollover of forward commitments to purchase securities. When the security to be repurchased is *not* either identical or substantially identical to the security sold, the transaction is a sale and purchase and not a financing transaction. This differentiation is critical since a sale and purchase requires recognition of gain or loss upon initiation of the transaction; a financing does not. Mark-to-market accounting shall be followed for the rollover of forward commitments to purchase mortgage-backed securities.

(3) Repurchase agreements to maturity must be accounted for as sales and purchases and are not discussed in this statement of policy.

(b) *Reverse repurchase agreements and rollovers of these agreements.* (1) A reverse repurchase agreement is an agreement (contract) to sell and repurchase ("sell/buy") the *identical* mortgage-backed security within a specified time at a specified price. These transactions are equivalent to borrowing funds in an amount equal to the sales price of the related mortgage-backed security. For example, if an institution wishes to borrow funds with a mortgage-backed security is collateral, it may, in lieu of a direct borrowing, arrange to temporarily sell the security with an agreement to repurchase the *identical* security on a future date at a specified price. A difference in price represents interest cost for the use of the funds. During the term of this agreement, the institution continues to receive principal and interest payments on the security and the security may or may not be registered in the institution's name.

(2) In these transactions, mortgage-backed securities are "owned" and in the institution's investment portfolio prior to the initial sell/buy. For purposes of this statement of policy, "owned" means mortgage-backed securities which are in portfolio and have been held by the institution for investment purposes. Mortgage-backed securities which have been formed by the pooling of mortgage loans held by the institution meet these criteria.

(3) Reverse repurchase agreements involved identical securities, and the substance of the transaction is a borrowing. These agreements shall be accounted for as financing transactions with no current gain or loss recognition at the time of the sell/buy. When funds are borrowed under a reverse repurchase agreement, a liability shall be established for the amount of the proceeds. The investment mortgage-backed security account shall not be relieved of the collateral mortgage-backed security. Interest cost on these agreements shall be reported as an expense and not shown net of interest income.

(4) Rollovers and extensions of reverse repurchase agreements shall be accounted for based on the facts and circumstances at the time of the rollover or extentions. When the rollover involves the *identical* security, the transaction shall continue to be accounted for as a financing.

(c) *Dollar reverse repurchase agreements.* (1) A dollar reverse repurchase agreement is an agreement (contract) to sell a mortgage-backed security from an investment portfolio and subsequently repurchase a mortgage-backed security which is of the same issuer but which is not the original mortgage-backed security within a specified time and at a specified price. Fixed-coupon and yield maintenance dollar agreements are the most common agreements. In a fixed-coupon agreement, the seller and purchaser agree that delivery will be made with a mortgage-backed security having the same stated coupon interest rate as the security sold. In a yield-maintenance agreement, the parties agree that delivery will be made with a security that will provide the seller a yield that is specified in the agreement. During the term of the agreement, the institution transfers the security to the lender and the security is no longer registered in the institution's name. The institution receives no principal and interest payments on the security during the agreement's term. The security to be repurchased is typically on a "to be assigned" basis, meaning the pools of mortgages to secure a reacquired security have been formed but not specifically identified.

(2) For purposes of this statement of policy, under the fixed-coupon dollar reverse repurchase agreement, the mortgage-backed security to be sold must be initially owned by the institution and held in its investment portfolio for a minimum of 35 days prior to the initiation of the sell/buy contract. Securities which have been formed by the pooling of mortgage loans that have been held by the institution for 35 days meet this 35-day holding-period criterion.

(3) Fixed-coupon dollar reverse repurchase agreements represent transactions involving *substantially identical* mortgage-backed securities and should be accounted for as collateralized borrowing arrangements (financings).

(4) Mortgage-backed securities are considered *substantially identical* only when all of the following criteria are met:

(i) The securities are collateralized by similar mortgages (e.g., single-family residential mortgages for single-family residential mortgages);

(ii) They are of the same type of fixed-rate instrument (e.g. GNMA for GNMA, FHLMC for FHLMC, FNMA for FNMA);

(iii) The securities have the same original stated term to maturity (e.g., 30 years);

(vi) The securities have identical coupon interest rates;

(v) The securities have approximately the same market yield; and

(iv) The aggregate principal amounts of mortgage-backed securities given up and mortgage-backed securities

reacquired involved in the transaction are within 2½ percent of one another.

(5) The accounting for fixed-coupon dollar reverse repurchase agreements is the same as that used for reverse repurchase agreements. A liability shall be recorded for the amount of the proceeds. The difference between the sale and repurchase price shall be accounted for as interest cost that is amortized over the term of the agreement; it may not be netted against interest income or expense. Amortization of the original premium or accretion of the original discount and interest income on the original security shall continue to be recorded even if there is an exchange of fixed-coupon mortgage-backed securities.

(6) In conformance with paragraph (c)(4)(vi) of this section, the aggregate principal amounts of the mortgage-backed securities sold and reacquired must be within 2½ percent of one another to constitute "good delivery." If the principal amount of the securities repurchased in a fixed-coupon dollar reverse repurchase transaction is greater than that of those originally sold, the difference shall be recorded in the investment account as though a separate acquisition of additional securities had occurred. If the principal amount is less, the investment account must be relieved of the proportionate share of mortgage-backed securities that have been sold, and gains or losses adjusted for the *pro rata* share of unamortized premium (or discount).

(7) To qualify as a financing for accounting purposes, the settlement term on the fixed-coupon dollar reverse repurchase agreement shall not exceed twelve months from the initiation date (original "sell" date).

(8) A fixed-coupon agreement that contains a right-of-substitution clause or that provides an option to the lender to deliver mortgage-backed securities priced to result in a significantly different yield shall be accounted for in the same manner as a yield-maintenance agreement (i.e., current recordation of gains and losses).

(9) If the "substantially identical" criterion (set forth in paragraph (c)(4) of this section), the holding-period criterion (set forth in paragraph (c)(2) of this section), or the term-of-agreement criterion (set forth in paragraph (c)(7) of this section) have not all been met, the transaction shall be accounted for as a sale and purchase of mortgage-backed securities rather than as a financing. Thereafter, the position shall be marked to market at each reporting date until the securities are reacquired.

(10) The accounting for fixed-coupon dollar reverse repurchase transactions entered into prior to December 31, 1984, shall be accounted for as specified in Board OES staff memoranda as furnished from time to time. For example, a transaction entered into on November 30, 1984, with a thirteen-month term would not be subject to the holding period criterion (35 days), the "substantially identical" criterion (except that the securities must have identical coupon rates), or the length-of-time criterion for purposes of qualifying for financing accounting (through December 31, 1985), because the transaction was initiated prior to December 31, 1984. Transactions entered into on or after December 31, 1984, shall be accounted for as provided in this statement of policy.

(11) Yield-maintenance dollar reverse repurchase agreements do not represent transactions involving substantially identical mortgage-backed securities and, therefore, must be accounted for as sales and purchases, regardless of when initiated.

(d) *Dollar reverse repurchase agreements with rollovers or extensions.* (1) A rollover or extension of a dollar reverse repurchase agreement occurs when an institution decides not to accept delivery of a fixed-coupon mortgage-backed security at the repurchase date but rather decides to "roll it forward" by means of a sell/buy transaction in which the position is offset and extended for another specified period of time. Typically, to the extent the market value of the fixed-coupon security has increased or decreased in value due to interest-rate fluctuations from the original sale date to the roll date, the institution will pay or receive payment for such price fluctuations. The other characteristics of a dollar reverse repurchase agreement which are present in its initial term (e.g., no receipt of principal and interest payments, securities not registered in the institution's name) also are present in the "roll" periods.

(2) Once the roll period commences, the rolled fixed-coupon dollar reverse repurchase agreement *shall continue to be accounted for as a financing,* when the following conditions exist:

(i) Within twelve months from the date of the initial sell/but transaction (as described in paragraph (c)(1) of this section), the institution shall fund, accept delivery, close out its position, and place in its investment portfolio the fixed-coupon mortgage-backed securities. For future dollar reverse repurchase transactions using these reacquired securities, in order for these transactions to be accounted for as financings, the security shall remain in the institution's portfolio for at least a 35-day time period. This mandatory delivery condition is intended to demonstrate the institution's ability to fund the purchase of the securities and intent to hold the securities for investment purposes.

(ii) At all times during the rollover or extension period(s), the institution must be able to demonstrate its ability to fund the reacquisition of the fixed-coupon mortgage-backed securities and close out its position.

(iii) The institution must be able to demonstrate the ability to fund its aggregate outstanding position of reverse repurchase agreements and dollar reverse repurchase agreements (i.e., the individual reverse repurchase agreements and dollar reverse repurchase agreements must be aggregated to determine if this criterion has been satisfied).

(3) If the conditions of paragraphs (d)(2)(i), (d)(2)(ii) and (d)(2)(iii) of this section are not met, the transaction must be accounted for as a sale and purchase of mortgage-backed securities rather than as a financing starting with the month the ability to fund has not been demonstrated or *at the end of the twelve-month period,* whichever comes first. Thereafter, the position must be marked to market at each reporting date until the mortgage-backed securities are reacquired.

(4) The rollover at maturity of a fixed-coupon dollar reverse repurchase agreement into a yield-maintenance dollar reverse repurchase agreement results in a new contract. The rollover into the new yield-maintenance agreement shall be accounted for as a sale and purchase of securities and the position marked to market at each reporting date thereafter until the mortgage-backed securities are reacquired.

(5) This policy applies as of December 31, 1984, for fixed-coupon dollar reverse repurchase agreements which have been rolled and for rolls which occur after that date in order for them to be accounted for as a financing. (For example, assume a transaction was initiated on August 1, 1984, and had been rolled forward in 30-day rollover increments to January 1, 1985. The institution, beginning on December 31, 1984, would have to demonstrate its ability to fund the delivery of the substantially identical securities. Additionally, the institution would have to take delivery of the securities on or before December 31, 1985.)

(e) *Rollover of forward commitment to purchase mortgage-backed securities ("forward commitment dollar rolls").* (1) A forward-commitment dollar roll is

initiated when an institution enters into a forward commitment to purchase mortgage-backed securities on a "to be announced" basis ("TBA") at a specified price on a specified settlement date. On or before the settlement date, the institution decides to "roll" its position forward rather than accept delivery of the securities. The rollover is accomplished by the institution "offsetting" its position and extending the commitment to purchase a TBA at a specified later date.

(2) Typically, these transactions are *not* initiated with mortgage-backed securities held in portfolio but rather with a forward commitment to purchase. No significant cash is exchanged at the initial settlement date. During the roll period, the securities are not registered in the institution's name and the institution does not receive principal and interest payments on the securities. In many cases the TBA securities have not been identified as the pools to secure them have not been formed but are to be created in the future. At each rollover date, the institutions pays or receives cash (similar to a margin call) from the broker for the change in market value of its position since the previous rollover settlement date. Interest costs due the broker may be nettled against the margin call. This "net margin call" is the amount of cash which is exchanged during the rolling of the forward commitments.

(3) When these transactions are rolled, they are considered to be speculative in nature rather than the short-term financing of a mortgage-backed-securities portfolio. These transactions, in addition to other forward commitments, are subject to the limitations specified in § 563.17–3 of this subchapter. Outstanding forward commitments to purchase securities plus short "put" options, as described in § 563.17–5 of this subchapter, which in the aggregate exceed the limitations, are deemed to be inherently unsafe and unsound activities for insured institutions.

(4) As of December 31, 1984 open forward-commitment dollar rolls entered into on or before that date may be accounted for as forward commitments (i.e., afforded financing treatment) unless modified during the life of the contract, in which case the provisions of § 563.17–3(d) would apply and profit or loss must be recognized by the institution at the time of modification. Any extension of these transactions beyond their settlement date or March 31, 1985, whichever comes first, any forward commitment dollar rolls entered into after December 31, 1984 and any open forward-commitment dollar rolls transactions with a settlement date beyond March 31, 1985 shall be marked to market as of each roll date or the date of filing reports to the Board after March 31, 1985, whichever comes first. Application of mark-to-market accounting to those forward-commitment dollar rolls positions established prior to December 31, 1984 and expiring prior to March 31, 1985, is optional but encouraged.

(f) *Recordkeeping.* (1) An institution engaging in mortgage-backed-securities financing arrangements shall maintain records of such transactions. These records shall include documentation that is adequate to specifically identify and control all outstanding positions. At a minimum, the documentation must cover:

(i) Type of security and the time it has been held in portfolio before being used to enter into the sell/buy.

(ii) Detail of prices, interest costs and cash flows at each rollover;

(iii) Broker or other party to the transaction;

(iv) Expiration date of the contract;

(v) Unrealized income or loss on the position during the roll period;

(vi) A description of the security reacquired.

(2) Management of each insured institution shall submit to its board, on a quarterly basis, a report on the activity in these transactions (including the unrealized gain or loss positions in these transactions). This report should document the ability of the institution to fund delivery of the security throughout the rollover period when the transaction involves a dollar reverse repurchase agreement.

(3) The lack of adequate documentation for these transactions will be considered an unsafe and unsound practice under the general recordkeeping requirements in §§ 563.71–1 and 563.17–3 of this subchapter.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 3 CFR 1843–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84–31935 Filed 12–6–84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 35a

[LR–151–83, LR–179–84]

Sanctions on Issuers and Holders of Registration-Required Obligations not in Registered Form and Application of the Repeal of 30 Percent Withholding by the Tax Reform Act of 1984 and of Information Reporting and Backup Withholding in Light of Such Repeal; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on two proposed regulations. One of the two proposed regulations (LR–151–83) relates to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form, and to the imposition of sanctions on persons holding registration-required obligations in bearer form. The other proposed regulations (LR–179–84) relate to the application of information reporting and backup withholding pursuant to the repeal of 30 percent withholding by the Tax Reform Act of 1984.

DATES: The public hearing will be held on Monday, January 28, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Monday, January 14, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Buidling, 1111 Constitution Avenue NW, Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–151–83, LR–179–84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: One of the two subjects of the public hearing is proposed regulations under Treasury Regulations §§ 1.163–5(c), 1.165–12 and

1.1287–1. The proposed regulations appeared in the **Federal Register** for Wednesday, August 22, 1984 (49 FR 33276).

The second subject of the public hearing is proposed regulations under Treasury Regulations § 35a.9999–5. The proposed regulations appeared in the **Federal Register** for Wednesday, August 22, 1984 (49 FR 33275).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Monday, January 14, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–32039 Filed 12–6–84; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 41 and 48

Heavy Vehicle Use Tax; Credits and Refunds of the Tax on Diesel Fuel

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to proposed rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 49 FR 44300 of the proposed regulations relating to the imposition of tax on the use of heavy vehicles and relating to credits and refunds of the tax imposed on the sale of diesel fuel.

DATES: The proposed amendments that are the subject of this correction are proposed to be effective after June 30, 1984, except as otherwise provided. This correction is to be effective with respect to the same dates.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1984, the **Federal Register** published proposed amendments to the Excise Tax Regulations (26 CFR Part 41) under sections 4481, 4482, and 4483 of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 513 of the Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982) (Pub. L. 97–424, 96 Stat. 2177) and sections 901, 902, and 903 of the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984) (Pub. L. 98–369, 98 Stat. 1003). The document also contained proposed amendments to the Excise Tax regulations (26 CFR Part 48) under section 6427(b)(2) of the Code relating to an exemption from the tax imposed by section 4041 of the Code in the case of fuel used in certain buses, and under section 6427 (g) of the Code relating to a credit or refund to original purchasers of diesel-powered automobiles and light trucks. These last two amendments were proposed to conform the regulations to section 911 (b) and 915 of the Tax Reform Act of 1984, respectively.

Need for Correction

As published, the notice of proposed rulemaking incorrectly states the year "1984" rather than the year "1985" in designated § 41.4481–2(a)(2), in the seventh line under the heading "Example", in the first column of page 44304.

Correction of Publication

§ 41.4481–2 [Corrected]

Accordingly, the publication of the notice of proposed rulemaking which was the subject of FR Doc. 29182, is corrected by removing the language "1984" from the seventh line under the heading "Example", in designated § 41.4481–2(a)(2), in the first column of page 44304 and adding the language "1985" in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–32040 Filed 12–6–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Exploration for Nonenergy Minerals on the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Interior (Department) is considering the desirability of issuing new regulations to govern exploration on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Acts. Comments and recommendations are requested from interested parties. The Minerals Management Service will consider relevant comments in determining the terms and conditions, benefits, costs, and probable consequences of such regulations.

This request is made in response to comments received from industry, environmental groups, interested parties, and other Federal Agencies on the Draft Environmental Impact Statement (EIS) for the Gorda Ridge, and from the Federal-State Task Forces which have been formed to evaluate the environmental, economic, and engineering potential of various areas.

DATE: Comments in response to this request should be postmarked or hand delivered no later than the close of business April 8, 1985.

ADDRESS: Comments may be mailed or delivered to Reid T. Stone, Assistant Associate Director for Strategic International Minerals, Department of the Interior, 11 Golden Shore, Suite 260, Long Beach, California 90802, telephone (213) 548–2901.

FOR FURTHER INFORMATION CONTACT: Andrew Bailey, Office of Strategic and Internal Minerals, Minerals Management Service 12203 Sunrise Valley Drive, Reston, VA 22091, (703) 860–6823.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the OCS Lands Act, the Secretary of the Interior is authorized to grant leases for minerals other than oil, gas, and sulphur on the OCS based on competitive bids and under such terms, conditions, royalties, and rentals as he/she may prescribe.

On March 10, 1983, President Reagan proclaimed an Exclusive Economic Zone (EEZ) for the ocean area within 200 nautical miles of the baseline from which the territorial sea of the United States including its territories is measured. The EEZ includes areas that may be favorable for a variety of strategic and critical materials including phosphates and minerals containing copper, lead, zinc, cobalt, nickel, silver, cadmium, titanium, and manganese. Recognizing the potential for the development of these domestic resources, the President declared in his State of the Union address of January 26, 1984, that the Department will encourage careful, selective exploration and production of our vital resources in the EEZ within the 200-mile limit off our coasts, but with strict adherence to environmental laws and with full State and public participation.

To aid in the evaluation of the environmental and management aspects of exploration for strategic, critical, and other minerals on the OCS the Department is reviewing the desirability of promulgating new regulations to govern these activities.

Although the regulations in 30 CFR Part 251 now govern exploration activities for nonenergy minerals, as well as oil, gas, and sulphur, separate regulations may enable the Department to better evaluate the environmental, economic, and management implications of possible exploration for nonenergy minerals on the OCS. Such action was requested in the public hearings on the Gorda Ridge draft EIS individuals, environmental, organizations, and State and Federal Agencies.

Coments are consequently requested as to whether regulations separate from those in 30 CFR Part 251 should be developed for prelease exploration for strategic, critical, and other minerals on the OCS and, if so, should they differ from 30 CFR Part 251. In particular, comments, suggestions, data, and recommendations are requested with respect to the inclusion and treatment in such regulation of the following:

(a) Area to be covered by a permit;
(b) Term of a permit;
(c) Terms and conditions;
(d) Applications requirements;
(e) Application fees;
(f) Exploration plans;
(g) Availability of data and information to MMS;
(h) Availability of data and information to the public;
(i) Appropriate role of adjacent States;
(j) Public participation;
(k) Limitations on exploration activities;
(l) Environmental considerations;
(m) Drilling, coring, and sampling activities;
(n) Inspection and observation of exploration activities;
(o) Suspension or cancellation of exploration permits;
(p) Violation of permit terms and enforcement of requirements; and
(q) Penalties and appeals.

Permits to conduct preliminary geological and geophysical (G&G) exploration activities for nonenergy minerals and materials on the OCS, using methods similar to those used in the exploration for oil, gas, and sulphur, may be obtained under the regulations at 30 CFR Part 251 *Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf.* Permits obtained under that part authorize G&G exploration including bottom sampling, core and test drilling, and under certain conditions, deep stratigraphic test drilling.

Further information concerning exploration for strategic, critical, and other minerals and permits available under 30 CFR Part 251 may be obtained as follows:

(a) For the OCS off the Atlantic OCS Coast—the Regional Supervisor for Offshore Resource Evaluation, Atlantic Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, telephone (703) 285–2165.

(b) For the OCS in the Gulf of Mexico—the Regional Supervisor for Offshore Resource Evaluation, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010, telephone (504) 837–4720.

(c) For the OCS off the coast of the States of California, Hawaii, Oregon, and Washington—the Regional Supervisor for Offshore Resource Evaluation, Pacific OCS Region, Minerals Management Service, Room 160, 1340 West Sixth Street, Los Angeles, California 90017, telephone (213) 688–6857.

(d) For the OCS off the State of Alaska—the Regional Supervisor for Offshore Resource Evaluation, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510, telephone (907) 271–4361.

List of Subjects in 30 CFR Part 251

Continental shelf, Freedom of information, Public lands/minerals resources, Reporting and recordkeeping requirements, Science and technology.

(43 U.S.C. 1331 *et seq.*)

William D. Bettenberg,
Director, Minerls Management Service.

Dated: November 28, 1984.

[FR Doc. 84–31834 Filed 12–6–84; 8:45 am]
BILLING CODE 4310–MR–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 84–12]

Drawbridge Operation Regulations; Duwamish Waterway, WA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering a change to the regulations governing the operation of the highway drawbridge across the Duwamish West Waterway at Southwest Spokane Street and the highway drawbridge across the Duwamish Waterway at First Avenue South, both in Seattle, Washington, by decreasing the three hour morning and evening closed periods by one hour each and providing exemptions to the closed periods for certain classes of vessels. This change will provide that, subject to certain exceptions, the draws of these bridges need not open for the passage of vessels between the hours of 6:30 a.m. and 8:30 a.m. and between 3:45 p.m. and 5:45 p.m., Monday through Firday, except for federal holidays. The draws of the Southwest Spokane Street bridge will open at any time for a vessel of 1,000 gross tons and over, a vessel towing a vessel of 1,000 gross tons and over, and a vessel proceeding to pick up a vessel of 1,000 gross tons and over for towing. The draws of the First Avenue South bridge will open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up a vessel of 5,000 gross tons and over for towing. This proposal is being made because the opening to traffic of all lanes of the new West Seattle Freeway bridge provides an alternate route for uninterrupted vehicular traffic to and from West Seattle and destinations across the Duwamish Waterway to the east. This action should accommodate the needs of vehicular traffic and reduce the burden of lengthy closed periods on marine traffic.

Before publishing this notice of proposed rulemaking, the Coast Guard temporarily changed the regulations governing the operation of the Southwest Sponkane Street and First Avenue South bridges to conform with the proposed action in order to test the proposal. The temporary change was effective on September 19, 1984 and, unless extended, will terminate on November 18, 1984.

DATE: Comments must be received on or before January 22, 1985.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington, 98174. The comments and other materials referenced in this notice will be available for inspection and copying in Room 3564 at this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

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 for 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, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information:

The drafters of this notice are John E. Mikesell, project officer, and Lieutenant Aubrey W. Bogle, project attorney.

Discussion of Proposed Regulations

Since 1978 when the northernmost of the two Spokane Street bridges across the Duwamish West Waterway was struck by a vessel and subsequently removed, three hour morning and evening closed periods have been in effect for the remaining Spokane Street bridge and the First Avenue South bridge. Prior to that time two hour closed periods had been in effect. Extending the two hour closed periods to three hours and eliminating closed period exemptions for vessels of 5,000 tons and over was necessary to accommodate the increase in peak hour vehicular flows caused by the elimination of the four travel lanes of the damaged bridge.

A new high level, six-lane, fixed span, highway bridge has been constructed over the Duwamish waterway and was recently opened to traffic. The six lanes of the high level bridge and the four lanes of the existing Spokane Street bridge provide ten lanes for vehicular traffic in the Spokane Street corridor. This is two more than existed before the 1978 accident which resulted in removal of the northernmost Spokane Street bridge. The six lanes of the high level bridge will provide for unobstructed traffic flow between West Seattle and Seattle. The four lanes of the Spokane Street bridge primarily will provide access from the west to the businesses on Harbor Island.

Navigation interests who use the Duwamish Waterway requested that the Coast Guard reduce the length of the closed periods once the high level bridge was fully open to traffic. Therefore, concurrent with the high level bridge opening to traffic, the Commander, Thirteenth Coast Guard District approved a temporary change to the operating regulations which reduced the length of the closed periods and granted exemptions to closed periods for vessels of 5,000 tons or more. This temporary regulation was published in the **Federal Register** (49 FR 30071), and was in effect from July 7, 1984 through September 4, 1984. It provided that the draws of the Southwest Spokane Street bridge and the First Avenue South bridge need not open for the passage of vessels, except for vessels of 5,000 tons or more, from 6:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays. The temporary regulation was used by the Coast Guard to evaluate the effects of the change before proposing a permanent rule change.

Three comments were received by the Coast Guard in response to the temporary regulation. One commercial user of the waterway recommended that closed period restrictions for both the Southwest Spokane Street and First Avenue South bridges be eliminated completely for commercial vessels regardless of size. The local port authority and a group of commercial waterway users requested that the exemption to closed period restrictions for the Southwest Spokane Steet bridge be extended to include vessels of 1,000 gross tons and over. Another user of the waterway indicated that the 5,000 gross ton exemption should be made permanent.

Our review of information supplied by the bridge owner and waterway users, summarized below, indicated that closed period exemptions for the Southwest Spokane Street bridge could be extended to include vessels of 1,000 gross tons and over without significantly disrupting vehicular traffic over the bridge.

The opening of the new high level bridge to traffic has reduced the average daily vehicular traffic volumes on the Southwest Spokane Street bridge by about 60% in the westbound direction and by about 80% in the eastbound direction. However, traffic volumes on the First Avenue South bridge, although slightly reduced, have not undergone a significant change. Our analysis of vessel traffic on the waterway indicates that closed period openings for the Southwest Spokane Street bridge would average about 13 per month for vessels of 1,000 gross tons and over. If the closed period exemption were to include tugs proceeding to pick up a vessel of 1,000 gross tons or over for towing, the number of closed period openings could increase to about 26 per month, or roughly one per day. Closed period openings for the First Avenue South bridge would average about 7 per month for vessels of 1,000 gross tons and over, and about 1 to 2 per month for vessels of 5,000 gross tons and over.

Because of the relatively low traffic volumes on the Southwest Spokane Street bridge and the existence of an alternate route through the Spokane Street corridor, it appears that an operating regulation that exempts vessels of 1,000 gross tons and over, vessels towing vessels of 1,000 gross tons and over, and vessels proceeding to pick up vessels of 1,000 gross tons or over for towing, would provide for the reasonable needs of navigation and not unreasonably affect vehicular traffic movement in the Spokane Street corridor. With the high volume of vehicular traffic on the First Avenue South bridge, a 5,000 gross ton exemption seems more appropriate.

Based upon our analysis of information received during the period of the first temporary regulation, the Commander, Thirteenth Coast Guard District continued and modified the temporary regulations by extending the closed period exemptions to include additional classes of vessels. This modified temporary regulation provides that: the draws of the Southwest Spokane Street bridge open at any time for a vessel of 1,000 gross tons and over, a vessel towing a vessel of 1,000 gross tons and over, and a vessel proceeding to pick up a vessel of 1,000 gross tons

and over for towing; and the draws of the First Avenue South bridge open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up a vessel of 5,000 gross tons and over for towing. This modified temporary regulation was published in the Federal Register (49 FR 39157), and became effective on September 19, 1984. The temporary regulation terminates on November 18, 1984. It is contemplated that it will be extended beyond its current termination date to allow the affected bridges to continue to operate under its terms during the public comment period for this proposed rule. No comments concerning the current temporary regulation have been received. However, the final rule may be changed based upon comments received to this proposed rule.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This is based on the improvement to vehicular traffic flow brought about by the new high level bridge between Seattle and West Seattle, and the fact that the high level bridge provides an alternate, uninterrupted route for vehicular traffic during periods when the other bridges across the waterway may be required to open for the passage of vessels. Based on the foregoing, closed period openings of the Southwest Spokane Street and First Avenue South bridges for the authorized classes of vessels should not have a significant effect on vehicular traffic movement. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will 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, Part 117 of Title 33 Code of Federal Regulations, is amended by revising § 117.1041(a)(1) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.1041 Duwamish Waterway.

(a) * * *

(1) The draws of the Southwest Spokane Street bridge, mile 0.3, and the First Avenue South bridge, mile 2.5, need not be opened for the passage of vessels from 6:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, except as follows:

(i) The draws of the Southwest Spokane Street bridge shall open at any time for a vessel of 1,000 gross tons and over, a vessel towing a vessel of 1,000 gross tons and over, and a vessel proceeding to pick up a vesssel of 1,000 gross tons and over for towing.

(ii) The draws of the First Avenue South bridge shall open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up a vessel of 5,000 gross tons and over for towing.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: November 21, 1984.

Harold W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 18th Coast Guard District.

[FR Doc. 84-31856 Filed 12-6-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50521; FRL-2655-5]

Disubstituted Diamino Anisole; Proposed Determination of Significant New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for chemical substance which was the subject of premanufacture notice (PMN) P-83-822 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous and that uncontrolled manufacture, processing, import, distribution in commerce, use, or disposal may result in significant human or environmental exposure.

DATE: Written comments should be submitted by February 5, 1985.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50521. Nonconfidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XV of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1(A) of TSCA which are interpreted at 40 CFR Part 720 published in the Federal Register of May 13, 1983 (48 CFR 21722). In particular, these include the information submission requirements of section 5 (b) and (d)(1), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and (f). If EPA does not take regulatory action under section 5, 6, or 7 to control certain activities on which it has received a SNUR notice, section 5(g) requires the Agency to explain in the Federal Register its reasons for not taking action.

Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting

section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs are covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127 and 127.28 published in the Federal Register of August 1, 1983 (48 FR 34734). The EPA policy in support of these requirements appears at 40 CFR 707 published in the Federal Register of December 13, 1983 (48 FR 55462).

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR part 721, Subpart A, published in the Federal Register of September 5, 1984 (49 FR 35011). EPA is proposing that these general provisions apply to this SNUR without charge except as discussed in this preamble. Interested persons should refer to that document for a detailed discussion of the general provisions.

III. Summary of This Proposed Rule

The chemical substance subject to this proposed rule is identified generically as disubstituted diamino anisole. It was the subject of PMN P-83-822. EPA is proposing to designate the following as significant new uses of disubstituted diamino anisole:

1. Manufacture or processing of the substance as an intermediate without establishing a program whereby: (a) Persons employed by or under the control of the manufacturer or processor who may be exposed to P-83-822 (including those persons involved in sampling, transferring, cleanup, maintenance, packaging, and storage operations) wear protective gloves determined to be impervious to disubstituted diamine anisole, and (b) packages containing the substance (including those storing the substance between manufacturing and processing stages) are labeled to indicate that the PMN substance should be handled only while using gloves determined to be impervious to the substance. Gloves must be determined to be impervious to the substance by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves.

2. Use other than as an intermediate. "Intermediate" is defined in the PMN rules which were published in the Federal Register on May 13, 1983 (48 FR 21722).

IV. Background

On June 9, 1983, EPA received a PMN which the Agency designated as P-83-822. EPA announced receipt of the PMN in the Federal Register of June 24, 1983 (48 FR 29048). The notice submitted stated that the substance, disubstituted diamino anisole, will be used as a site-limited dye intermediate.

The notice submitter claimed the following as confidential business information (CBI): The submitter's identity, the specific chemical identity, and the estimated production volume. The PMN submitter originally identified the substance as trisubstituted aniline. Later, the PMN submitter cooperated with the Agency in arriving at the more specific generic chemical name being used for this rulemaking.

Under section 14(a)(4) of TSCA, the Agency may disclose confidential information relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For purposes of clarity, this substance will be referred to by its generic name and PMN number.

In the PMN, the notice submitter provided the following acute toxicity data:

LD_{50}, oral (rat)—>500 mg/kg.
LD_{50}, dermal—>1000 mg/kg.
Eye irritation (rabbits)—none.
Skin irritation—slight.
Skin sensitization potential—none.

EPA's general literature searches provided no additional information on the toxicity of the substance itself; however, on the basis of data on structurally analogous substances which have been found to be animal carcinogens, the Agency believes P-83-822 may be a carcinogen. Due to the substance's lipophilicity and low molecular weight, P-83-822 is expected to be moderately well absorbed via all routes. Extensive metabolism of the substance is expected to occur in the liver. This is expected to result in a metabolite which is analogous to a known carcinogen, the identity of which is not being revealed here because to do so could reveal the confidential identity of P-83-822.

P-83-822 will be used by the PMN submitter as a sitelimited dye intermediae. During manufacturing and processing of P-83-822, workers could be dermally exposed to the substance at levels which may result in adverse health effects. The use of gloves determined to be impervious to the substance will greatly reduce the level of worker exposure to P-83-822. On the basis of information exposure to the substance will be low. Environmental releases would not likely be significant.

The Agency concluded that the uncontrolled manufacture, processing, and distribution in commerce of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects.

EPA concluded that use of appropriate protective equipment will protect persons exposed to the substance from any unreasonable risk during the use of the substance as an intermediate. The Agency negotiated a section 5(e) consent order with the notice submitter which requires the use of impervious gloves, specifies certain packaging and labeling restrictions and limits use other than as an intermediate until data are available to more accurately determine the risks associated with the substance. The order became effective February 29, 1984.

By issuing a section 5(e) consent order which allows controlled commercial production of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data are submitted. At the same time, such an approach protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated wtih the substance.

Section 5(e) orders apply to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a notice of commencement of manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture or process the substance without controls or for other uses. Therefore, EPA is proposing to designate manufacture or processing of the substance for use as an intermediate without the use of impervious gloves by workers and labeling of packages containing P-83-822 and used other than as an intermediate as significant new uses so that the Agency can review those uses before they occur.

The Agency's evaluation of the risks associated with P-83-822 was conducted on the basis of information available to it at the time of the PMN submission. Therefore, the proposed significant new uses relate directly to the information contained in the PMN, especially the intended use. EPA determined that, without the controls on exposure, packaging, and labeling,

manufacture and processing for use as an intermediate may present an unreasonable risk of injury to human health. The section 5(e) consent order requires the PMN submitter to make use of certain controls. Manufacture and processing for use as an intermediate without using these controls would increase worker exposure to a potentially hazardous substance. EPA has concluded that this change in exposure would be significant in light of the health concerns associated with P–83–822.

The section 5(e) consent order prohibits the PMN submitter from distributing the substance to others, thereby limiting its use to site-limited intermediate applications. Once the substance is added to the Inventory, another person would be able to manufacture, import, or process the substance for non-intermediate uses. An intermediate is a substance which is created as a result of a chemical reaction and which is consumed in a later chemical reaction which creates another substance. Because intermediates are consumed at the site of their use and not distributed in commerce as part of mixtures or articles (except possibly as an impurity), the possibility of potential public and consumer exposure to intermediates is very limited when compared to non-intermediate chemical substances. In addition, intermediates are generally not subjected to numerous downstream processing operations; thus, the potential for worker exposure is relatively low. Non-intermediate uses are likely to change the nature and extent of worker exposure by adding new routes of exposure or by increasing the duration or magnitude of exposure. Given the Agency's concerns about this substance, EPA has concluded that such changes may be significant. The Agency wishes to receive reporting on non-intermediate uses so that it may evaluate the risks which may be presented by those uses before they occur. Therefore, EPA is also proposing to designate use other than as an intermediate as a significant new use of P–83–822.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance; if necessary, action can then be taken to ensure that persons will not be exposed to levels of P–83–822 that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute a significant new use of this substance, EPA considered relevant information about the toxicity of the substance and potential exposures associated with possible uses (such as uses other than those allowed under the section 5(e) order) and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses might change the magnitude and duration of exposure of humans to P–83–822. Based on these considerations, EPA proposes to define the significant new uses as set forth in Unit III of this preamble.

EPA has already determined in the section 5(e) order that unrestricted manufacture, processing, and distribution in commerce of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the use of the substance would be significant.

VI. Alternatives

EPA considered regulatory alternatives to a SNUR to ensure protection of human health.

1. One alternative EPA considered would be to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing, importing, or processing the substance. Because the substance is subject to a section 5(e) order, the small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than section 5(a) SNUR authority has drawbacks in this particular instance. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substance without the use of gloves and the required labeling, or for a use other than as an intermediate, the Agency could not take immediate action under section 5(e), as it can under a SNUR, and therefore would not be able to regulate the substance pending development of information. Rather, in a situation such as this, EPA would have to consider regulating the substance under TSCA section 6 which would require a separate rulemaking action. Moreover, in view of the current lack of health effects data on P–83–822, EPA first would likely have to obtain test data on the substance under section 4 of TSCA to support an action under section 6. This approach could allow unnecessary risk to human health during the time need for data development. In addition, the original notice submitter would be at a competitive disadvantage because the section 5(e) order applies only to that company. It is not the intent of EPA in the PMN process to create unfair marketplace conditions.

2. The Agency also has the authority to regulate substances under section 6 of TSCA. However, the Agency may regulate under section 6 only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk of injury to health. There is insufficient information to perform a reasoned evaluation of the health effects of P–83–822 at this time. Therefore the Agency cannot state with certainty that the substance "presents or will present" an unreasonable risk. In this instance, because the Agency has issued a section 5(e) order, EPA can state that the substance "may present" an unreasonable risk of injury to health. However, the Agency cannot regulate the substance under section 6 at this time.

3. As an alternative to the second proposed significant new use definition, the Agency is considering defining as a significant new use the failure to establish a program whereby the substance is treated as a hazardous chemical substance under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 CFR 1900.1200). In all labels, material safety data sheets, and employee training programs, the substance would be required to be identified as a suspect carcinogen and the use of impervious gloves by employees who may be exposed to the substance would be required.

4. The Agency is also considering creating an abbreviated review for persons who propose to employ alternative exposure controls or worker protection equipment which may provide equivalent protection during manufacture and processing for use as an intermediate. Under this approach, the second significant new use would be defined as the failure to establish a program whereby persons who may be exposed to the substance are required to use gloves which are determined to be impervious to the substance or requiring the use of exposure controls or protective equipment which provides the "equivalent" protection. Persons would be required to notify EPA of the alternative controls to receive (in a specified time period which is shorter than 90 days) confirmation from the

Agency that the protection provided by the equipment is "equivalent." If EPA determined that the protection was not "equivalent," significant new use reporting would be required.

EPA invites comment on this proposal and the alternatives.

VII. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that, in addition to the requirements in § 721.17, the following records be maintained for five years after the date of their creation, by persons who manufacture or process P–83–822:

1. The results of any determination of glove imperviousness.

2. The names of persons required to wear gloves.

As an alternative, the Agency is considering requiring manufacturers and processors of the substance who do not trigger the SNUR reporting requirement to maintain records demonstrating their compliance with the SNUR. Therefore, manufacturers and processors would have the discretion to determine which records are needed to show compliance.

The Agency considered omitting case-specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them.

Although section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in § 721.120(b)(1) of this proposed rule, EPA finds that such recordkeeping is necessary to implement and enforce effectively the requirements of the SNUR. Two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements in 40 CFR 720.70 and 721.17 of the general SNUR provisions. Clearly, there is no way to determine whether a manufacturer or processor is undertaking a significant new use of the type defined in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the significant new use has not occurred. EPA would otherwise be unable to determine whether a violation has occurred, unless the manufacturer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well and is proposing to do so.

VIII. Exemptions to Reporting Requirements

EPA has codified general exemption provisions covering SNUR reporting under § 721.19. On a case-by-case basis the Agency may modify these provisions in Subpart B. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

EPA published its final premanufacture notification rules in the **Federal Register** of May 13, 1983, (48 FR 21722) including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule pending further rulemaking to revise the provisions. Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacture and processing of the substance, EPA lacks the authority under section 12(a) of TSCA to require reporting of such manufacture or processing for a significant new use. EPA does not yet have sufficient information to make the "will present an unreasonable risk" finding necessary to regulate a substance manufactured or processed solely for export. However, persons must notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, the persons would be exempt from reporting under this SNUR if a person manufactures (the term manufacture includes import) or processes the substance solely for export from the U.S. under the following restrictions: (1) There is no use of the substance in the U.S.; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such manufacture and processing would not be "solely for export" because manufacture or processing would be for use in the U.S.

IX. Applicability of Proposal To Uses Occuring Before Promulgation of Final Rule

To establish a significant new use rules, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has recently undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a notice of commencement of manufacture and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking any of the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemcial substance subject to this SNUR is added to the Inventory, it may be manufactured or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new uses, they could argue that the uses are not "new" at the time the rule is promulgated as final, and therefore not significant new uses. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new uses before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commerical activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

Because the indentity of P–83–822 is confidential, any person who proposes to manufacture or import P–83–822 is unlikely to know that the substance is on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.85(b) to determine whether the substance is on the Inventory. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance and that the substance the person proposes to manufacture or import is P–83–822, EPA will inform the person that the substance is subject to this proposal. This will give the person adequate notice of this proposal, will give the person an adequate change to comment, and will help prevent potential disruption.

X. Test Data and Other Information

EPA recognizes that under TSCA section 5, persons are not requiring to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, a more reasoned evaluation of the risks posed by this substance would require additional data on its potential to cause carcinogenic effects in humans. These data might be generated by a two-year rodent bioassay. These studies may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notices submitters to test the substance for this concern. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e). As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792 published in the **Federal Register** of November 29, 1983 (48 FR 53923). EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. The only direct costs that will definitely occur as a result of promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated the Agency's cost of issuing a SNUR are $42,150. The Agency would also incur enforcement costs, although EPA cannot quantify these costs at this time.

Subsequent to promulgation of the SNUR, the Agency believes there are five possible outcomes for persons who would manufacture, import, or process the substance: (1) A person could manufacture or process the substance for use as an intermediate with the specific protective equipment in place and therefore not trigger the SNUR reporting requirement, (2) a person could submit a SNUR notice with information showing other methods of controlling exposure that will mitigate EPA's concerns, (3) a person could submit a SNUR notice for manufacture, import, or processing the substance for a use other than as an intermediate, (4) a person could submit a SNUR notice with the results of the recommended testing completed or be prepared to respond to a section 5(e) order pending completion of testing, or (5) a person could decide not to manufacture or process the substance because of the restrictions imposed by the SNUR. The costs of these outcomes are summarized below.

If a person decides to manufacture or process P–83–822 for use as an intermediate with the specified protection equipment, that person will not incur the cost of submitting a SNUR notice. The only cost to the person will be the cost of specific protective equipment, labeling, recordkeeping, and glove imperviousness testing. Protective equipment and recordkeeping costs are presented as present value costs over an estimated life of the chemical, since these are recurring expenses. For purposes of this analysis, the Agency assumed that five workers would be exposed to P–83–822 over 38 days a year. Each worker would be required to wear gloves (determined to be impervious to P–83–822). Assuming a 10 percent interest rate, and a ten-year economic life for P–83–822, the present value of protective equipment for five workers is $1,030.75 (assuming the price of gloves is $30.50 per pair, with yearly replacement of gloves based on 38 days per year of production over a ten-year period). The present value of the cost of developing a new label, if necessary, over a ten-year period, could range between $150 and $550. The present value of the cost of maintaining records over a ten-year period is $1,460 (assuming one hour per month of clerical time). Permeation tests, which can be used to determine if the gloves are impervious to the PMN substance, have been estimated to cost $500 per test substrate, and may cost up to $8,000 to $10,000 if different manufacturing conditions are tested. EPA will incur only enforcement cost once the SNUR has been promulgated.

In some circumstances it would be cost effective for a company to submit a SNUR notice for use as an intermediate with data which shows that other means of controlling exposure could mitigate EPA's concerns. Under this outcome, the person would incur the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the costs of some exposure controls which would ordinarily not be used without the existence of a SNUR. The person could also incur up to a 3.2 percent reduction in profits due to delays in manufacture or processing, and the cost of regulatory follow-up, if any. EPA's costs following promulgation of the SNUR under this outcome would include reviewing the SNUR notice ($6,865) and possibly modifying the terms of the SNUR ($8,430) if the information provided showed that EPA's concerns would be adequately addressed by the use of a different type of exposure control. EPA would continue to incur enforcement costs.

A person intending to manufacture, import, or process P–83–822 for a use other than as an intermediate would be required to submit a SNUR notice. That person would incur the cost of filing an notice ($1,375 to $7,950), the costs of delaying manufacture, import, or processing of the substance, if any, while the SNUR notice is prepared and reviewed (up to a 3.2 percent reduction in profits), the costs of changes in production and marketing plans because of the uncertainty impact of a SNUR, and the costs of regulatory follow-up, if

any. EPA's costs following promulgation of the SNUR under this outcome would include reviewing the SNUR notice ($6,865) and possibly the cost of modifying the terms of the SNUR ($8,430) if the information provided showed that modification of the SNUR were warranted.

It is possible that a person could file a SNUR notice which would include the results of the recommended testing. A more reasoned evaluation of the risk posed by the substance could be generated as the result of a two-year rodent bioassay. In this case, a person would incur the cost of filing a notice ($1,375 to $7,950), performing the tests (the present value over a three year payment plan for a two-year bioassay is approximately $689,000), the cost of delay (probably a delay in profits of 2.5 to 3.0 years), and the cost of regulatory follow-up, if any. The cost of this option is expected to be prohibitive.

Some persons could find the cost of controlling exposure too expensive to justify manufacture or processing of P–83–822. Under this outcome a person would not incur any direct costs as a result of the SNUR. The person and society could lose the benefits that would have been derived from the manufacture or processing of the substance. However, the fact that the original PMN submitter intends to manufacture P–83–822 with the protective equipment in place indicates that the intended use of the substance will still return an acceptable profit.

EPA has not attempted to quantify the benefits of the proposed SNUR. In general, benefits will accrue if the proposed action leads to the identification and control of an unreasonable risk before significant health effects can occur. The proposal and promulgation of the SNUR provides the benefits of reduced health risks until production or processing of P–83–822 ceases.

XII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIII. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the persons seeking review resides or has its principle place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register.** The effective date will be calculated from the promulgation date.

XIV. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50521). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for this substance.
2. The **Federal Register** notice of receipt of the PMN.
3. A copy of the section 5(e) consent order.
4. The economic analysis of the proposed rule.
5. The toxicity support document for the section 5(e) order.
6. The economic support document for the section 5(e) order.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, D.C.

XV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it does not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit XIII of the preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substance subject to it, EPA believes that there will be a few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: November 15, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that Part 721 of Chapter I of Title 40 be amended by adding § 721.120 to read as follows:

§ 721.120 Disubstituted diamino anisole.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, referred to by its PMN number and generic chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: disubstituted diamino anisole, P–83–822.

(2) The significant new uses are:

(i) Use other than as an intermediate.

(ii) Manufacture or processing of P–83–822 for use as an intermediate without establishing a program whereby:

(A) Persons employed by or under the control of the manufacturer or processor who may be exposed to P–83–822 (including those persons involved in sampling, transferring, cleanup, maintenance, packaging, and storage operations) wear protective gloves determined to be impervious to the substance by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves, and

(B) Packages containing the substances (including those storing the substance between manufacturing and processing stages) are labeled to indicate that the substance should be handled only while using gloves determined to be impervious to the substance.

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers and processors of the chemical substance identified in paragraph (a)(1) of this section, who are subject to § 721.120(a)(2)(ii), must maintain the following records for five years from their creation:

(i) The results of any determination of glove imperviousness.

(ii) The names of persons required to wear gloves.

(2) [Reserved]

(Sec. 5,8, P.L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604, 2607))

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

[FR Doc. 84–31965 Filed 12–6–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81–11; Notice 10]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Safety Standard No. 108 that would allow motor vehicles to be equipped with replaceable bulb headlamp systems consisting of either four lamps with single standardized replaceable light sources, or two lamps with two such light sources. Currently Standard No. 108 only permits replaceable bulb systems comprised of two lamps with single standardized light sources. The proposed amendment would relieve the current design restriction that allows only two lamp single light source systems.

This rulemaking action implements the agency's grant of a petition for rulemaking by General Motors Corporations. It also responds to a petition by Volkswagen of America previously denied. Because of the need of the petitioners to implement product planning, a comment period of 30 days is provided, rather than 45 days.

DATE: Comment closing date for the proposal is January 7, 1985. Any request for an extension of time in which to comment must be received not later than 10 days before that date (49 CFR 553.19). Effective date of the amendment would be within 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number of the notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are from 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: On June 2, 1983, NHTSA amended Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment*, to allow the use of a replaceable bulb headlamp system, (48 FR 24690). This system is comprised of two headlamps, each with a standardized replaceable light source containing both an upper and lower beam filament.

Among the petitions for reconsideration of the rule was one from Volkswagen of America, asking that a four-lamp system be allowed, each with its own light source, which would be the standard dual filament light source which the agency had adopted. NHTSA denied this petition (48 FR 44815), commenting that rulemaking which would allow dual filament light sources in a four lamp configuration, or two dual filament light sources in a single cavity could not be entertained until certain issues could be considered further. As the notice stated, these issues involved whether only two lamps should be illuminated on upper beam (in four lamp systems all four are presently required) and if so whether it is important that the front corner of the vehicle be otherwise indicated. Further issues concerned simultaneous actuation of light filaments in a headlamp system (this could produce excessive illumination) and uncertainties in the ability to insure correct simultaneous upper beam or lower beam aim if the bulb reflector systems were not separate upper and lower beam units. Subsequently, General Motors Corporation petitioned the agency for rulemaking to allow a two lamp system with two standard dual-filament light sources in a single cavity. The agency has granted that petition. As there is a similarity between the system that VW wished the agency to consider, and the one for which a petition has been granted, the two systems proposed by this notice are simply those incorporating quadruple light sources. The agency has reviewed the issues on which the previous denial was based, and they are presented for discussion and comment in this notice.

GM argues that the two source system it has requested will allow it greater freedom in designing aerodynamic front ends than the present standard for replaceable bulb headlamps. Under the present standard, considering the possible out-of-focus relationship of the filament to the focal point of the reflector in a current replaceable bulb headlamp, the headlamp's vertical dimensions may be greater than desirable for aerodynamic purposes. By installing two light sources in the same

headlamp, a smaller height is possible if the lower and upper beam filament are placed exactly on the focal point of their respective parabolas. Benefits attributable by GM to this indented system include possible improvements in photometric performance and improved fuel economy through aerodynamic efficiency by lowering the leading edge of the hood, because of the inclusion of headlamps of lesser height.

Another benefit could occur because it is proposed that only one filament would be in use in each dual filament standardized replaceable light source in 4-lamp systems and 2-bulb systems. For example, should a lower beam filament burn out, the light source could be immediately interchanged with the adjacent upper beam light source, whose lower beam filament would not be utilized. After the exchange, the burned out lower filament would become irrelevant as the upper beam filament in that bulb would now be available for use.

Both existing photometrics and improved photometrics similar to those proposed for Types F sealed beam headlamps are proposed. Comments are solicited on each photometric option. GM would aim both bulbs in a single housing by a single adjustment, such as is currently used in the two lamp round and larger rectangular systems. The GM system can utilize the same aimer adapters that are available for single replaceable bulb headlamps.

Four-headlamp systems such as VW contemplates offer distinctive design possibilities which are similar but not identical to those offered by systems with two bulbs per lamp. NHTSA is proposing that four lamp replaceable bulb headlamp systems consist of two lamps providing upper beam photometrics, and two lamps providing lower beam photometrics. The reflectors of these lamps would be designed to optimize the lower beam filament at the focal point of the lower beam lamp reflector and optimize the lens prescriptions for dedicated lower beam use. The upper beam lamp would be optimized in a similar manner. This type of system has been proposed for the new smaller four-lamp sealed beam system (49 FR 18321). The dedicated lens prescription of each lamp would be marked "U" for upper beam, or "L" for lower beam, as appropriate. In conjunction with the option proposing improved photometrics, simultaneous use of the upper and lower beam would be permitted as a manufacturer's option, and new glare limits would be added to the photometric requirements to help minimize potential problems from excessive foreground light during simultaneous use.

Becasue of the shorter life of filaments producing the upper beam, the agency is proposing that the lower beam photometrics be met by lower beam filaments alone. For the same reason, it is proposed that simultaneous activation of both filaments in a single bulb be prohibited, since the bulb is not designed to be used in this manner, and bulb life would be shortened. As this proposed amendment affects the standardized replaceable bulb, it would be applicable to all lamp configurations using that bulb, including the two-lamp/one bulb per lamp system previously approved.

The agency has revised the wording describing the aiming pad prescription requirements, clarifying them and relieving design restrictions. In effect this means the agency is allowing headlamps which may utilize mechanical aimer adapters with 3 adjustable legs. Accordingly, it is proposed that Figures 9–1 and 9–2 be deleted and appropriate changes made in the text.

In addition to comments of the merits of the system proposed by this notice, the agency is also interested in comments relating to the relationship between headlamp replacement costs and safety. Although GM has told NHTSA that the replacement cost of the glass lens/plastic reflector assembly for its new lamps would be in the neighborhood of $35, the actual cost could be several times higher for low volume designs. If that cost were not subsidized by the manufacturer, it could well be over $100 per lamp. Current retail cost for a replacement light source at Ford dealers is $16.75. Therefore, since the same light source (bulb) would be used in the GM system, the total replacement cost for the GM system, including lens/reflector assembly, two light sources, and labor, is estimated at about $80. It is estimated that about one complete headlamp will need to be replaced over the lifetime of the vechicle due to accident or stone damage. Therefore the agency solicits specific comments on the following issues: The relationship between cost and the probability of replacement of headlamp or bulb, the time lag that may exist between outage and replacement because of costs, and the extent to which cost considerations of non-mandated headlamps should enter into the agency's rulemaking considerations. Finally, the agency asks for comments on whether the lifetime costs of non-mandated headlamp systems should enter into NHTSA deliberations.

Ford Motor Company, whose petition was implemented by the amendment (48 FR 24690), had emphasized to the agency that one of the primary safety benefits of the new type of headlamp was that the light source could be replaced without removal of the headlamp, replacement of the lens-reflector portion of the headlamp, or the necessity to reaim. With respect to the vehicle on which the system has been first installed, the Mark VII, bulb replacement is a simple matter of opening the hood, finding the rear of the headlamp, disengaging the old bulb by a twist of it in its mounting, and replacing it in a similar manner. Recently, the agency was informed by General Motors that it intends to use replaceable bulb headlamps on a number of its 1986 model car lines, but that on two of these lines, the light source cannot be replaced without removing the headlamp itself. Since this situation was not envisioned with replaceable bulb headlamps, the agency would like comment on this issue; that is, is there a relationship between vehicle safety and the ability to replace the bulb without tools. The agency desires a quantitative assessment, to the extent practicable.

NHTSA also seeks comment on the possibility of problems with aligning optical aiming equipment with lamps which have more than one bulb.

In implementation of the considerations discussed above, NHTSA is proposing that the definition in paragraph S3 of "replaceable bulb headlamp" be amended to include headlamps with two standardized replaceable light sources. It should be noted that this light source is the only allowable light source for use in achieving the required upper or lower headlamp beam pattern. Under NHTSA interpretations, however, the standardized replaceable light source is not the only light source which may be included in a replaceable bulb headlamp unit. Other light sources, such as parking lamps, turn signal lamps, and fog lamps are not prohibited, as long as they do not interfere with the required headlighting function.

The agency also wishes to clarify the language in the standard regarding several of the testing requirements. The agency intends that headlamps utilizing the standardized replaceable bulb shall be able to meet the applicable performance requirements of Standard 108 with any standardized replaceable bulb intended for use in that lamp. Thus, for example, lamps must be able to pass the tests referenced in paragraph S4.1.1.36(b) not only with the bulb used as original equipment in that lamp but

also with bulbs from other manufacturers intended for use in that lamp. Since most replaceable bulbs will be sold in the aftermarket and not as original equipment (assuming the same distribution of sales as for sealed beams), this requirement is necessary to ensure the proper functioning of the headlamp so that it meets the need for motor vehicle safety. Specifications on the bulb itself, already promulgated by the agency, ensure that manufacturers have a reasonable design envelope within which to produce their lenses and reflectors. This clarification would result in a minor amendment to paragraph S4.1.1.36(b).

NHTSA is proposing that a headlamp with two light sources or a lamp in the system of four replaceable bulbs meet the upper and lower beam photometrics requirements of Table I of SAE J579c or new photometric requirements in proposed Figures 17 and 18. A final decision will be made between these two choices. The agency is proposing also that the aim of the upper beam of dual light source headlamps cannot be adjusted separately from that of the lower beam light source. This proposal applies only to headlamp systems which are comprised of two headlamps and contain two bulbs in each headlamp. In these instances, there is only one set of aiming pads on each lamp, yet there are two bulb reflector sets in that lamp. If both upper and lower beam lamps are not aimed simultaneously—that is, with a single aiming adjustment—then consumers, or repair facilities, would not be able to aim the lamp using the aiming pads but would be required to disassemble the lamp to separately adjust each reflector. This proposal, which is applicable only to the aforementioned two lamp, four bulb system ensures that proper headlamp aiming, which the agency has traditionally considered necessary for motor vehicle safety, is achievable with current aiming equipment. It is further proposed that the lower beam be produced by a filament with an average life of 320 hours, the equivalent of the current lower beam light source filament. Paragraph S4.1.1.36(d) would be modified under the proposal to check for lens deflection in front of each bulb following the internal heat test.

In adopting replaceable bulb headlamp systems, the agency, in S4.1.1.39 required, for the period July 1, 1983, to July 1, 1984, that each vehicle be equipped with a spare bulb as part of its original equipment. The agency noted that it anticipated that replaceable bulbs should be readily available through normal distribution channels at the end of the one year period. The agency is satisfied that such bulbs are available and is, *pro forma*, proposing the deletion of S4.1.1.39, which has expired.

Similarly, the agency adopted paragraph S8 to require, until July 1, 1984, that each vehicle also be furnished with adapters for mechanical aiming devices. The agency is convinced that sufficient adapters are available and that there should be no problems in inspection and aiming of motor vehicles with replaceable bulb headlamps which are not provided with these adapters. Therefore, NHTSA also proposes, *pro forma*, deletion of paragraph S8, which is no longer in effect.

New paragraphs would be added to S4.5 to guarantee that only appropriate filaments will be energized. For systems which use four standardized replaceable light sources, it is proposed that Tables II and IV be amended to state that the outermost light source (in a two-lamp system) or outermost lamp (in a four-lamp system) be used to produce the lower beam. This serves to mark the width of the vehicle during low beam use, as a cue to oncoming drivers.

Paragraph S6.7, relating to temperature and internal heat tests, would be modified for multiple bulb headlamps. Both upper and lower beam photometrics would have to be met after each test. During the hot cycle, the highest combination of filament wattages capable of being used would be energized simultaneously (*e.g.*, fog lamps, parking lamps, turn signal lamps).

Paragraph S6.8, relating to the humidity test, would be amended to add temperature tolerances to the final phase of the test which have heretofore been inadvertently omitted. Currently 73 °F., the agency proposes a tolerance of +7−0 °F (38+4−0 °C). In addition the agency proposes reducing the excessively large tolerances on the humidity tolerance from ±10% to +5%−0% and the temperature from ±9°F to +9−0°F (+4−0°C). This is being done to increase test result repeatability and make the test requirement more definitive.

On Figure 4–1, one aiming pad was misidentified as a Class II pad; that would be corrected. In addition, this Figure would be amended to illustrate the proposed definition of aiming reference plane. The title of Figure 4–2 would be modified to reflect its use as an example. Figure 7 would be changed to permit a wider test box since some headlamps would not fit into one of 16 inches width; 24 inches is proposed.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. However, a regulatory evaluation has been prepared and placed in the public docket. Since use of the proposed headlamps is optional, the proposal would not impose additional requirements or costs but would permit manufacturers greater flexibility in use of headlighting systems.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal may have a small positive effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would be reduced.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles, headlamps, and aimer adjusters will be minimally impacted.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the

agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Because of the necessity of vehicle, headlamp, and bulb manufacturers to plan production and distribution on an orderly basis, it is tentatively found that an effective date earlier than 180 days after issuance of the final rule would be in the public interest.

The engineer and lawyer primarily responsible for this proposal are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber products, Tires.

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

1. A new definition "Aiming Reference Plane" would be added to Section S3 *Definitions* to read as follows:

"Aiming Reference Plane" means a plane which is perpendicular to the longitudinal axis of the vehicle and tangent to the forwardmost aiming pad on the headlamp.

2. The definition of "Replaceable Bulb Headlamp" in Section S3 *Definitions* would be revised to read:

"Replaceable bulb headlamp" means a headlamp comprising a bonded lens and reflector assembly and one or two standardized replaceable light sources.

3. In paragraph S4.1.1.36 the words "or four" would be added between the word "two" and the phrase "replaceable bulb headlamps".

4. In paragraph S4.1.1.36, the last sentence of subsection (a)(2) would be removed and the following three sentences added:

Except as provided in subparagraph (a)(3), a whole number, which represents the distance in tenths of an inch (i.e., 0.3 inch=3) from the aiming reference plane to the aiming pads which are not in contact with the plane, shall be inscribed adjacent to each respective aiming pad on the exterior of the lens face. In the event that there is interference between the plane and the portion of the lens between the aiming pads, values shall be inscribed on the lens next to each aiming pad which are the dimensions to a secondary plane. The secondary plane shall be parallel to the aiming reference plane and shall be located as close to the lens as possible without interference.

5. A new paragraph (a)(3) would be added to paragraph S4.1.1.36 to read:

S4.1.1.36(a)(3) If the most forward aiming pad is the lower inboard aiming pad, then the dimensions may be placed anywhere on the exterior lens surface. The dimension for the outboard aiming pad (Dimension F in Figure 4) shall be followed by the letter "H" and the dimension for the center aiming pad shall be followed by the letter "V." The dimensions shall be expressed in tenths of an inch.

6. Paragraph (b) of paragraph S4.1.1.36 would be revised to read:

(b) Each replaceable bulb headlamp shall meet the following sections of the specified SAE Standards and Recommended Practices with any standardized replaceable light source intended for use in such headlamp.

7. The following amendments would be made to achieve a headlighting system utilizing existing photometric requirements.

a. Paragraph (b)(2) of paragraph S4.1.1.36 would be revised to read:

(2) Section 3.1—Test Voltage, and Section 3.5—Photometric Design Requirements, excluding Table 2, of SAE J579c "Sealed Beam Headlamp Units for Motor Vehicles" December 1978. The term "aiming plane" in paragraph 3.5 of SAE J579c shall mean "aiming reference plane."

b. A new paragraph (e) would be added to S4.1.1.36 to read:

(e)(1) There shall be no adjustment mechanism that allows individual standardized replaceable light source or reflector aim adjustment on a headlamp with two standardized replaceable light sources.

(2) Lower beam photometrics shall be provided by a filament with an average life of not less than 320 hours.

(3) The lower and upper beams of a headlamp system consisting of two lamps, each containing two standardized replaceable light sources, shall be provided as follows:

(i) The lower beam shall be produced in one of the following ways:

(A) By the outboard light source (or the upper one if arranged vertically) designed to conform to the lower beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978; or

(B) By both light sources designed to conform to the lower beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978; or

(B) By both light sources, designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978.

(4) The lower and upper beams of a headlamp system consisting of four lamps, each containing a single standardized replaceable light source, shall be provided as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirement of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978. The lens of each such headlamp shall be permanently marked with the letter "L".

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically) designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978. The lens of each such headlamp shall be permanently marked with the letter "U".

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (e)(4)(i) and (e)(4)(ii) of this section.

c. A new paragraph S4.5.8 would be added to read:

S4.5.8 The lower and upper beams of a headlamp system consisting of four lamps, each containing a single

standardized replaceable light source, shall not be activated simultaneously.

8. The following amendments would be made to achieve a headlighting system using modified photometrics in the lower and upper beams.

a. Paragraph (b)(2) of S4.1.1.36 would be revised to read:

(2) Section 3.1—Test Voltage, and Section 3.5—Photometric Design Requirements, excluding Table 2 of SAE J579c *Sealed Beam Headlamp Units for Motor Vehicles*, December 1978, and replacing Table 1 with Figure 17 for two lamp systems with one replaceable light sources per lamp; and by Figure 18 for four lamp systems with one replaceable light source per lamp. The term "aiming plane" in paragraph 3.5 of SAE J579c shall mean "aiming reference plane."

b. In paragraphs (d)((1), (d)(3), (d)(5), (d)(6)(A), (d)(6)(B), and (d)(7) of paragraph S4.1.1.36, the words "of SAE J579c 'Sealed Beam Headlamp Units for Motor Vehicles', December 1978" would be removed and the words "applicable to the headlamp system under test" substituted.

c. A new paragraph (e) would be added to S4.1.1.36 to read:

(e)(1) There shall be no adjustment mechanism that allows individual standardized replaceable light source or reflector aim adjustment on a headlamp with two standardized replaceable light sources.

(2) Lower beam photometrics shall be provided by a filament with an average life of not less than 320 hours.

(3) The lower and upper beams of a headlamp system consisting of two lamps, each containing two standardized replaceable light sources, shall be provided as follows:

(i) The lower beam shall be produced in one of the following ways:

(A) By the outboard light source (or the uppermost if arranged vertically) designed to conform to the lower beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the upper beam requirements of Figure 17.

(4) The lower and upper beams of a headlamp system consisting of four lamps, each containing a single standardized replaceable light source, shall be provided as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically) designed to conform to the lower beam requirements of Figure 18. The lens of each such headlamps shall be permanently marked with the letter "L".

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically) designed to conform to the upper beam requirements of Figure 18. The lens of each such headlamp shall be permanently marked with the letter "U".

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (e)(4)(i) and (e)(4)(ii) of this section.

d. A new paragraph S4.5.8 would be added to read:

S4.5.8 On a motor vehicle equipped with a headlighting system comprising four replaceable bulb headlamps, the filaments of the lamps marked "L" may be permanently wired to remain activated when the filaments of the lamps marked "U" are activated.

e. Paragraph S6.1 would be revised to read:

S6.1 Photometry. A headlamp shall be tested according to paragraph S3.5, Photometric Design Requirements, and Table 1 of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978, or by Figure 17 or 18 of Standard 108, as applicable, after the tests specified in S6.2, S6.4, S6.6, S6.7.1., S6.7.2, and S6.8.

9. Paragraph S4.1.1.37 would be revised to read:

S4.1.1.37 Each lens-reflector unit manufactured as replacement equipment for a replaceable bulb headlamp system shall conform to the requirements of S4.1.1.36 when any standardized replaceable light source is inserted in it. [Note: This proposes conformance with S4.1.1.36 under each of the proposed amendments to S4.1.1.36 under paragraphs 7 and 8 above.]

10. Paragraphs (A) and (B) of paragraph S4.1.1.36(d)(6) would be revised by adding the words "of each standardized replaceable light source" between the phrases "mechanical axis" and "with the exterior surface of the lens".

11. Paragraph S4.1.1.39 and paragraph S8 would be removed.

12. New paragraphs S4.5.9. and S4.5.10 would be added to read:

S4.5.9 The wiring harness or connector assembly of a replaceable bulb headlamp with two standardized bulbs or a four-lamp replaceable bulb headlamp system shall be designed so that the filaments not intended to be used with the lens prescription in front of such filament shall not be illuminated.

S4.5.10 The filaments in a dual filament standardized replaceable light source shall not be activated simultaneously except momentarily when switching between beams.

13. Paragraphs S6.7 and S6.8 would be revised to read:

S6.7 *Temperature and internal heat tests*—A headlamp with one replaceable standardized light source shall be tested according to S6.7.1(a) and S6.7.2(a). A headlamp with two standardized replaceable light sources shall be tested according to S6.7.1(b), S6.7.1(c), S6.7.2(b) and S6.7.2(c).

S6.7.1 *Temperature cycle*

S6.7.1(a) *Test for a headlamp with one standardized replaceable light source.* A headlamp, mounted on a headlamp test fixture, shall be exposed to 10 complete consecutive thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the highest combination of filament wattages that are intended to be used simultaneously in the headlamp, (*e.g.*, simultaneous use of upper beam, fog lamp, parking lamp, turn signal lamp), shall be energized at design voltage commencing at point "A" of Figure 6 and deenergized at point "B". Separate or single test chambers may be used to separate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

S6.7.1(b) *Test for the lower beam of a headlamp with two standardized replaceable light sources.* A headlamp mounted on a headlamp test fixture, shall be exposed to 10 complete consecutive thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle the highest combination of filament wat[illegible]s that are intended to be used simu[illegible]eously in the headlamp when operating on lower beam (*e.g.*, simultaneous use of lower beam, fog lamp, parking lamp, turn signal lamp) shall be energized at design voltage simultaneously commencing at point "A" of Figure 6 and deenergized at point "B". Separate or single test chambers may be used to generate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

S6.7.1.(c) *Test for the upper beam of a headlamp with two standardized replaceable light sources.* A headlamp mounted on a headlamp test fixture shall be exposed to 10 complete consecutive thermal cycles having the

thermal cycle profile shown in Figure 6. During the hot cycle the highest combination of filament wattages, that are intended to be used simultaneously when the headlamp is operating on upper beam, (*e.g.* simultaneous use of fog lamps, parking lamps, and turn signal lamps) shall at design voltage be energized simultaneously commencing at point "A" of Figure 6 and deenergized at point "B". Separate or single test chambers may be used to generate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

S6.7.2 *Internal Heat Test*

S6.7.2(a) *Test for a headlamp with one standardized replaceable light source.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point H–V of the upper beam to 25±2% of the output originally measured in the upper beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(a)(1), the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7–0°F (35+4−0°C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on upper beam shall be energized for one hour in a still air condition, allowing the temperature to rise from 95°F (35°C).

(3) The lamp shall be returned to a room ambient temperature of 73+7−0°F (23+4−0°C) and relative humidity of 30±10%. The lens shall then be cleaned. Photometric output of the lamp on the upper beam shall be determined according to S6.1.

S6.7.2(b) *Test of the lower beam of a headlamp with two standardized replaceable light sources.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point ½°D–1½°R of the lamp to 25 ± 2% of the output originally measued in the lower beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(b)(1) the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7−0°F (35+4−0°C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on lower beam shall be energized simultaneously for one hour in a still air condition, allowing the temperature to rise from 95°F (35°C).

(3) The lamp shall be returned to a room ambient temperature 73+7−0°F (23+4+0°C) and relative humidity of 30±10%. The lens shall then be cleaned. The photometric output of the lamp on lower beam shall be determined according to S6.1.

S6.7.2(c) *Test of the upper beam of a headlamp with two standardized replaceable light sources.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point H–V of the lamp to 25±2% of the output originally measured in the upper beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(c)(1) the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7−0°F (33+4−0°C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on upper beam shall be energized simultaneously for one hour in a still air condition, allowing the temperature to rise from 95°F (35°C).

(3) The lamp shall be returned to a room ambient temperature 73+7−0°F (23+4+0°C) and relative humidity of 30±10%. The lens shall then be cleaned. The photometric output of the lamp on the upper beam shall be determined according to S6.1.

S6.8 *Humidity.* The headlamp mounted on a test fixture shall be placed in a controlled environment consisting of a temperature of 100+7−0°F (38+4−0°C) with a relative humidity of 90−0+5%. All drain holes, breathing devices, and other designed openings shall be in their normal operating positions. The headlamp shall be subjected to 20 consecutive 6-hours test cycles. In each cycle, it shall be energized at design voltage with the highest combination of filament wattages that are intended to be used, and then de-energized for 5 hours. After completion of the last cycle, the lamp shall be soaked for 1 hour at 73+7−0°F (20+4+0°C) and relative humidity of 30±10% before it is removed for photometric testing. The headlamp shall be tested for photometrics at 10±1 minutes following completion of the humidity test.

14. In Tables II and IV, Column 2 for the Headlamps would be revised to read:

Headlamps providing the upper beam, at the same height, 1 on each side of the vertical centerline; headlamps providing the lower beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. If a single lower beam filament is used in a headlamp with two standardized replaceable light sources, such filament shall be the farthest filament form the vertical centerline.

15. Figure 4–1 would be revised as follows:

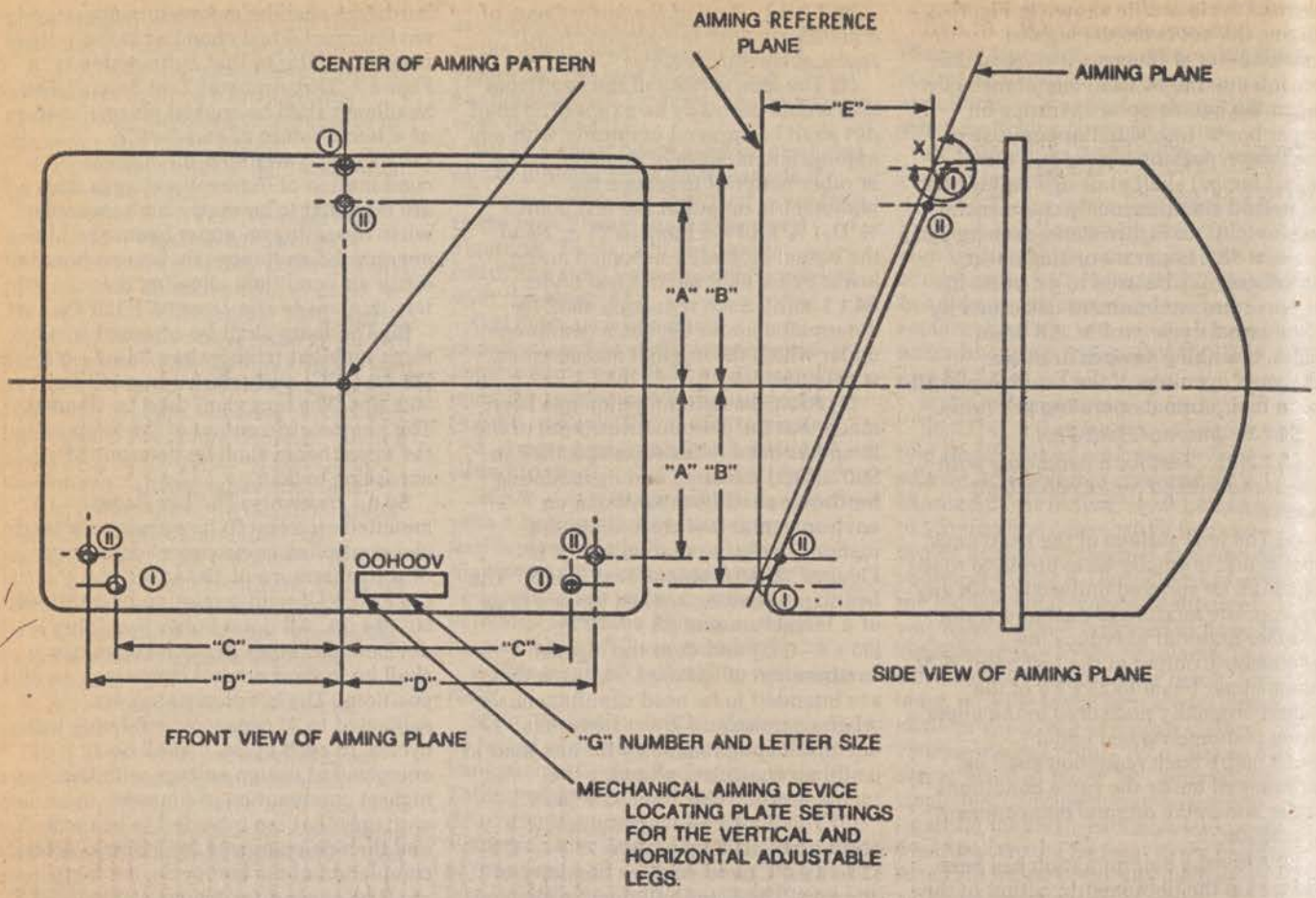


Figure 4–1. Dimensional Specifications for Location of Aiming Pads on Replaceable Bulb Headlamp Units

16. The title of Figure 4–2 would be amended by removing the words "Dimensional * * * Units" from the heading.

17. In Figure 7 the width of the Block Box would be changed from "16W" to "24W".

18. Figures 9–1 and 9–2 would be removed.

19. New Figures 17 and 18 would be added as follows:

FIG. 17.—PHOTOMETRIC TEST POINT VALUES

[2-lamp systems]

Test points deg. [1]	cd. max.	cd. min.
Upper beam:		
2U–V		1,500
1U–3R and 3L		5,000
H–V	75,000	40,000
H–3R and 3L		15,000
H–6R and 6L		5,000
H–9R and 9L		3,000
H–12R and 12L		1,500
1½D–V		5,000
1½D–9R and 9L		2,000
2½D–V		2,500
2½D–12R and 12L		1,000
4D–V	12,000	
10U–90U [2]	125	

FIG. 17.—PHOTOMETRIC TEST POINT VALUES—Continued

[2-lamp systems]

Test points deg. [1]	cd. max.	cd. min.
1U–1½L to L	700	
½U–½L to L	1,000	
½D–1½L to L	3,000	
1½U–1R to R	1,400	
½U–1R to 3R	2,700	
½D–1½R	20,000	10,000
1D–6L		1,000
1½D–2R		15,000
1½D–9L and 9R		1,000
2D–15L and 15R		850
4D–4R	12,500	
1D–V		5,000

[1] A tolerance of ±¼ deg in location may be allowed for at any test point.
[2] From the normally exposed surface of the lens face.

FIG. 18.—PHOTOMETRIC TEST POINT VALUES

[4-lamp systems]

Test points deg. [1]	cd. max.	cd. min.
Upper beam:		
2U–V		1,500
1U–3R and 3L		5,000
H–V	70,000	40,000
H–3R and 3L		15,000
H–6R and 6L		5,000

FIG. 18.—PHOTOMETRIC TEST POINT VALUES—Continued

[4-lamp systems]

Test points deg. [1]	cd. max.	cd. min.
H–9R and 9L		3,000
H–12R and 12L		1,500
1½D–V		5,000
1½D–9R and 9L		2,000
2½D–V		2,500
2½D–12R and 12L		1,000
4D–V	5,000	
10U–90U [2]	125	
1U–1½L to L	700	
½U–½L to L	1,000	
½D–1½L to L	3,000	
1½U–1R to R	1,400	
½U–1R to 3R	2,700	
½D–1½R	20,000	10,000
1D–6L		1,000
1½D–2R		15,000
1½D–9L and 9R		1,000
2D–15L and 15R		850
4D–4R	12,500	
1D–V		5,000
4D–V	7,000	
H–V	5,000	

[1] A tolerance of ±¼ deg in location may be allowed for at any test point.
[2] From the normally exposed surface of the lens face.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 4, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84–31940 Filed 12–4–84; 2:07 pm]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 49, No. 237
Friday, December 7, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Natural Resource Management Guide; Meeting

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration (FmHA) State Office located in Wenatchee, Washington, is announcing a public information meeting to discuss its draft Natural Resource Management Guide.

DATE: Meeting on January 8, 1985, 1:30 p.m. to 2:30 p.m.

Comments must be received no later than February 7, 1985.

ADDRESSES: Meeting location Mezzanine Conference Room, Federal Building, 301 Yakima Street, Wenatchee, Washington.

Written comments and further information will be addressed to: State Director, FmHA, Post Office Box 2427, Federal Building, Wenatchee, Washington 98801 (509–662–4353).

All written comments will be available for public inspection during regular work hours at the above address.

SUPPLEMENTARY INFORMATION: FmHA's Washington State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and State levels and that affect the financing of FmHA activities in Washington. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if posible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: December 3, 1984.

David J. Howe,

Director, Program Support Staff.

[FR Doc. 84–32010 Filed 12–6–84; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Colville National Forest Grazing Advisory Board; Meeting

The Colville National Forest Grazing Advisory Board will meet at 1:00 p.m. on December 18, 1984 at the Federal Building conference room, 695 South Main, Colville, Washington. The purpose of this meeting is to discuss range allotment management planning and to review the projects which will receive funding from the Range Betterment Fund monies in 1985.

The meeting is open to the public. Persons who wish to attend should notify Gary Oliverson, Colville National Forest, 695 South Main, Colville, WA 99114. Written statements may be filed with the committee before or after the meeting.

Dated: November 14, 1984.

William D. Shenk,

Forest Supervisor.

[FR Doc. 84–31989 Filed 12–6–84; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Navesink Watershed, Monmouth County, NJ; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Navesink Watershed, Monmouth County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, Telephone (201) 246–1662.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the enivronment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement includes the installation of conservation practices for erosion control and livestock waste management.

The Notice of a Findings of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 29, 1984.

Joseph C. Branco,

State Conservationist.

[FR Doc. 84–31938 Filed 12–6–84; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Material Imporation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Decision: Denied. Applicants have filed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 83–361. Applicant: DHHS/PHS/Food and Drug Administration, Washington, DC 20204. Instrument: Automatic Sampler 1, Dosage Syringe & Sample Capillaries. Date of denial without prejudice to resubmission August 31, 1984.

Docket Number: 84–63. Applicant: Sandia National Laboratories, Albuquerque, NM 87185. Instrument: Gas Analysis Mass Spectrometer, MAT 271/45. Date of denial without prejudice to resubmission: July 9, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 84–31972 Filed 12–6–84; 8:45 am]

BILLING CODE 3510–DS–M

National Technical Information Service

Intent To Grant Exclusive Patent License; American BioMed, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to American BioMed, Inc. having an office in Houston, Texas, an exclusive right to practice the inventions embodied in U.S. Patent Application Serial No. 6–647,728, "Improved Toposcopic Catheter and Method of Fabrication." The patent rights in this invention are being assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and agrument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84–31990 Filed 12–6–84; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Man-Made Fiber Textile Products From the People's Republic of China

December 4, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 11, 1984. For further information contact Jane Corwin, International Trade Specialist (202) 377–4212.

Background

A CITA directive establishing import limits for specified categories of cotton and man-made fiber textile products, including Category 635, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1984, was published in the **Federal Register** on December 22, 1983 (48 FR 56626). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the restraint limit for man-made fiber coats in Category 635 is being increased to 433,013 dozen by the application of flexibility in the form of carryforward for the agreement year which began on January 1, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** no December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 4, 1984

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984.

Effective on December 11, 1984, the directive of December 19, 1983 is hereby further amended to adjust to previously established restraint limit for Category 635 to 433,013 dozen[1] under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983:[2]

The Committee for the Implementation of Textile Agreements has determined that this actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–31973 Filed 12–6–84; 8:45 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

[1] The Agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more that 5 percent of it square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to reflect any imports exported after December 31, 1983.

ACTION: Proposed additions to and deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1985 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments Must be Received on or Before: January 9, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1985, October 19, 1984 (49 FR 41195):

Class 6850

Cleaning compound, Windshield: 6850–00–926–2275

Class 7105

Frame, Picture, Wood: 7105–00–051–1212 (10" × 14"), 7105–00–052–8686 (11" × 14")

Class 7530

Paper, Looseleaf, Blank: 7530–00–286–6983, 7530–00–286–6984

Index Sheet Set, Looseleaf Binder: 7530–00–160–8474, 7530–00–160–8475, 7530–00–160–8476, 7530–00–959–4441

Class 8340

Line, Tent, Manila: 8340–00–556–9689, 8340–00–252–2291

Class 9310

Paper, Index: 9310–00–955–0217, 9310–00–160–7835, 9310–01–074–4408, 9310–00–926–4541, 9310–00–555–4968

SIC 7349

Janitorial/Custodial, Fort Bliss Exchange, Main Store—Building 1735, Fort Bliss, Texas

SIC 7369

Commissary Shelf Stocking and Custodial, Griffiss Air Force Base, New York

Commissary Shelf Stocking and Custodial, George Air Force Base, California

Deletion

It is proposed to delete the following service from Procurement List 1985, October 19, 1984 (49 FR 41195):

SIC 7369

Commissary Shelf Stocking, Naval Station, Treasure Island, San Francisco, California

C.W. Fletcher,

Executive Director.

[FR Doc. 84–31981 Filed 12–6–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1985; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1985 commodities to be produced by and a service to by provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 7, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 29, July 9, July 20 and September 14, 1984 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (49 FR 26790, 49 FR 27969, 49 FR 29441 and 49 FR 36133) of proposed additions to the deletion from Procurement List 1985, October 19, 1984 (49 FR 41195).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The actions will result in authorizing small enitities to produce the commodities and to provide the service produced by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1985:

Class 7520

Marker, Tube Type: 7520–00–138–7981

SIC 7349

Janitorial Service, U.S. Courthouse, 1010 Fifth Avenue, Seattle, Washington

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1985:

Class 8415

Mask, Extreme Cold Weather: 8415–00–243–9844

C.W. Fletcher,

Executive Director.

[FR Doc. 84–31980 Filed 12–6–84; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, "Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel," the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on September 5, 1984, that the service of the members of the group known as the Naval Support Activity Civilians Who Actively Participated in the Defense of Hue During the 1968 Tet Offensive not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans Administration. For further information contact Lt Col Dandar, telephone 692–4744, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Wasington, DC 20330.

Norita C. Koritko,

Air Force Federal Register, Liaison Officer.

[FR Doc. 84–31993 Filed 12–6–84; 8:45 am]

BILLING CODE 3910–01–M

Surface Quality Control; Intent To Grant Exclusive Patent License

Pursuant to the provisions of Part 101–4 Title 41, Code of Federal Regulations (47 FR 34148, August 6, 1982), the Department of the Air Force announces its intention to grant to Surface Control Quality of Orem, Utah, limited exclusive license under United States Patent No. 4,381,151 entitled "Hand-Holdable Contamination Tester" issued April 26, 1983 to Tennyson Smith.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed in writing to the addressee set forth below within 60 days from the publication of this notice. Also copies of the Patent may be obtained for one dollar ($1.00) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street, S.W. Washington, D.C. 20324–1000, Telephone No. 202–693–5710.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–31992 Filed 12–6–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Record of Decision; Stationing of a Seventeenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Availability of record of decision.

SUMMARY: This announces the availability of a Record of Decision regarding the Final Environmental Impact Statement on the Department of the Army's stationing of a seventeenth Active Component division, now designated the 10th Infantry Division.

SUPPLEMENTARY INFORMATION: On November 16, 1984 the Secretary of the Army approved the stationing of a new light infantry division, the Army's seventeenth Active Component division at Fort Drum, NY, with stationing on an interim basis of an infantry brigade with associated support units at Fort Benning, GA until facilities at Fort Drum become available. This new division, now designated the 10th Infantry Division, will be "rounded out" with one of its infantry brigades and associated support units drawn from the Army Reserve Components. Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR 1505.2) direct the preparation of a public Record of Decision concerning decisions reached on actions considered in Environmental Impact Statements. The stationing of a new light infantry division and its potential environmental impact have been discussed in the final environmental documents filed by the Department of the Army with the Environmental Protection Agency, as announced on September 28, 1984 (49 FR 38330, 38355–38356). The Record of Decision summarizes stationing alternatives considered in making the decision, basis for selection of the approved stationing alternative, and measures which will be undertaken to minimize environmental effects.

Interested individuals or organizations may obtain copies of the Record of Decision for this action by contacting: U.S. Army Engineer District, Mobile, ATTN: James B. Hildreth, (SAMPD–EE), P.O. Box 2288, Mobile, AL 36628, Telephone (205) 694–4141.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84–31851 Filed 12–06–84; 8:45 am]

BILLING CODE 3710–08–M

Record of Decision; Stationing of an Eighteenth Active Component Division

AGENCY: Department of the Army, DOD.

ACTION: Availability of record of decision.

SUMMARY: This announces the availability of a Record of Decision regarding the Final Environmental Impact Statement on the Department of the Army's stationing of an eighteenth Active Component division, now designated the 6th Infantry Division.

SUPPLEMENTARY INFORMATION: On November 16, 1984 the Secretary of the Army approved the stationing of a new light infantry division, the Army's eighteenth Active Component division at Forts Wainwright and Richardson, Alaska. Under this decision, the 172nd Infantry Bridgade and support units currrently stationed at Forts Wainwright and Richardson will be restructured to become the nucleus of the 6th Infantry Division. This new division will also be "rounded out" with one of its infantry brigades and associated support units drawn from the Army Reserve Components. Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR 1505.2) direct the preparation of a public Record of Decision concerning decisions reached on actions considered in Environmental Impact Statements. The stationing of a new light infantry division and its potential environmental impact have been discussed in the final enviornmental documents filed by the Department of the Army with the Environmental Protection Agency, as announced on Septaember 28, 1984 (49 FR 38330–3833–1, 38355–3835–6). The Record of Decision summarizes stationing alternatives considered in making the decision, basis for selection of the approved stationing alternative, and measures which will be undertaken to minimize environmental effects.

Interested individuals or organizations may obtain copies of the Record of Decision for this action by contacting: U.S. Army Engineer District, Mobile, ATTN: James B. Hildreth, (SAMPD-EE), P.O. Box 2288, Mobile, AL 36628, Telephone (205) 694–4141.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 84–31941 Filed 12–6–84; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Proposed U.S. Navy Surface Action Group Homeport Facility, Stapleton-Fort Wadesworth Complex, Stapleton, Staten Island, NY; Additional Public Hearings on Proposed U.S. Navy Surface Action Group Homeport Facility, Stapleton-Fort Wadsworth Complex, Stapleton, Staten Island, NY

The U.S. Navy has prepared and filed with the U.S. Environmental Protection Agency (EPA), a Draft Environmental Impact Statement (DEIS) for the proposed Surface Action Group homeport facility. The DEIS has been distributed to various New York State and local agencies, interest groups, media, and public libraries. Copies of the DEIS may also be viewed during normal business hours (8:00 a.m.–4:30 p.m.) at Naval Station, New York (207 Flushing Avenue, Brooklyn, New York).

A public hearing was held on December 4th and 5th, 1984 at the College of Staten Island (Sunnyside Campus) to inform the public of the study's findings and to solicit comments on the Navy's proposed homeport facility and allow the U.S. Army Corps of Engineers (COE) to obtain the data of concern to the public interest which will provide a basis for their decision making process.

Because of the public interest in this project, the Navy has scheduled additional hearings to solicit public

comment on the proposed U.S. Navy Surface Action Group Homeport Facility. The dates, times, and location for the additional hearings are as follows:

December 18, 1984, 6:30 p.m. to approximately 12:00 a.m., 1 Police Plaza, New York City, NY 10038

December 19, 1984, 6:30 p.m. to approximately 12:00 a.m., Monmouth College, Pollak Auditorium, Building 500, West Long Branch, NJ 07764.

These additional hearings, co-chaired by the U.S. Navy and the U.S. Army Corps of Engineers, will be conducted in accordance with the National Environmental Policy Act, Council of Environmental Quality regulations, and the following regulations:

- ☐ Section 10 of the River and Harbor Act of 1899 (33 U.S. 403)
- ☐ Section 404 of the Clean Water Act (33 U.S.C. 1344)
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413)

Work: Construction of a Surface Action Group (SAG) Homeporting Facility.

Waterway: The Narrows, New York Harbor.

Location: Stapleton and Fort Wadsworth, Staten Island, Richmond County, New York.

The U.S. Navy will apply for the COE construction permits following the decision by Secretary of the Navy on the proposed action.

Refer to the Public Notice for this proposed project distributed on/about November 2, 1984 for a description of the work requiring a COE permit and the associated drawings.

All interested parties are invited and are urged to be present or represented at these hearings including representatives of Federal and non-Federal agencies; commercial, business, industrial, transportation, and utilities agencies; civic, ecological, and environmental groups; fish and wildlife organizations; interested and concerned citizens and other interests. All parties will be afforded full opportunity to express their views, but in order to allow all an opportunity to speak, statements should be limited to 10 minutes. If longer statements are to be presented, they should be delivered in writing either at the hearing or mailed to the office listed below and summarized at the Public Hearings. Full consideration will be given to the views of responsible agencies, groups, and citizens.

To ensure order during the hearing, the following speaker sequence will be followed:

1. Hearing Officer's opening remarks
2. Federal elected officials or their representatives
3. Federal agencies' representatives and appointed federal officials
4. State elected officials or their representatives
5. State agencies' representatives and appointed State officials
6. County elected officials
7. County agencies' representatives and appointed county officials
8. Local government officials
9. Organized environmental groups' representatives
10. Organized citizen groups representatives
11. Private citizens

Oral statements will be heard and transcribed by a stenographer, but for accuracy of record all statements should be submitted in writing. Written statements can be delivered to Navy representatives at the hearing or may be mailed to the following office address: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn: Code 202E, Philadelphia Naval Base, Building 77–L, Philadelphia, PA 19112–5094.

All statements, both oral and written, will become part of the official written record. The public hearing will be printed verbatim. Copies of the transcripts may be purchased from the department of the Navy. The cost of the copies will correspond directly to the number of pages enclosed within the transcript. Copies will also be available for public inspection at the COE Library (26 Federal Plaza, New York City), and Naval Station New York (207 Flushing Avenue, Brooklyn).

Written comments will be accepted by the Navy until December 21, 1984. Comments received after that date will not be addressed in the Navy's Final Environmental Impact Statement.

Written comments concerning the issuance of a permit by the COE will be accepted by the Army until January 2, 1985.

The decision to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the activity will be considered including the cumulative effects thereof; among those are cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and in general, the needs and welfare of the people.

For additional information, please refer to the Public Notice distributed on/about November 2, 1984 or contact Mr. Robert Ostermueller at telephone number 215–897–6257.

Dated: December 5, 1984.

William F. Roos, Jr.,

Lt, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 84–32065 Filed 12–6–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangements; Romania

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–IA–133, for the supply of one gram of uranium enriched to 1.532% in U–235, one gram of uranium enriched to 4.949% in U–235, one gram of uranium enriched to 19.811% in U–235, and one gram of uranium enriched to 49.383% in U–235, for use as standard reference material for an IAEA technical assistance program in Bucharest, Romania.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 3, 1984.

George J. Bradley, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-31945 Filed 12-6-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GT85-5-000]

ANR Pipeline Co.; Proposed Changes in F.E.R.C. Gas Tariff

November 29, 1984

Take notice that on November 21, 1984, ANR Pipeline Company ("ANR") tendered for filing Original Sheet Nos. 1 through 115 to its F.E.R.C. Gas Tariff, Original Volume No. 1 to be effective November 1, 1984.

ANR states that the sole purpose of this filing is to reflect its new corporate name in lieu of its former name, Michigan Wisconsin Pipe Line Company, as fully more described by the Federal Energy Regulatory Commission's Notice of Redesignation issued on May 16, 1984.

ANR further states that copies of this filing were served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31909 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7343-001]

Birch Creek Hydro, Inc.; Surrender of Preliminary Permit

December 3, 1984.

Take notice that Birch Creek Hydro, Inc., permittee for the proposed North Fork Oak Creek Project No. 7343, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 27, 1983, and would have expired on September 30, 1985. The project would have been located on North Fork Oak Creek, near Independence, in Inyo County, California.

The Permittee filed the request on October 9, 1984, and the preliminary permit for Project No. 7343 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31885 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-127-000]

Central Vermont Public Service Corp.; Notice of Filing

November 29, 1984.

The filing Company submits the following:

Take notice that on November 16, 1984, Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a System Agreement (the Agreement) between the Boston Edison Company (BE) and CVPS. The Agreement, dated August 18, 1984, provides for the sale of energy (A "Transaction") from the CVPS system to BE and the purchase by BE of energy from the CVPS system.

The Agreement provides that the parties will determine prior to 11:00 a.m. of the day preceding the commencement of a Transaction during the term of the Agreement whether it is economically advantageous to the parties that a sale, pursuant to the Agreement, take place during that day or week.

BE shall pay CVPS monthly an amount determined by multiplying the megawatt hours delivered by CVPS and received by BE for the preceding month by the energy reservation rate in dollars/MWH for each transaction occurring in that month plus an energy charge. The energy charge shall be determined by multiplying the megawatt hours delivered by CVPS for the preceding month by the energy rate for each transaction occurring in that month. The energy charge shall be based upon the forecasted incremental energy cost adjusted for transmission losses to the delivery point.

In order to permit BE to achieve the mutual benefit of this Agreement, CVPS hereby requests that the Commission, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on August 27, 1984. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said, waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e. their respective systems will be compelled to operate at less than optimum economic efficiency.

Copies of the filing were served upon the respective jurisdictional customers of the parties hereto, as well as their respective Public Service Boards.

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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31910 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-138-000]

Central Vermont Public Service Corp.; Notice of Filing

November 30, 1984.

The filing Company submits the following:

Take notice that on November 16, 1984, Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a System Sales & Exchange Agreement (the Agreement) between the Boston Edison Company (BE) and CVPS. The Agreement, dated August 18, 1984, provides for the exchange of a portion of the CVPS system capacity and associated energy for an equal entitlement in capacity from the BE system (an "Exchange").

The Agreement provides that the parties will determine not less than twelve (12) hours prior to such Exchange

whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, take place during that day or week.

BE shall pay CVPS monthly an amount determined by multiplying the megawatt hours delivered by CVPS and received by BE for the preceding month by the energy reservation rate in dollars/MWH for each transaction occurring in that month plus an energy charge. The energy charge shall be determined by multiplying the megawatt hours delivered by CVPS for the preceding month by the energy rate for each transaction occurring in the month. The energy charge shall be based upon the forecasted incremental system energy cost adjusted for transmission losses to the delivery point.

CVPS shall pay BE for each month an Exchange occurs, an energy charge which shall be the sum of each of the hourly energy charges for each of the hours of exchange in such month. The hourly energy charge shall be the product of (1) the NEPEX Replacement Fuel Price for the Exchange Units; (2) the full load average heat rate of the Exchange Units as recorded to NEPEX on Form NX12 (expressed in BTU/MWH or, for steam fossil fired exchange units, the experienced average monthly heat rate of each such unit expressed in BTU/MHW); (3) the net energy output in MWH from the Exchange Units for each hours; and (4) the CVPS Entitlement Fraction in the Exchange Units for such hour.

In order to permit BE to achieve the mutual benefit of this Agreement, CVPS hereby requests that the Commission, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on August 18, 1984. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e., their respective systems will be compelled to operate at less than optimum economic efficiency.

Copies of this filing were served upon the respective jurisdictional customers of the parties hereto, as well as their respective Public Service Boards.

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 December 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31899 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-86-000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

December 3, 1984.

Take notice that on November 5, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-86-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon metering facilities that were formerly used to effectuate the sale and transportation of natural gas to ANR Pipeline Company (ANR) in Beaver County, Oklahoma, under the authorization issued in Docket No. CP85-86-00 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that the need for the facilities has been obviated by new metering facilities constructed at CIG's new Beaver County compressor station. CIG has also indicated that the abandonment would not have an adverse affect on its customers, as the new facilities would in fact function as a replacement for the existing measurement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31886 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-9-003]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 29, 1984.

Take notice that on November 26, 1984, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 2, to be effective June 25, 1984:

First Revised Sheet No. 370
First Revised Sheet No. 374

Columbia states that these tariff sheets are being filed to reflect an amendment to its Rate Schedule X-37, and exchange agreement with Consolidated Gas Supply Corporation, National Fuel Gas Supply Corporation and Texas Eastern Transmission Corporation. This amendment provides for the transportation and exchange of natural gas from additional delivery points, as authorized by the Commission's order issued June 25, 1984 in Docket No. CP74-9-000.

Copies of this filing were served on parties to the agreement.

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31911 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-28-000]

Consolidated Gas Transmission Corp.; Petition for Authority To Follow Tariff Refund Procedures

November 30, 1984.

Take notice that on November 21, 1984, Consolidated Gas Transmission Corporation (Consolidated Transmission) tendered for filing a "Petition For Authority To Follow Tariff Refund Procedures". Consolidated Transmission is petitioning the Commission for authority to flow-through the refund received from Consolidated System LNG Company (Consolidated LNG) by crediting such amounts to Account 191 in accordance with Consolidated Transmission's currently effective tariff. Consolidated Transmission states that this refund procedure would be in lieu of the requirements contained in Ordering Paragraph (E) of the Federal Energy Regulatory Commission's (Commission) Opinion No. 202-A, issued April 18, 1984 in Docket Nos. TA80-2-21-008, *et al.*

The reason that Consolidated Transmission believes that this petition should be granted is that on May 18, 1984, the Commission approved a settlement agreement in *Consolidated Gas Supply Corp.*, Docket No. RP84-35-001, which effectuated a change in Consolidated Transmission's tariff from a lump-sum method of flowing-through supplier refunds to a method of crediting these refunds to Account 191. The Commission's May 18, 1984, order made this tariff change effective as of March 1, 1984, prior to the date of issuance of Opinion 202-A.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31900 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-177-004]

Duke Power Co.; Refund Report

December 3, 1984.

Take notice that on November 21, 1984, Duke Power Company (Duke) submitted for filing a refund report pursuant to the Settlement Agreement approved by the Commission in a Letter Order dated October 2, 1984.

Duke states that refunds have been made to Duke's Wholesale Customers in compliance with the Commission's order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 15, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31887 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-51-000]

Exxon Corp.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity and Limited Partial Abandonment Authorization

November 30, 1984.

Take notice that on November 21, 1984, Exxon Corporation ("Exxon"), 800 Bell Street, P.O. Box 2180, Houston, Texas 77001, filed an application, pursuant to sections 4 and 7 of the Natural Gas Act and the Commission's Regulations thereunder, for limited partial abandonment authorization and a Blanket Limited-Term Certificate of Public Convenience and Necessity authorizing Exxon to conduct a short-term spot sales marketing program, hereinafter referred to as the Exxon Special Marketing Program ("Exxon SMP"), all as more fully set forth in the Application which is on file with the Federal Energy Regulatory Commission ("Commission") and open to public inspection.

Approval would (i) authorize the sale of natural gas by Exxon of resale in interstate commerce; (ii) permit temporary partial abandonment of certain natural gas sales; (iii) confer pregranted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (iv) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in Exxon SMP; and (v) confer pregranted abandonment authorization for the transportation service allowed under the requested certificate. This authority is necessary for implementing a short-term experimental spot sales marketing program. Under Exxon SMP, Exxon proposes to sell on a spot basis contractually committed natural gas qualifying for the section 102, 103, 107 or 108 rate under the Natural Gas Policy Act of 1978. Exxon will seek temporary releases of gas from the purchasers to whom it is committed in order to meet market demand for spot sales. Releasing purchasers will be given relief from take-or-pay liability for any volumes of gas released and sold under the Exxon SMP.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 12, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Exxon is otherwise advised, it will be unnecessary for Exxon to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31901 Filed 12-06-84; 8:45 am]

BILLING CODE G717-01-M

[Project No. 7372-001]

Fluid Energy Systems, Inc.; Surrender of Preliminary Permit

December 3, 1984.

Take notice that Fluid Energy Systems, Incorporated, Permittee for the South Fork Kern River Hydroelectric Power Project, FERC No. 7372, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 7372 was issued on November 25, 1984, and would have expired on October 31, 1986. The project

would have been located on South Fork Kern River, in Tulare County, California.

The Permittee filed the request on October 11, 1984, and the preliminary permit for Project No. 7372 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31889 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-30-001]

Gulf States Utilities Co.; Joint Stipulation

December 3, 1984.

Take notice that on November 16, 1984, Gulf States Utilities Company, Sam Rayburn G&T, Inc., City of College Station, Sam Rayburn Dam Electric Cooperative, Inc., and Sam Rayburn Municipal Power Agency (the Parties) submitted for filing a joint stipulation of the Parties pursuant to the Commission's order of October 16, 1984.

The Parties state that they have met and discussed the issues involved in the refund process and that agreement has been reached on all issues.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31890 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-569-001]

Interstate Power Co.; Notice of Compliance Filing

November 29, 1984.

Take notice that on November 13, 1984, Interstate Power Company (Interstate) submitted for filing its compliance report pursuant to the Commission's order dated September 28, 1984.

Interstate filed the following Second Substitute cost of service statements and rate schedule:

Rate Schedule No. 499
Statement AP
Second Substitute Statement BG
Statement BK
Statement BL

The Second Substitute data filed reduces Interstate's claimed cost of service an additional $11,260 or 0.1% from the substitute data filed September 20, 1984 and rejected by the September 28, 1984 Commission order.

The substitute data filed September 20, 1984 included proposed reductions in the cost of service to reflect synchronized test year interest expense and the properly computed "make-up" provision relating to deferred taxes. As far as the "make-up" provision issue is concerned, Interstate did confer with the Commission staff and staff has agreed that the data filed September 20 and identically refiled herewith is properly calculated.

The sole reason for the additional reduction in claimed cost of service of 0.1% is due to the Commission ordered summary disposition with respect to inclusion in rate base of deferred losses from the disposition of the Carroll County Nuclear Facility.

The rate schedule submitted herewith, representing an increase of 6.7%, is to become effective March 1, 1985, subject to refund pursuant to the September 28, 1984 Order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31912 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-5-000 and TA85-1-5-001]

Midwestern Gas Transmission Co.; Revised Rate Filing Pursuant to Tariff Rate Adjustment Provisions

November 29, 1984.

Take notice that on November 26, 1984, Midwestern Gas Transmission Company (Midwestern) tendered for filing Twelfth Revised Sheet No. 6 to Original Volume No. 1 and Tenth Revised Sheet No. 37 to Original Volume No. 2 of its FERC Gas Tariff, to be effective November 1, 1984.

Midwestern states that the purpose of the revised tariff sheet is to reflect in Midwestern's Northern System rates the decrease in the rates charged to Midwestern by its Canadian supplier, TransCanada Pipelines Ltd. (TransCanada) under a revised agreement. The tariff sheets reflect different rates for ANR Pipeline Company, which purchases over 90% of Midwestern's Northern System supplies, and for Midwestern's small town customers, which are primarily low load factor, heat sensitive markets. The tariff sheets also reflect a two-part rate structure for purchases that includes a demand charge based on cost of facilities and a commodity charge that fluctuates according to season and load factor. Midwestern is requesting a November 1, 1984 effective date in order to give its customers the immediate benefit of the rate reduction resulting from its new supply agreement.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31913 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-276-002]

Mississippi Power and Light Co.; Refund Report

December 3, 1984.

Take notice that on November 26, 1984, Mississippi Power and Light Company (MP&L submitted for filing a refund compliance report pursuant to the Commission's order issued on October 18, 1984.

MP&L states that on October 26, 1984, it refunded to the affected customers the difference between the amounts already collected and the settlement rate, including interest calculated in accordance with the Commission's Regulation.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31894 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-29-000]

Montana-Dakota Utilities Co.; Notice of Filing

November 30, 1984.

Take notice that on November 21, 1984, Montana-Dakota Utilities Co. (MDU) tendered for filing the following revised tariff sheets to be a part of its FERC Gas Tariff:

Original Volume No. 4:
- Substitute Twenty-Ninth Revised Sheet No. 3A

First Revised Volume No. 2:
- Substitute Twenty-Second Revised Sheet No. 10
- Substitute Second Revised Sheet No. 10.1.

MDU states the revised sheets are in compliance with the Federal Energy Regulatory Commission's (Commission) October 30, 1984, order in Docket No. TA85-1-49-000, and that they set forth MDU's purchased gas costs separately in accordance with the Commission's Order Nos. 380 and 380-A and § 154.111 of the Commission's regulations. MDU requests an effective date of November 1, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31902 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-78-000]

Mountain Fuel Resources, Inc.; Application and Petition for Declaratory Orders

November 29, 1984.

Take notice that on October 31, 1984, Mountain Fuel Resources, Inc. (Applicant), 79 South Street, P.O. Box 11450, Salt Lake City, Utah 84147, filed in Docket No. CP85-78-000: (1) An application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon one delivery point to Mountain Fuel Supply Company (Mountain Fuel) and a certificate of public convenience and necessity authorizing additional existing points of delivery of natural gas from Applicant to Mountain Fuel as jurisdictional delivery points, and (2) a petition pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for declaratory orders to resolve uncertainties concerning the jurisdictional status of certain of Applicant's facilities associated with deliveries of natural gas to Mountain Fuel at and adjacent to such points, all as more fully set forth in the application/petition which is on file with the Commission and open to public inspection.

Applicant states it has several sets of facilities on its newly acquired Southern System where it believes uncertainties as to their jurisdictional status exist. Applicant explains that the Southern System in Utah was acquired from Mountain Fuel effective July 1, 1984, pursuant to the Commission's Opinion No. 221 in Docket No. CP80-274, *et al.*, and that the Southern System was previously exempt from the Commission's jurisdiction by operation of section 1(c) of the Natural Gas Act.

Applicant states that three sets of facilities, located in the Clear Creek area of Emerson County, Utah, and Red Wash area Uintah County, Utah, are currently classified as gathering facilities. Applicant states that it is making deliveries of gas sold under Rate Schedule CD-1 and transportation Rate Schedule X-33 gas to Mountain Fuel off of all three systems and that the Clear Creek facilities' main function may no longer be primarily gathering. Applicant requests that the Commission issue a declaratory order as to the jurisdictional status of these facilities, and, if the Commission deems either the facilities or services are jurisdictional, that the Commission issue the appropriate abandonment and certificate authorizations to permit Resources to perform the ongoing services to Mountain Fuel.

Applicant also requests a declaratory order as to the jurisdictional status of Applicant's delivery point facilities for Mountain Fuel located off of Mesa Pipeline Company's system in Uintah County, Utah. Applicant proposes that this point be added as a Rate Schedules CD-1 and X-33 delivery point.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before December 19, 1984, file with the Federal Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdictional conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31914 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-649-001]

New England Power Co.; Refund Report

December 3, 1984.

Take notice that on November 6, 1984, New England Power Company (NEP) submitted for filing a refund report pursuant to the Commission's order issued August 21, 1984.

NEP states that the Commission's order required refunds to be made within thirty days of the date of the order, but the date was extended by initial request of the NEP Customer Rate Committee and NEP. Refunds with interest or additional billings, as appropriate were completed on October 26, 1984.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31895 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7511-001]

Orting Associates; Surrender of Preliminary Permit

December 3, 1984.

Take notice that Orting Associates, Permittee for the Orting Hydropower Project No. 7511 has requested that its preliminary permit be terminated. The preliminary permit was issued on January 25, 1984, and would have expired on June 30, 1985. The project would have been located on Voight Creek in Pierce County, Washington.

The Permittee filed the request on October 4, 1984, and the preliminary permit for Project No. 7511 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31896 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-393-001]

Public Service Company of Indiana; Supplemental Filing

December 3, 1984.

Take notice that on October 31, 1984, Public Service Company of Indiana (PSI) submitted for filing a Supplemental Agreement pursuant to the Commission's letter dated June 27, 1984.

PSI states that its First Supplemental Agreement, dated October 1, 1984, to the Short-Term Agreement, dated April 1, 1984, between American Municipal Power-Ohio, Inc. and PSI, modifies the Agreement to eliminate the restrictive language as directed by the Commission.

PSI further states that a complete copy of this filing is being served on American Municipal Power-Ohio, Inc., the Public Utilities Commission of Ohio and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31897 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

Texas-New Mexico Power Co., Petitioner-Complainant, v. El Paso Electric Co., Respondent; Complaint and Petition for Declaratory Order

November 29, 1984.

Take notice that on November 8, 1984, Texas-New Mexico Power Company ("TNP") filed a complaint and petition for declaratory order requesting that the Commission issue an order confirming TNP's interpretation of the demand adjustment provision of the El Paso Electric Company/Texas-New Mexico Power Company contract. In the alternative, TNP requests that the Commission institute a section 206 complaint proceeding to ensure that the demand adjustment provision is just and reasonable and not unduly discriminatory.

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 December 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31915 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-31-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

November 30, 1984.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, tendered for filing on November 20, 1984 the following tariff sheets to its FERC Gas Tariff; Second Revised Volume No. 1:

To Second Revised Volume No. 1:

Original Sheet No. 13-C
Original Sheet No. 182
Original Sheet No. 183
Original Sheet No. 184
Original Sheet No. 185
Original Sheet No. 186
Original Sheet No. 368
Original Sheet No. 369
Original Sheet No. 370

The tariff sheets submitted by Transco constitute Rate Schedule T-III, which is titled "Transportation For End-Users Pursuant to SMP Certificate," and the Form of Service Agreement thereunder.

Transco states that it has filed Rate Schedule T-II in order to have on file with the Commission a "generally applicable transportation rate that reflects fully allocated costs" for transportation service for end-users which is authorized under a certificate of public convenience and necessity issued in connection with pipeline or producer special marketing programs (SMPs), involving the limited-term abandonment and resale of gas supplies

covered by the National Gas Act. In that connection, Transco makes reference to the Commission's omnibus SMP order issued September 26, 1984 in *Tenneco Oil Company, et al.*, Docket Nos. CI83–269–000, *et al.*, 28 FERC ¶ 61,234.

Transco requests that its filing be made effective, subject to refund, November 1, 1984 and asks that the Commission grant such waivers of the Commission's Regulations as may be necessary to that end.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–31903 Filed 12–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–124–001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

November 29, 1984.

Take notice that on October 5, 1984 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Substitute Thirty-First Revised Sheet No. 15 to its FERC Gas Tariff, Second Revised Volume No. 1. The tariff sheet is proposed effective September 10, 1984.

Transco states that this substitute tariff sheet is being filed in order to comply with the provisions of § 154.111(a)(3) of the Commission's Regulations recently adopted pursuant to Order No. 380 issued May 25, 1984 in Docket No. RM83–71–000. Transco has revised its initial filing of September 10, 1984 in this docket in order to separately state the unit amount of the purchased gas cost component in rates including all purchased gas cost related surcharges.

Transco states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–31916 Filed 12–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI85–99–000]

Union Texas Petroleum Corp.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity

November 30, 1984.

Take Notice that on November 28, 1984, Union Texas Petroleum Corporation of P.O. Box 2120, Houston, Texas 77001, filed an Application for Blanket Limited-Term Certificate of Public Convenience and Necessity to authorize a special marketing program (SMP) called "UPET". Applicant proposes to conduct this program in a manner similar to those SMP extensions authorized by the Commission on September 26, 1984 in Docket Nos. CI83–269, *et al.* Under UPET, Applicant would market released gas. The authority sought herein would authorize the limited-term abandonment of the sale of the released gas to existing purchasers, and the resale of that gas to the UPET purchasers, pursuant to section 7 of the Natural Gas Act. In addition, the proposed authorization would authorize intrastate pipelines, distributors and Hinshaw pipelines to transport UPET volumes pursuant to section 7(c) of the Natural Gas Act and would authorize interstate pipelines to transport UPET volumes pursuant to section 311(a)(2) of the Natural Gas Policy Act.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before December 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–31904 Filed 12–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER83–427–003 and ER83–428–002]

Utah Power and Light Co.; Compliance Filing

December 3, 1984.

The filing Company submits the following:

Take notice that on November 27, 1984, Utah Power & Light Company filed its Compliance Report pursuant to the Letter Order of the Commission issued on November 9, 1984.

Any person desiring to be heard or to protest this filing should file comments with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–31898 Filed 12–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER84–571–001 and ER84–572–001]

Utah Power and Light Co.; Compliance Filing

November 30, 1984.

Take notice that on November 13, 1984, Utah Power and Light Company (UP&L) submitted for filing a compliance report pursuant to a deficiency notice

issued by the Commission on September 28, 1984.

UP&L states that in response to the Commission's deficiency notice, it has submitted additional information for the following:

- CP National's Rate Schedule FPC No. 2
- VP&L Rate Schedule FPC No. 99 and Supplement No. 1 to CPN Rate Schedule FPC No. 2
- Fuel Clause for Replacement Power
- Rate Service Schedule RS—RP
- VP&L's Rate Schedule FPC No. 98 and CPN Rate Schedule FPC No. 2 (Fixed Rate Contracts with the Western Area Power Administration
- Rolled-in Transmission for Allocating Transmission—Related Costs
- Demand Allocation Data for Period I and Period II by Contract and Delivery Point
- Narrative Statement describing and justifying the objectives of the design of the charged rate
- Accounting Procedures Utilized to Insure that AFUDC is not accrued on Investment Amounts Included as CWIP in Rate Base
- Depreciation Rates Based on In-House Study
- D&M Expense Projections and Off-Systems Sales Projections
- 100% Coincidence factor for Partial Requirements Customers

Any person desiring to be heard or to protest this filing should file comments with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31905 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-56-002]

Valero Interstate Transmission Co.; Change in Rates Pursuant to Purchased Gas Cost Adjustment Provisions

November 30, 1984.

Take notice that on November 20, 1984, Valero Interstate Transmission Company ("Vitco") tendered the following filings containing changes in rates pursuant to purchased gas cost adjustment provisions:

Substitute Supplement No. 46
Schedule A, Substitute Page 3 of 3 to FERC Gas Rate Schedule No. 1, For Sale of Gas by Vitco to Natural Gas Pipeline Company of America;
Substitute Supplement No. 126
Schedule A, Substitute Page 1-56 and Attachment 1, Substitute Page 1 of 5 to FERC Gas Rate Schedule No. 2, For Sale of Gas by Vitco to Transcontinental Gas Pipe Line Corporation; and
Substitute Supplement No. 22
Schedule A, Substitute Page 27 of 27 to FERC Gas Rate Schedule No. 14, For Sale of Gas by Vitco to El Paso Natural Gas Company.
Substitute 6th Revised Sheet No. 14
Schedule A, Substitute Page 1 of 1 of Vitco FERC Gas Rate Schedule T-1.

Vitco states that the rates stated on each of the substitute rate schedule supplements (Exhibit A) and Substitute 6th Revised Sheet No. 14 to Rate Schedule T-1 reflects the change in purchased gas costs based on the six months ended August 31, 1984.

Vitco states that these Substitute Supplements and Substitute 6th Revised Sheet No. 14 to Rate Schedule T-1 implement a tentative agreement settlement of the proposal of Transcontinental Gas Pipe Line Corporation ("Transco") in Docket No. CP84-183-000 to abandon the purchase of gas from Vitco. As a part of the tentative agreement, Transco will purchase a minimum of 10 MMcf per day commencing December 1, 1984 rather than 5 MMcf per day reflected in Vitco's October 31, 1984 filing in this proceeding.

Accordingly, Substitute Supplement No. 126 to FERC Gas Rate Schedule 2 reflects changes resulting from Transco's agreement to purchase 10 MMcf per day rather than the previously estimated 5 MMcf per day. In addition, Substitute Supplement No. 46 to FERC Rate Schedule No. 1. Substitute Supplement No. 22 of FERC Gas Rate Schedule No. 14 and Substitute 6th Revised Sheet No. 14 of FERC Rate Schedule T-1 reflect changes resulting from changes in gas costs charged under Rate Schedule T-1 for lost and unaccounted for gas.

The change in rate provided in Exhibit A to Substitute Supplement No. 46 to Rate Schedule No. 1 includes a decrease in purchased gas costs of 16.03¢ per Mcf and a negative surcharge of 31.60¢ per Mcf. The change in rate provided in Exhibit A to Substitute Supplement No. 126 to Rate Schedule No. 2 includes a decrease in purchase gas costs of 5.10¢ per Mcf and a surcharge of 156.38¢ per Mcf. The change in rate provided in Exhibit A to Substitute Supplement No. 22 to Rate Schedule No. 14 includes an increase in purchased gas costs of 12.45¢ per Mcf and a surcharge of 18.25¢ per Mcf. The change in rate provided on Substitute 6th Revised Sheet No. 14 to Rate Schedule T-1 includes an increase in purchased gas cost of 0.68¢ per Mcf and a negative surcharge of 14.73¢ per Mcf. The surcharge in each instance is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date for the above filings is December 1, 1984. Vitco requests a waiver of any Commission regulations or order which would prohibit implementation by December 1, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 384.211 and 385.214). All such petitions or protest should be filed on or before December 7, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31906 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-59-000]

E. I. du Pont de Nemours and Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 3, 1984.

On October 29, 1984, E. I. du Pont De Nemours and Company (Applicant), 1007 Market Street, Wilmington, Delaware 19898, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Natural gas will be the primary energy source of Applicant's proposed topping cycle cogeneration facility. The facility, which will have a power production capacity of approximately 78 megawatts, will be located at the Applicant's Sabine River Works Plant at

Orange, Texas. Heat rejected from the combustion turbine will be recovered in an unfired waste heat boiler. Installation of the facility will begin in 1985.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31888 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-78-000]

Hammermill Paper Co.; Application for Commission Certification of Qualifying Status of A Cogeneration Facility

December 3, 1984.

On November 6, 1984, Hammermill Paper Company of 1540 East Lake Road, Erie, Pennsylvania 16533 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at Hammermill's Oswego plant in the City of Oswego, Oswego County, New York. The facility is expected to commence operation in 1987. As proposed, the Oswego facility will be combined cycle cogeneration facility, consisting of: One (1) 36 MW combustion turbine-generator; one heat recovery boiler capable of producing steam from the combustion turbine exhaust; and one 12 MW single automatic extracting condensing steam turbine-generator supplying steam to meet the paper mill process requirements. The primary energy source will be natural gas, supplemented and backed-up by No. 2 distillate fuel oil.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31891 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-65-000]

Johns-Manville Sales Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 3, 1984.

On November 1, 1984, Johns-Manville Sales Corporation (Applicant) 200 North Main Street, Manville, New Jersey 08835, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility, located at Applicant's address is a topping cycle cogeneration facility. Originally constructed in 1912, the facility uses natural gas as the primary energy source and No. 6 Oil is a secondary fuel. The power production capacity is 12.5 megawatts. Three steam turbine generators, two backpressure and one extraction-condensing units make up the facility; however, only one 2.5 megawatt backpressure unit is used except under emergency conditions. Steam from the turbine is used in plant processes and heating applications.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31892 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-64-000]

Joyce Engineering; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 3, 1984.

On October 31, 1984, Joyce Engineering (Applicant), Box 258C, Saxton, Pennsylvania 16678, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Saxton, Pennsylvania. The facility will consist of a 7.5 megawatt steam turbine generator unit, from which exhaust steam will be used to dry incoming refuse fuel. The primary energy source to the facility will be low grade coal identified by Applicant as refuse coal. Installation will begin in January 1985.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-31893 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7033-001]

Beaver Power Group I, Ltd.; Surrender of Preliminary Permit

December 4, 1984.

Take notice that Beaver Power Group I, Ltd., Permittee for the Rock Hill Dam Project No. 7033 has requested that the preliminary permit be terminated. The preliminary permit for Project No. 7033 was issued on October 7, 1983, and would have expired on March 31, 1985. The project would have been located on the Conestoga River near the Town of Rockhill, in Lancaster County, Pennsylvania.

The Permittee filed the request on October 31, 1984, and the preliminary permit for Project No. 7033 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32012 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-181-001]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 4, 1984.

Take notice that on November 9, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-181-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue to transport natural gas on behalf of United States Gypsum Company (U.S. Gypsum) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that by request noticed on January 13, 1984, in Docket No. CP84-181-000, pursuant to the prior notice and protest procedure set forth in § 157.205 of the Regulations, Columbia was authorized to transport up to 2.5 billion Btu equivalent of natural gas per day through September 8, 1984, to U.S. Gypsum's Baltimore, Maryland, plant.

Columbia now proposes to continue the above-described transportation through June 30, 1985, on the same terms and conditions as the existing transportation authority.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32013 Filed 12-6-84; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CP85-94-000]

Columbia Gas Transmission Corp.; Application

December 4, 1984.

Take notice that on November 7, 1984, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP85-94-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to a new wholesale customer, Eastern Shore Natural Gas Company (Eastern Shore), as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization for (1) initiation of service to Eastern Shore under Rate Schedule CDS providing for a contract demand of up to 3,000 dt equivalent of gas per day, and under Rate Schedule WS providing for a maximum daily quantity of 1,300 dt equivalent of gas per day, and a winter contract quantity of 65,000 dt equivalent of gas, to be effective November 1, 1984 or such later date as the Commission may authorize (2) an increase in contract demand under Rate Schedule CDS of 425 dt equivalent of gas per day to 3,425 dt equivalent of gas per day, and an increase in maximum daily quantity under Rate Schedule WS of 700 dt equivalent of gas per day to 2,000 dt equivalent to gas per day, and an increase in winter contract quantity of 35,000 dt equivalent of gas to 100,000 dt equivalent of gas, all to be effective November 1, 1985, and (3) the use of an existing interconnection with Eastern Shore at Chester County, Pennsylvania, for the delivery point of the proposed sales volumes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecesary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32014 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-3-000]

Columbia Gas Transmission Corp.; Petition for Partial Waiver of Regulations

Issued: December 3, 1984.

On October 15, 1984, Columbia Gas Transmission Corporation (Columbia) filed a petition pursuant to Rule 207 [1] of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission) for a partial waiver of § 271.1104(e)(3).[2] The Commission's regulation found at § 271.1104(e)(3) [3] implements section 110 of the Natural Gas Policy Act of 1978 (NGPA).[4]

Columbia seeks a waiver or modification of the Commission's regulations to permit Columbia to pay retroactive section 110 allowances beginning after verification of the producer description and invoices and ending no later than June 30, 1986.[5] Columbia also requests the Commission to direct all producers to submit the description required by § 271.1104(f)(1) of the Commission's regulations to Columbia by December 31, 1984. Furthermore, Columbia wants the Commission to reiterate that any claim for retroactive section 110 allowances shall be disallowed unless the required description is submitted by December 31, 1984.

Section 271.1104(e)(3) requires that payments of NGPA section 110 allowances for the period from the earlier of July 25, 1980 or the date of the seller's application to March 7, 1983, (the retroactive period) be made over the period beginning March 7, 1983, and ending December 31, 1984, in equal installments to the extent practicable. However, Columbia has been unable to prorate its payments of retroactive section 110 allowances over the above period contemplated by Order No. 94-A.

Columbia states that its experience regarding seciton 110 claims has been similar to that of Transcontinental Gas Pipe Line Corporation (Transco) as described in its Petition for Partial Waiver of Regulations filed in Docket No. GP84-53-000.[6] Columbia states that it, like Transco, has been reviewing data submitted by producers since the spring of 1983, and that it is an overwhelming task. Furthermore, Columbia has found much of the data submitted was deficient or required additional information.

Columbia submits that its review and verification of submitted data is further complicated by Columbia's use of the dry Btu method [7] in its gas purchasing practices during this period.

In light of the decision in *Interstate Natural Gas Association of America* v. *FERC*, 716 F. 2d 1 (D.C. Cir. 1983) and the Commission's recent order establishing Btu refund procedures,[8] Columbia has revised its records to reflect purchased gas quantities on a saturated basis. Additionally, Columbia has received and continues to receive producer descriptions through the period of March 1983 through September, 1984, and Columbia believes it will continue to receive such descriptions throughout 1984.

Any person desiring to be heard or to protest Columbia's filing should file within 15 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20436, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules. All protests filed will be considered but will not make the protestants parties to this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32015 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.207 (1984).

[2] 18 CFR 271.1104(e)(3) (1984).

[3] *See* Order No. 94-A, 22 FERC ¶ 61,055 (1983).

[4] 15 U.S.C. 3301-3422 (1982).

[5] Columbia seeks the authority to extend beyond this date for paying such claims or the right to refuse to make such payment in the event producers fail to cooperate.

[6] Notice issued September 25, 1984.

[Project No. 5768-002]

Commonwealth of Pennsylvania, Department of Environmental Resources; Surrender of Exemption

December 4, 1984.

Take notice that the Commonwealth of Pennsylvania Department of Environmental Resources, Exemptee for the Little Pine Creek Project No. 5768, has requested that its exemption be terminated. The order granting exemption for Project No. 5768 was issued on July 20, 1984. The project would have been located on the Little Pine Creek, in Lycoming County, Pennsylvania. Exemptee has not started project construction.

[7] Order No. 93, FERC Stats. & Regs. ¶ 30,172 (1980).

[8] Order No. 399, Docket No. RM84-6-000, 28 FERC ¶ 61,739.

The Exemptee filed the request on October 29, 1984, and the Exemption from Licensing for Project No. 5768 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the Exemption from Licensing shall remain in effect through the first business day following that day. New applications involving this project site may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32016 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-17-000]

Consumers Power Co.; Application

December 4, 1984.

Take notice that on November 23, 1984, Consumers Power Company (Applicant) filed its application pursuant to section 204 of the Federal Power Act, seeking authority to issue up to $855,000,000 in short-term debt including, but not limited to, notes, drafts, debentures and commercial paper, and to enter into certain construction financing arrangements with special purpose corporations. The construction financing arrangements would be used to finance various Items of Property intended to be used in the operation of Consumers Power's business. The issuances of the notes, drafts, debentures and commercial paper would be issued from time to time, until and including December 31, 1985, with maturities of 364 days or less. The authority to enter into the construction facility arrangements would commence with the expiration of the authority granted in Federal Energy Regulatory Commission Docket Nos. ES84-56-000 and ES84-71-000 and would terminate 364 days thereafter.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must

file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32017 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-89-000]

Eastern Shore Natural Gas Co.; Application

December 4, 1984.

Take notice that on November 6, 1984, Eastern Shore Natural Gas Company (Applicant), P.O. Box 615, Dover, Delaware 19903-0615, filed in Docket No. CP85-89-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide additional firm contract demand service to several of its existing customers, initiate firm storage service under two new rate schedules to several of its existing customers, construct and operate certain new pipeline and compressor facilities required to provide the additional firm sales and storage service, reduce its currently authorized firm sales service to Stauffer Chemical Company from 3,600 dt equivalent of gas per day to 2,800 dt equivalent of gas per day, and to increase interruptible service to several of its existing customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to increase the firm contract demand service to several of its existing jurisdictional customers and to one direct sale customer in the following amounts:

Customer	Current contract demand	Additional quantity requested (dt per day)		Total additional quantity
		Nov. 1, 1984	Nov. 1, 1985	
Elkton Gas Service	1,590	100	0	100
Delaware Division	6,230	780	295	1,075
Citizens Division	3,105	290	100	390
Easton Utilities Commission	1,515	30	30	60
Formosa Plastics Corporation	1,000	2,600	0	2,600
Total (dt per day)		3,800	425	4,225

Applicant further requests authorization to render firm storage service to the following customers which have indicated a desire to enter into service agreements under two proposed initial rate schedules; the Leidy storage service (LSS) and the Columbia winter service (CWS):

RATE SCHEDULE LSS

[Effective Nov. 1, 1984]

Customer	Storage withdrawal demand (dt per day)	Storage capacity (dt)
Elkton Gas Service	110	5,500
Delaware Division	580	29,000
Citizens Division	200	10,900
Cambridge Gas Company	110	5,500
Total	1,000	50,000

RATE SCHEDULE CWS

Customer	Nov. 1, 1984		Nov. 1, 1985	
	Storage withdrawal demand (dt per day)	Storage capacity (dt)	Storage withdrawal demand (dt per day)	Storage capacity (dt)
Elkton Gas Service	290	14,500	100	5,000
Delaware Division	810	40,500	380	19,000
Citizens Division	200	10,000	220	11,000
Cambridge Gas Company	0	0	0	0
Total	1,300	65,000	700	35,000

Applicant states that the LSS storage service would be provided pursuant to an underlying storage service provided to Applicant by Transcontinental Gas Pipe Line Corporation under authority granted by the Commission on October 3, 1984, in Docket No. CP84-335-000. The terms and conditions pertaining to this service are set forth in Applicant's *pro forma* Form of Service Agreement and Rate Schedule LSS included as Exhibit P of the application.

It is indicated that the CWS storage service would be provided by Applicant pursuant to an underlying storage service proposed under Columbia Gas Transmission Corporation's (Columbia) Rate Schedule WS pending the Commission's action in Docket No. CP85-94-000. The terms and conditions pertaining to this service are set forth in Applicant's *pro forma* Form of Service Agreement and Rate Schedule CWS included in Exhibit P of the application.

Applicant also requests authorization to construct and operate new pipeline and compressor facilities required to accommodate the increased contract demand and firm storage service requested by its customers to become effective November 1, 1984, and November 1, 1985. Applicant states that it requires the construction and installation of 8.1 miles of 12-inch loop line on its existing 8-inch Parkersburg (Pennsylvania) Line; 9.0 miles of 10-inch loop line on its existing 6-inch line south of Felton, Delaware, and a compressor station 0.6 mile south of Applicant's existing interconnection with Columbia, located at Daleville, Pennsylvania, to serve increased requirements for the coming 1984-1985 winter season. Applicant submits that the compressor station would be tied into the interconnection with 3,200 feet of 12-inch line and would include two 360-horsepower units, one of which would be a back-up unit. Applicant states that the estimated cost of these facilities would be approximately $4,305,436 and would be financed initially by internally generated funds together with short-term notes.

To serve the additional firm contract demand and storage service requirements requested for the 1985-1986 winter season, Applicant requests authorization to construct and operate 1.55 miles of 12-inch loop line on its existing 8-inch Parkersburg Line and 2.55 miles of 10-inch loop line on its existing 6-inch line south of Felton, Delaware. Applicant states that the estimated costs of these facilities would be approximately $624,161 also to be financed initially by internally generated funds together with short-term notes.

Applicant further requests authorization to reduce the contract demand of Stauffer Chemical Company, a direct sales customer, from 3,600 dt equivalent of gas per day to 2,800 dt equivalent of gas per day.

Lastly, Applicant requests authorization to increase the level of interruptible gas service for four of its direct sale customers shown below.

Customer	Current interruptible sales authority (dt per day)	Proposed additional interruptible sales authority (dt per day)	Proposed total interruptible sales authority (dt per day)
City of Dover	15,000	25,000	40,000
Getty Refining and Marketing Company (Getty)	20,000	40,000	60,000
Stauffer Chemical Company	3,050	2,950	6,000
Formosa Plastics Corporation	3,000	3,000	6,000

Applicant states that no additional facilities would be required to render the increased interruptible service at the proposed increased levels, with the exception of an additional meter at the Getty refining complex. Applicant requests authority to install and operate this additional meter as needed at an estimated cost of $10,000.

Applicant indicates that the additional interruptible sales proposed would have no impact upon Applicant's curtailment plan and include no new

high-priority or essential agricultural uses, as defined in the Natural Gas Policy Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless othewise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32018 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-18-000]

The Kansas Power and Light Co.; Application

December 4, 1984.

Take notice that on December 23, 1984, The Kansas Power and Light Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $120,000,000 in the aggregate principal amount of short-term unsecured Promissory Notes on or before January 31, 1986, with a final maturity date of not later than January 31, 1987.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 24, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32019 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-91-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

December 4, 1984.

Take notice that on November 6, 1984, Northern Natural Gas Company, Division of InterNorth Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-91-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the reduction of firm entitlement of its utility customer, Iowa Gas Company (Iowa Gas), succsssor to the operations of Iowa Power and Light Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern contends that Iowa Gas does not wish to renew its service agreement for 6,545 Mcf per day of contract demand upon the expiration, which is October 27, 1985. Iowa Gas notified Northern of such intention of April 27, 1984, it is indicated. Northern also states that upon termination of the service agreement, available gas supply is sufficient for Iowa Gas to continue meeting its requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385. 214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiciton conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32020 Filed 12-6-84; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ES85-16-000]

PacifiCorp d.b.a. Pacific Power & Light Co.; Application

December 4, 1984.

Take notice that on November 20, 1984, PcifiCorp dba Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order: (1) Authorizing Pacific to enter into interest payment exchanges to reduce its exposure to fluctuations in interest rates rising from a group of taxable and tax-exempt floating rate obligations outstanding or to be outstanding, as previously authorized by

the Commission in the amount of $791,500,000 and (2) exempting the transactions proposed from the Commission's competitive bidding requirements

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 20, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32021 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-66-000]

Panhandle Eastern Pipe Line Co; Request Under Blanket Authorization

December 4, 1984.

Take notice that on October 26, 1984, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-66-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (148 CFR 157.205) for authority to transport natural gas on behalf of a qualified end-user under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Applicant proposes to transport gas on behalf of Sohio Chemical Company (Sohio) pursuant to a transportation agreement dated August 14, 1984, as amended August 31, 1984, and October 12, 1984, between Sohio and Applicant (agreement) which agreement provides for Applicant to receive a transportation quantity of up to 30,000 Mcf of gas per day on an interruptible basis at existing points of interconnection between Applicant and Union Texas Products Corporation in Major and Kingfisher Counties, Oklahoma. Applicant states that it would then transport and redeliver such gas, less a four percent reduction for fuel, to ANR Pipeline Company (ANR) in Defiance County, Ohio, which in turn would make ultimate delivery to Sohio to be used in the manufacture of anhydrous ammonia at Sohio's chemical plant in Lima, Ohio.

It is stated that the term of the authorization would be from the date automatic authorization expires until the earlier of: (1) Eighteen months from the effective date of the agreement, (2) termination of authorization as provided by Subpart F of Part 157 of the Regulations, or (3) termination of the agreement by either of the parties.

It is stated that the Applicant would charge Sohio 39 cents per Mcf of gas transportated pursuant to Applicant's Rate Schedule AIC filed with the Commission in Docket No. RP84-20. Furthermore, Applicant states that an added incentive charge of 2.50 cents per Mcf would also be charged.

Applicant also states that it seeks "flexible authority" to add or delete sources of supply or receipt of points, if such altered service is on behalf of the same end-user, at the same end-user location, within the maximum daily and annual volumes, and under the same terms and conditions authorized for the basic service.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32022 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-83-000]

Southern Natural Gas Co.; Application

December 4, 1984.

Take notice that on November 1, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202 filed in Docket No. CP85-83-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Southern to exchange natural gas with ARCO Oil and Gas Company (ARCO), all as more fully set forth in the application/petition which is on file with the Commission and open to public inspection.

Southern desires to make up to 75 Mcf of natural gas per day available to ARCO for ARCO's use in start-up and other operating procedures on ARCO's Matagorda Island Block 703, offshore Texas, platform (Platform) on an as needed basis. Southern states that it would not charge ARCO for the quantities of gas used by ARCO. ARCO would, instead, pursuant to the terms of a letter agreement regarding the proposed service between Southern and ARCO, exchange a thermally equivalent quantity of gas within 30 days of the receipt of gas at the Platform or other mutually agreeable point.

Southern further states that it would not be required to install any additional facilities to perform the proposed service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion

believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32023 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-93-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Request Under Blanket Authorization

December 4, 1984.

Take notice that on November 7, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No CP85-93-000 a request pursuant to § 157.205 of the Regulation under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Phillips Petroleum Company (Phillips) under the certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport up to 30,000 Mcf of natural gas per day for Phillips through June 30, 1985, unless the Commission authorizes an extension of service pursuant to § 157.209(e) in which event Tennessee proposes that this service for Phillips be concurrent with any such extension. Tennessee states that the gas to be transported would be: (1) Produced from reserves owned and developed by Phillips in the West Bastian Bay Field, Plaquemines Parish, Louisiana, and (2) purchased by Phillips from Tee Oil Inc., *et al.* (Tee), in the Bell City Field, Calcasieu Parish, Louisiana. It is further stated that the gas would be used for boiler fuel and process furnaces at Phillips' Sweeny Refinery located in Brazoria County, Texas.

Tennessee states it would transport the Bastian Bay Field volumes from a point of receipt located at Tennessee's existing facilities in the Bastian Bay Field and that it would transport the Bell City Field volumes from a point of receipt located at the tailgate of the Lear Petroleum Plant in Calcasieu Parish, Louisiana. Tennessee proposes to transport volumes from these receipt point and deliver a thermally equivalent quantity of gas, less volumes for system fuel and uses and gas lost and unaccounted for, to Channel Industries Gas Company (Channel), for the account of Phillips, at the existing point of interconnection between the facilities of Tennessee and Channel at Sabine, Newton County, Texas. Channel would then transport and deliver the gas to Phillips' Sweeny Refinery.

For this transportation Tennessee states it would charge Phillips 7.02 cents per Mcf for gas received from the Bell City point and 17.14 cents per Mcf for gas received from the Bastian Bay point. Additionally, it is explained that Phillips would pay Tennessee the Gas Research Institute surcharge of 1.25 cents per Mcf of gas delivered, and Phillips would provide Tennessee a daily volume of gas for Tennessee's system fuel and uses and gas lost and unaccounted for equal to 1.2 percent of the volume received at the Bell City point and 1.32 percent of the volume received at the Bastian Bay point. Furthermore, Tennessee states it would charge Phillips an added incentive charge of 5.00 cents per million Btu.

Tennessee further requests flexible authority to add and/or delete sources of gas, and add and/or delete receipt and/or delivery points upon mutual agreement of the parties and agrees to comply with certain filing requirements in implementing these changes. Following the addition or deletion of any gas suppliers or receipt or delivery points, Tennessee proposes to file the following information with the Commission within 30 days following the implementation of such charges:

1. A copy of the gas purchase contract;

2. A statement as to whether the supply is attributable to gas under contract to or released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

3. A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

4. A statement that the gas is not committed or dedicated within the meaning of NGPA section 2(18);

5. The location of the Tennessee receipt or delivery points being added or deleted, and the appropriate transportation rate changes resulting from such additon(s) or deletion(s) and the identity of the seller.

6. The information required by § 157.209(c)(1)(ix) of the Commission's Regulations in the event an intermediary participates in the transaction between the seller and Phillips; and

7. The identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authprized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32024 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-108-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

December 4, 1984.

Take notice that on November 13, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-108-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new offshore gathering system located in the offshore Texas area, all as more fully set forth in the applicatioin which is on file with the Commission and open to public inspection.

Tennessee proposes to construct and operate the Texas Offshore Pipeline System (TOPS), consisting of the following facilities:

- 65 miles of 24-inch pipeline extending from Tennessee's mainline system in Refugio County, Texas, to Mustang Island Area Block 847, offshore Texas.
- 15.6 miles of 12-inch pipeline from Mustang Island Block 847 to Mustang Island Block A-31.
- 15.0 miles of 10-inch pipeline from Mustang Island Block 847 to Mustang Island 887.
- 14.1 miles of 12-inch pipeline from Mustang Island Block 749 to Mustang Island Block 768.

Tennessee states that the proposed facilities are required to attach reserves in at least 21 offshore blocks in the

North Padre and Mustang Island Areas of offshore Texas in which Tenneco Oil Company (TOC), Amoco Production Company (Amoco), Pennzoil Producing Company (Pennzoil), and Gulf Oil Company have interests. It is stated that Tennessee and TOC have entered into a letter of intent whereby gas produced from TOC's leases would be committed to transportation in TOPS. It is further stated that Tennessee is negotiating with Pennzoil and Amoco for their leasehold interests in the subject blocks.

Tennessee estimates that the 21 blocks contain proven and potential reserves of 654,700,000 Mcf of gas with a maximum deliverability of 291,900 Mcf per day. The proposed facilities, it is indicated, are designed with a maximum capacity of 400,000 Mcf per day. The estimated cost of the system, it is explained, is $86,481,000 and the facilities would be ready for service during the 1985–1986 winter heating season. Tennessee states that it would finance the estimated cost of facilities initially from general funds and/or borrowing under its revolving credit agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32025 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-95-000]

Tenngasco Exchange Corp.; Application for Limited-Term Transportation Authority Under Part 284 of the Commission's Regulations for Transactions Requiring Prior Approval and Request for Expedition

December 3, 1984.

Take notice that on November 21, 1984, Tenngasco Exchange Corporation (TGX) filed an Application pursuant to 18 CFR Sections 284.5, 284.107, 284.127 and Part 284, Subpart G of the Commission Regulations (18 CFR Part 284, Subpart G), requesting issuance of limited-term (1 year) transportation authority for participating interstate pipelines, intrastate pipelines and local distribution companies (participating pipelines) transporting gas on behalf of interstate pipelines, intrastate pipelines and local distribution companies as more fully described in the application which is on file with the Commission and open for public inspection. Applicant also requests expedited consideration of the approval and authorizations sought in the Application.

Applicant states that on October 24, 1984, TGX announced the initiation of a posted price program for spot purchases of natural gas ("the Exchange"). The Exchange has as its general purpose the creation of an additional spot market for natural gas. This new spot market is available to producers with shut-in or curtailed natural gas who have been unable to access existing marketing programs (including special marketing programs (SMPs) authorized by the Commission). The new market will make more natural gas available to existing spot market customers and will allow new gas markets to develop.

TGX will purchase and resell only that natural gas which is not within the Commission's Natural Gas Act jurisdiction by virtue of section 601(a)(1) of the Natural Gas Policy Act (NGPA), without regard to its contractual commitment status. Natural gas purchased and resold by TGX will be transported by interstate pipelines, intrastate pipelines, and local distribution companies, including "Hinshaw" pipelines. Supply availability, demand requirements, and available capacity in transporting pipelines will be continually monitored by the Exchange to assure maximum takes from participating producers on an equitable basis and a stable and secure supply to the purchasers at the lowest possible price.

In order to realize this goal, TGX proposes to enter into blanket transportation agreements satisfying the requirements of Part 284 of the Commission's regulations with participating pipelines. The decision to participate is fully voluntary by both participating pipelines and the interstate pipelines, intrastate pipelines and local distribution companies on whose behalf the gas is to be transported.

In this connection, TGX has the capability of identifying available capacity on numerous pipeline systems on a daily and even hourly basis, matching wellhead volumes to net back prices and tariff charges to provide the lowest redelivered price of natural gas to spot sales customers. Present regulatory authority, and traditional administration of sales, purchase and transportation contracts hamper the operational efficiency of the Exchange. However, if the authority requested herein is granted and TGX is able to enter into blanket agreements with participating pipelines, TGX will be better able to match supply with demand at market clearing prices.

TGX requests that the Commission authorize participating interstate and intrasate pipelines to transport gas on behalf of those interstate pipelines, intrastate pipelines and local distribution companies who will purchase gas from TGX which is intended for use other than as system supply. This authorization will allow the Exchange to operate at its greatest efficiency.

The authorization requested is a very limited one, it is asserted, since full authorization already exists for such transportation for system supply for resale. Tenngasco simply seeks programmatic authority for such transportation in those instances where the Commission's prior approval is required under its section 311 regulations.

The current regulations under 18 CFR Part 284 impose reporting requirements upon transporting pipelines. However, because of the nature of the Exchange, and the dynamic nature of the arrangements required to effect its greatest efficiencies, it would be burdensome for the participating

pipelines to monitor all of the transactions. Equally, the monitoring burden imposed upon the Commission and its Staff would be significantly increased. In contrast, the burden upon both the pipeline and the Commission and its Staff would be significantly reduced by allowing TGX to assume the responsibility for and burden of compliance with the reporting requirements otherwise imposed on the transporting pipelines.

TGX therefore requests that the Commission waive the reporting requirements imposed upon those pipelines for whom TGX assumes the reporting obligation imposed under 18 CFR Part 284 for transportation of Exchange gas. This waiver is requested as to transportation of Exchange gas whether authorized by this application or by self-implementing transactions undertaken as to TGX volumes under Part 284.

In addition, TGX requests waiver of the 48-hour reporting requirements upon commencement of transportation by any pipeline of TGX volumes on behalf of an interstate pipeline, intrastate pipeline or local distribution company. TGX would file the initial full report required by the regulations of any transporting pipeline. This report would provide the Commission with all the information required by current rules, allowing it to maintain its regulatory monitoring.

Finally, TGX would emphasize what is not being sought here. No Commission mandated scheme of contract carriage or market access is sought by TGX. A decision by an interstate pipeline, intrastate pipeline or local distribution company to have gas transported on its behalf, or to provide transportation services as a participating pipeline, is purely voluntary. Rather, what TGX here seeks is to remove any unnecessary regulatory impediments in order to provide an opportunity for full implementation of the Exchange as an alternative market ordering program. In this connection, TGX requests that the Commission limit the authority issued to a term of twelve months following the date such authority becomes effective. In this manner, the Commission will be able to monitor the Exchange program for a year in order to determine the full benefits of the program for the public interest.

TGX submits that granting of the requested approvals and authorities is in the public interest. The Exchange benefits all segments of the natural gas marketplace. For producers, it provides:

1. Access to an array of strong gas markets already being served, plus additional markets that are not now being served;

2. Short-term, flexible and simple gas contracts that will permit easy access to and easy exit from the Exchange;

3. Market clearing prices for natural gas;

4. High takes of available deliverability; and

5. Increased cash flow, undoubtedly a substantial portion of which will be used for increased exploration and development efforts.

For purchasers, it provides:

1. Natural gas at market clearing prices, which currently are significantly below NGPA maximum lawful prices and long-term interstate pipeline contract prices;

2. Simple and flexible gas purchase contracts that will permit easy access to and easy exit from the Exchange;

3. Increased and more secure supplies of spot gas; and

4. A broader natural gas supply base.

For transporters, it provides:

1. Increased system throughput;

2. Greater use of existing pipeline facilities;

3. Additional potential sources of revenue; and

4. Additional flexibility in meeting the peak and off-peak demands of its on-system customers.

TGX requests the Commission to grant the following specific authority and approvals:

1. That, for a period of twelve months following the effective date, transportation under section 311 be authorized for those volumes of natural gas qualifying for exemption from Natural Gas Act jurisdiction under section 601(a) of the NGPA and purchased from TGX as a first sale reseller, as defined in 18 CFR 270.202(e), and transported on behalf of interstate pipelines, intrastate pipelines and local distribution companies for other than system supply;

2. That TGX be authorized to file all reports required under 18 CFR Part 284 on behalf of participating pipelines as to all volumes of Exchange gas transported by such pipelines, the filing of such reports by TGX to operate as a waiver of all Part 284 filing requirements otherwise imposed upon participating pipelines as to transactions involving TGX, except that the requirements of 18 CFR 284.4(b) be waived in all respects. TGX will report any substantial modification of its section 311 transportation agreements within thirty days after the end of the calendar month; and

3. That TGX be granted such further regulatory authorizations and waivers as are necessary to effect the terms of the Exchange program as set forth herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before December 13, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All portests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plum,

Secretary.

[FR Doc. 84-32026 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-107-000]

THC Pipeline Co.; Application

December 4, 1984.

Take notice that on November 8, 1984, THC Pipeline Company (THC), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-107-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell and assign natural gas in interstate commerce as if THC were an intrastate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations, as well as § 284.203 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

THC states that it is a Hinshaw pipeline within the meaning of section 1(c) of the Natural Gas Act and § 284.222(h)(1) of the Commission's Regulations. THC further states that 6,157,406 Mcf of natural gas from outside the state of Texas were received by THC during the 12-month period ending September 30, 1984, within or at the state boundary which were exempt from

Natural Gas Act jurisdiction by reasons of section 1(c) of the Act.

THC asserts that it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations. It is also stated that THC would petition the Commission for rate approval in accordance with § 284.123(b)(2) of the Regulations. THC states that it presently plans to engage only in transactions under the requested authorization that would take the form of exchanges for which there would be no charges for services rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for THC to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32027 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-102-000]

Transcontinental Gas Pipe Line Corp.; Request Under Blanket Authorization

December 3, 1984.

Take notice that on November 9, 1984, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP85-102-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of the Diamond Glass Company (Diamond Glass) under the certificate issued in Docket No. CP82-426-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport up to 1,000 dt equivalent of natural gas per day for Diamond Glass for a term ending June 30, 1985. It is stated that the gas would be purchased from Energy Marketing Exchange, Inc. (EME), in Nueces, Jim Wells and Starr Counties, Texas, and would be used as boiler fuel in Diamond Glass' Royersford, Pennsylvania, plant. It is indicated that Transco would receive the gas at existing receipt points in Texas and would redeliver equivalent volumes at existing interconnections with Philadelphia Electric Company, the distributor serving Diamond Glass' plant in Royersford, Pennsylvania.

It is stated that Transco would charge the currently applicable transportation rate in accordance with its Rate Schedule T-II, Second Revised Volume No. 1.

Transco also requests authorization in Docket No. CP85-102-000 to provide flexible authority on behalf of EME, as agent for Diamond Glass, to add and/or delete sources of gas and/or receipt or delivery points. With respect to such flexible authority, Transco states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of any resulting modifications to the gas purchase contract between EME and Diamond Glass;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of the NGPA section 2(18);

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary particpates in the transaction between the seller and end user, the information required by § 157.209(c)(ix) of the Regulations; and

(7) Identity of any other pipeline involved in the transportation.

Transco submits that any changes made pursuant to such flexible authority would be on behalf of the same end-user, Diamond Glass, for use at the same end-use location and would remain within daily and annual volumes level proposed herein.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedurel Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest if filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32028 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-104-000]

Transcontinental Gas Pipe Line Corp.; Request Under Blanket Authorization

December 3, 1984.

Take notice that on November 9, 1984, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP85-104-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport end-user gas on behalf of Anchor Glass Container Corporation (Anchor Glass), with flexible authority to add and/or delete sources of gas and/or receipt/delivery points under the certificate issued in Docket No. CP82-426-000 pursuant to

section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Transco proposes to transport up to 4,300 dt equivalent of natural gas per day for use in Anchor Glass' plant in Salem, New Jersey, for a term expiring June 30, 1985. It is stated that the natural gas to be transported would be purchased from Houston Oil & Minerals Corporation (Houston O&M) and would be used as process fuel for glass melting and forming at the Salem Plant. It is indicated that Transco would receive the gas at existing interconnections with Houston O&M in the North Sabine Lake Field, Cameron Parish, Louisiana, and would redeliver such gas to existing points of delivery between Transco and South Jersey Gas Company, the distribution company serving Anchor Glass.

Transco states that it would charge the currently applicable transportation rate in accordance with its Rate Schedule T-11, FERC Gas Tariff, Second Revised Volume No. 1.

Transco also requests authorization to provide flexible authority on behalf of Anchor Glass to add and/or delete sources of gas and/or receipt or delivery points. With respect to such flexible authority, Transco states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt or delivery points, to file with the Commission the following information:

(1) A copy of the gas purchase contract between the seller and Anchor Glass;

(2) A statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor, and if so, identification of the parties and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) If the supplier is a "producer or other seller in a first sale", a statement that the gas was not "committed or dedicated to interstate commerce on November 8, 1978" as such terms are used in § 157.209(e)(1)(i)(A) of the Regulations;

(5) Location of the receipt/delivery points being added or deleted;

(6) Where an intermediary participates in the transaction between the seller and end user, the information required by § 157.209(c)(ix) of the Regulations; and

(7) Identity of any other pipeline involved in the transportation.

Transco submits that any changes made pursuant to such flexible authority would be on behalf of the same end user, Anchor Glass, for use at the same end-use location and would remain within daily and annual volumes levels proposed herein.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32029 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-400-001]

United Gas Pipe Line Co; Petition To Amend

December 4, 1984.

Take notice that on November 6, 1984, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP83-400-001 a petition to amend the Commission's order issued October 6, 1983, in Docket No. CP83-400-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize United to render gas transportation service to implement increased interruptible gas sales from 500 Mcf per day to 1,100 Mcf per day to VGS d/b/a Southland Oil Company (Southland), an existing on-system direct customer, under the September 20, 1984, amended agreement, and United's petition to amend which is on file with the Commission and open to public inspection.

United states that under the existing authorization in Docket No. CP83-400-000, United is authorized to transport to Southland up to 500 Mcf of gas per day at Sandersville, Mississippi, and up to 350 Mcf per day at Lumberton, Mississippi, under the May 1, 1983, interruptible gas sales agreement. The instant petition is only for increased use at Sandersville. It is indicated that Southland has a need for additional supplies of gas to operate efficiently its refineries.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but wil not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32030 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-95-000]

United Gas Pipe Line Co.; Application

December 4, 1984.

Take notice that on November 7, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-95-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Grant Chemical Division, Ferro Corporation (Grant Chemical), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United proposes to transport natural gas in interstate commerce in order to implement a direct sale of natural gas in volumes not to exceed 350 Mcf of gas per day, on an interruptible basis, to Grant Chemical under an interruptible gas sales contract dated August 8, 1984.

United states that Grant Chemical owns and operates a chemical plant near the City of Barton Rouge in East Baton Rouge Parish, Louisiana, where it produces fertilizer, food containers, and chemical products. It is further stated that the interruptible volumes would be used by Grant Chemical for process heat in its Chemical plant operations.

It is stated that the rate to be paid for this interruptible service would be that provided for in United's Rate Schedule IRS No. 84-4. United further states it would utilize existing facilities to implement the proposed service and the

construction of new facilities would not be required by United. United indicates that although its existing facilities are in proximity to Grant Chemical's plant, Grant Chemical is not an existing customer of United.

It is submitted that United has supplies of natural gas in excess of the current requirements of its firm market and that it is forced to continue to prorate supplies from its producers. United avers that the proposed interruptible sale to Grant Chemical would alleviate to some extent the potential take-or-pay exposure on account of such proration.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32031 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7355-001]

Western Wisconsin Municipal Power Group; Surrender of Preliminary Permit

December 4, 1984.

Take notice that Western Wisconsin Municipal Power Group, Permittee for the proposed Mississippi River Lock and Dam No. 10 Project No. 7355, has requested that its preliminary permit be terminated. The permit was issued on September 7, 1983, and would have expired August 31, 1985. The project would have been located on the Upper Mississippi River near Guttenburg, Clayton County, Iowa. The Permittee cites that the proposed project is not economically feasible as the reason for the surrender request.

The Permittee filed the request on October 19, 1984, and the preliminary permit for Project No. 7355 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32032 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2246-001, et al.]

Hydroelectric Applications (Yuba County Water Agency, et al.)

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1. a. Type of Application: Amendment of License.

b. Project No: 2246-001.

c. Date Filed: February 14, 1984.

d. Applicant: Yuba County Water Agency.

e. Name of Project: New Bullards Bar Dam.

f. Location: New Bullards Bar Reservoir on the North Fork Yuba River near Dobbins in Yuba County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Donald R. Frost, Administrator, Yuba County Water Agency, P.O. Box 1569, Marysville, California 95901.

i. Comment Date: January 7, 1985.

j. Description of Project: The proposed project would utilize required minimum fish flow releases at New Bullards Bar Dam and would consist of: (1) A 12-inch-diameter, 80-foot-long steel penstock; (2) a powerhouse, located at the toe of the dam, containing a single 150-kW turbine-generator unit and producing an estimated average annual generation of 1.1 GWh; (3) a 24-inch-diameter, 40-foot-long discharge pipe; and (4) a short tap line to connect to an existing Pacific Gas and Electric Company (PG&E) line. Applicant estimates construction cost at $273,000. Project power would be utilized to operate dam facilities during local outages with surplus power sold to PG&E.

k. This notice also consists of the following standard paragraphs: B, C and D1.

2 a. Type of Application: Major License (over 5MW).

b. Project No.: 5223-001.

c. Date Filed: February 27, 1984.

d. Applicant: International Falls Power Company.

e. Name of Project: International Falls Hydroelectric Power Project.

f. Location: On the Rainey River in Koochiching County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: John P. Borgwardt, Boise Cascade Corporation, P.O. Box 1414, Portland, Oregon 97207 and Amy Koch, Reid and Priest, 1111—19th Street, NW., Washington, DC. 20036.

i. Comment Date: January 22, 1985.

j. Description of Project: The project is currently being operated by Boise Cascade Corporation Hydro-Operator, an agent of the Applicant, and occupies lands within the borders of Canada and the United States (U.S.). Some of the land the project occupies within the U.S. is administered by the Department of the Interior. The part of the proposed project which lies within the borders of the U.S., and which will be licensed, consists of: (1) A 170-foot overflow section of the existing stone masonry dam. The height of this section varies from 10 feet to 35 feet; (2) an existing powerhouse, which is an integral part of the dam, containing 7 generating units, of which six are rated at 1,490 kW and 1 is rated at 1,860 kW, for a total installed capacity of 10,800 kW. Six of the 7 units are proposed to be rehabilitated; (3) a portion of the existing reservior, which is within the U.S. and has a surface area of 48,296.3 acres at power pool elevation of 1,108 feet m.s.l.; (4) an existing 660-foot-lolng, 15-kV transmission line, which extends from the powerhouse to Boise Cascade Corporation's switchgear

building; and (5) appurtenant facilities. The estimated average annual energy output for the project is 69,800,000 kWh.

k. Purpose of Project: Power produced at the project would be used to power the Applicant's paper and insulite mills, and any excess power would be sold to Boise Cascade Corporation or the Minnesota Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. Type of Application: Major License (over 5MW).

b. Project No.: 7043–001.

c. Date Filed: March 7, 1984.

d. Applicant: Cities of Minden, Natchitoches, and Ruston, Louisiana.

e. Name of Project: Red River Lock and Dam No. 1.

f. Location: On the Red River at mile 50, in Avoyelles and Catahoula Parishes, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, Jr., Vice President Forte & Tablada, Inc. P.O. Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers Red River Lock and Dam No. 1 constructed in late 1984. The project would consist of: (1) A proposed intake structure with trash racks and stop logs; (2) six proposed 16.5-foot-diameter steel penstocks approximately 500 feet long; (3) a new powerhouse located adjacent to and integral with the Crops' dam structure and containing six turbine-generators with a total installed capacity of 18,000 kW; (4) a proposed tailrace channel, approximately 210 feet wide; (5) a proposed 34.5–kV transmission line, approximately 6.02 miles long; and (6) appurtenant facilities. Applicant estimates that the average annual energy generation would be 53,972 MWh. The license application was filed during the term of the Applicant's preliminary permit for Project No. 7043.

k. Purpose of Project: Energy produced at the project would be utilized in the Applicants' municipal electrical systems for distribution to their customers.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

4 a. Type of Application: License (Under 5 MW).

b. Project No: 7888–001.

c. Date Filed: February 7, 1984.

d. Applicant: Comtu Falls Corporation and Comtu Falls Associates.

e. Name of Project: Comtu Falls.

f. Location: On the Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act 16, U.S.C. 791(a)—825(r).

h. Contact Person: Jeffrey A. Wallin, President, Comtu Falls Corporation, P.O. Box 466, Cavendish, Vermont 05142.

i. Comment Date: January 28, 1985.

j. Competing Application: Project No. 7998–000 Date Filed: January 26, 1984.

k. Description of Project: The run-of-river project would consist of: (1) The existing 4-foot-high and 128-foot-long Comtu Falls Dam with a crest elevation of 392 feet mean sea level owned by the Applicant; (2) 2-foot-high flashboards; (3) an intake structure at the west side of the dam; (4) a 6-foot by 6-foot and 65-foot-long reinforced concrete penstock; (5) a powerhouse with an existing 250-kW and a new 150-kW turbine-generator units; (6) a 30-foot-long and 4-kV transmission line; and (7) other appurtenances. The Applicants estimate an average annual generation of 2,482,800 kWh.

l. Purpose of Project: Project energy would be sold to a local public utility.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

5 a. Type of Application: Major License.

b. Project No: 7895–000.

c. Date Filed: December 5, 1984.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Pearl River Hydroelectric.

f. Location: On Ross R. Barnett Reservior and Pearl River, in Madison, Rankin, Hinds, Scott, and Leake Counties, Mississippi.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. G. William Miller, Independence Electric Corporation, 919 18th Street, NW., Suite 750, Washington D.C. 20006.

i. Comment Date: January 18, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing earthfill dam about 19,000 feet long and 45 feet high; (2) an existing concrete spillway, about 440 feet long, composed of 10 bays, each containing a 21-foot high by 40-foot wide Taintor gate; (3) an existing emergency spillway; (4) an existing water supply intake structure; (5) a reservoir with a capacity of 341,000 acre-feet at normal water surface elevation of 296.0 feet, m.s.l.; (6) a proposed intake structure, approximately 20-feet wide by 120-feet long, with steel trash racks; (7) a proposed penstock arrangement consisting of four 10 feet diameter steel pipes about 400 feet long; (8) a proposed reinforced concrete powerhouse, about 65-feet by 85-feet, housing two turbine-generators with a total installed capacity of 9,500 kW; (9) a proposed tailrace approximately 450 feet long; (10) a proposed switchyard; (11) a proposed 115-kV transmission line approximately two miles long; and (12) appurtenant facilities. The existing dam and reservoir are owned by the Pearl River Valley Water Supply District.

k. Purpose of Project: The energy produced by the project will be sold to a purchasing utility.

l. This notice also consists of the following standard paragraphs: A4, B, and C.

6 a. Type of Application: Major License (less than 5MW).

b. Project No: 7960–000.

c. Date Filed: January 4, 1984.

d. Applicant: Wyoming Valley Hydro Partners, Ltd.

e. Name of Project: Wyoming Valley.

f. Location: Connecticut River, Town of Northumberland, Coos County, New Hampshire and the Town of Guildhall, Essex County, Vermont.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Robert W. Shaw, 4 Parsons Street, Colebrook, New Hampshire 03576.

i. Comment Date: January 25, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 233-foot-long, 15-foot-high timber crib dam; (2) an existing 235-acre reservoir at elevation 845.7 feet M.S.L. with 18-inch-high flashboards installed; (3) an existing powerhouse at the east dam abutment containing a single 700-kW turbine-generator to be rehabilitated; (4) an existing powerhouse at the west dam abutment containing three new or reconditioned turbine-generators with a total rated capacity of 1,600 kW; (5) a transformer pad and a 250-foot-long, 34.5-kV transmission line extending from each powerhouse to an existing 34.5-kV transmission line which crosses the Connecticut River upstream from the project; and (6) appurtenant facilities. The project would generate up to 5,256,000 kWh annually. The existing facilities are owned by the James River Corporation.

k. Purpose of Project: Energy produced at the project would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

7 a. Type of Application: License (Under 5MW).

b. Project No: 7998–000.

c. Date Filed: January 26, 1984.

d. Applicant: The Town of Springfield.

e. Name of Project: Black River.

f. Location: Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. sections 791(a)—825(r).

h. Contact Person: Michael S. Valuk, Town Manager, 96 Main Street, Springfield, Vermont 05156.

i. Comment Date: January 22, 1985.

j. Description of Project: The proposed run-of-river project would consist of 4 independent developments as follows, mentioned from upstream.

A. The existing Fellows Dam Development consisting of: (1) The existing 9.6-foot-high and 200-foot-long concrete gravity Fellows Dam owned by the Applicant, with a crest elevation of 434.8 feet mean sea level (msl); (2) a small reservoir with a surface area of 23 acres; (3) an intake structure and powerhouse at the south abutment of the dam with a 150 kW turbine-generator unit; and (4) other appurtenances.

B. The Gilman/Slack Development would consist of: (1) The reconstruction of the now breached Gilman Dam, about 1,250 feet downstream of the Fellows Dam, to an elevation of 425 feet msl (an increase of 3.4 feet) with dimensions of 10 feet high and about 230 feet long; (2) a reservoir with a surface area of 3 acres; (3) a new intake structure at the west abutment; (4) a new 9-foot-diameter and 900-foot-long penstock, bypassing the existing Comtu Falls Development; (5) a new powerhouse on the west bank just downstream of the Slack Dam, with 2 turbine-generator units with a total installed capacity of 3,600 kW; (6) a new 20-foot-long and 4.16-KV transmission line; and (7) other appurtenances. Existing facilities are owned by the Applicant, Riggs & Lombard, Inc., the Springfield Cooprative Savings & Loan Association, and Sterling Enterprises, Inc.

C. The existing Comtu Falls Development consisting of: (1) The 4-foot-high and 128-foot-long Comtu Falls Dam with a crest elevation of 392 feet msl owned by the Comtu Falls Corporation; (2) a small reservoir with a surface area of 0.3 acres; (3) an intake structure at the west abutment of the dam; (4) a 6-foot by 6-foot and 65-foot-long reinforced concrete penstock; (5) a powerhouse with a 250-kW turbine-generator unit; (6) a 30-foot-long and 4-kV transmission line; and (7) other appurtenances.

D. The existing Lovejoy Dam Development consisting of: (1) The 14.5-foot-high and 150-foot-long concete gravity Lovejoy Dam with a crest elevation of 344.5 feet msl, about 720 feet downstream from the Slack Dam; (2) a reservoir unit with a surface area of 3.6 acres; (3) an intake structure at the east end of the dam; (4) a powerhouse with 2 turbine-generator units with a total capacity 150 kW; and (5) other appurtenances. Existing facilities are owned by Lovejoy Tool Company, Inc.

The total capacity would be 4,150 kW. The Applicant estimates a total average annual generation of 12,638,000 kWh.

k. Purpose of Project: Project energy would be sold to the Applicant's local customers.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8 a. Type of Application: License (Minor).

b. Project No.: 8023–000.

c. Date Filed: February 2, 1984.

d. Applicant: West Slope Hydro Partners.

e. Name of Project: Uncompahgre Valley Hydroelectric Project No. 2.

f. Location: U.S. Bureau of Reclamation's South Canal, Montrose County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Douglas A. Spaulding, INDECO of Minnesota, Inc., 1500 South Lilac Drive, 351 Tyrol West Building, Minneapolis, Minnesota 55416.

i. Comment Date: January 7, 1985.

j. Competing Application: Project No: 8037–000. Date Filed: February 2, 1984.

k. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's South Canal and would consist of the following: (1) A proposed intake headworks located at an existing canal drop, approximately 1.3 miles downstream of the Gunnison Tunnel West Portal; (2) a proposed 120-inch-diameter penstock, approximately 400 feet long; (3) a proposed powerhouse with a single 1,000-kW capacity generating unit; (4) a proposed short powerhouse discharge channel leading to the adjacent South Canal; (5) a proposed ¾-mile-long 3.45-kV transmission line; and (6) appurtenant facilities.

l. Purpose of Project: The estimated average annual generation of 7,340,000 kWh would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: License (Major less than 5 MW).

b. Project No.: 8024–000.

c. Date Filed: February 2, 1984.

d. Applicant: West Slope Hydro Partners.

e. Name of Project: Uncompahgre Valley Hydroelectric Project No. 3.

f. Location: U.S. Bureau of Reclamation's South Canal, Montrose County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Douglas A. Spaulding, INDECO of Minnesota, Inc., 1500 South Lilac Drive, 351 Tyrol West Building, Minneapolis, Minnesota 55416.

i. Comment Date: January 7, 1985.

j. Competing Application: Project No. 8038–000. Date Filed: February 2, 1984.

k. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's South Canal and would consist of the following: (1) A proposed intake headworks located at an existing canal drop, approximately 2.1 miles downstream of the Gunnison Tunnel West Portal; (2) a proposed 120-inch-diameter penstock, approximately 500 feet long; (3) a proposed powerhouse with a single 2,200-kW capacity generating unit; (4) a proposed short powerhouse discharge channel leading to the adjacent South Canal; (5) a proposed ¾-mile-long 34.5-kV transmission line; and (6) appurtenant facilities.

l. Purpose of Project: The estimated average annual generation of 15,282,000 kWh would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10 a. Type of Application: License (Major less than 5 MW).

b. Project No.: 8025–000.

c. Date Filed: February 2, 1984.

d. Applicant: West Slope Hydro Partners.

e. Name of Project: Uncompahgre Valley Hydroelectric Project No. 4.

f. Location: U.S. Bureau of Reclamation's South Canal, Montrose County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Douglas A. Spaulding, INDECO of Minnesota, Inc., 1500 South Lilac Drive, 351 Tyrol West Building, Minneapolis, Minnesota 55416.

i. Comment Date: January 7, 1985.

j. Competing Application: Project No.: 8036–000. Date Filed: February 2, 1984.

k. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's South Canal and would consist of the following: (1) A proposed intake headworks located at an existing canal drop, approximately 4.5 miles downstream of the Gunnison Tunnel West Portal; (2) a proposed 108-inch-diameter penstock, approximately 2,900 feet long; (3) a proposed powerhouse with a single 4,500-kW capacity generating unit; (4) a proposed short powerhouse discharge channel leading to the adjacent South Canal; (5) a proposed 2½-mile-long 34.5-kV transmission line; and (6) appurtenant facilities.

l. Purpose of Project: The estimated average annual generation of 26,128,000 kWh would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 8386–000.

c. Date Filed: June 25, 1984.

d. Applicant: Colorado Hydro Partners 84–2.

e. Name of Project: Northfield Conduit Hydro Project.

f. Location: Municipal Water Conduit in Teller County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bradley H. Ermel, P.O. Box 1926, Colorado Springs, Colorado 80901.

i. Comment Date: January 22, 1985.

j. Description of Project: The proposed project would utilize the existing City of Colorado Springs, CO, Northfield water supply conduit located in the Pike National Forest and would consist of: (1) A new 30-foot-long penstock connecting to the conduit; (2) a new powerhouse containing 2 turbine-generator units having a total rated capacity of 1,300 kW; (3) a tailrace returning flow to the conduit; (4) a new 150-foot-long, 34.5-kV transmission line connecting to an existing line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,402,000 kWh. Project energy would be sold to the Public Service Company of Colorado or to the City of Colorado Springs.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project contruction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 8393–000.

c. Date Filed: June 26, 1984.

d. Applicant: F.&T. Energy Corporation.

e. Name of Project: Arkansas River L&D No. 4.

f. Location: On Arkansas River in Jefferson County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., Post Office Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Arkansas River Lock and Dam No. 4 and would consist of: (1) A new 1500-foot-long intake channel at the left river bank; (2) a new powerhouse containing turbine-generator units having a total rated capacity of 18,000 kW; (3) a tailrace channel returning flow to the river about 2,500 feet downstream from the dam; (4) a new 6-mile-long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 95,000,000 kWh. Project energy would be sold to the Arkansas Power and Light Company or to local municipalities.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 12 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an applications for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 8394–000.

c. Date Filed: June 26, 1984.

d. Applicant: F.&T. Energy Corporation.

e. Name of Project: Arkansas River L&D No. 5.

f. Location: On Arkansas River in Jefferson County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., Post Office Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Arkansas River Lock and Dam No. 5 and would consist of: (1) A new 1500-foot-long intake channel at the right river bank; (2) a new powerhouse containing turbine-generator units having a total rated capacity of 28,000 kW; (3) a tailrace channel returning flow to the river about 2,500 feet downstream from the dam; (4) a new 2.5-mile-long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 135,000,000 kWh. Project energy would be sold to the Arkansas Power and Light Company or to local municipalities.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 12 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an applications for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

14 a. Type of Application: Conduit Exemption.

b. Project No: 8461–000.

c. Date Filed: July 24, 1984.

d. Applicant: Valley High Ranches, Inc.

e. Name of Project: Valley High Ranch Hydro.

f. Location: Near Valley View Hot Springs, in Saguache County, Colorado.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contract Person: Mr. Gary Wysocki, P.O. Box 256, Lake City, Colorado 81235.

i. Comment Date: January 7, 1985.

j. Description of Project: The proposed project would consist of: (1) A new headgate; (2) a new 12-inch buried plastic pipeline, approximately 2 miles long, which will upgrade an existing 8-inch pipeline; (3) a new wooden powerhouse approximately 14 feet by 12 feet, which will house one turbine-generator unit with an installed capacity of 175 kW; (4) a new tailrace consisting of an 8-inch pipe leading to; (5) a new irrigation control box which will control the discharge of water into existing irrigation ditches; (6) a new underground transmission line approximately 0.25 miles long rated at 14.4-kV; (7) a new transformer; and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 1,079,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will be

sole to Colorado Ute Electric Association.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

15 a. Type of Application: Exemption from Licensing (5MW or Less).

b. Project No: 8505–000.

c. Date Filed: August 9, 1984.

d. Applicant: J.K. Inc.

e. Name of Project: Abbots Mill.

f. Location: Concord River in Oxford County, Maine.

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: Mr. Jenness N. Buck, P.O. Box 98, Hanover, Maine 04237.

i. Comment Date: January 7, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 50-foot-long, 18-foot-high concrete dam owned by the Applicant; (2) an existing 2 acre reservoir to be increased to 2½ acres by the reinstallation of 2-foot-high flashboards to the dam; (3) an existing concrete forebay; (4) two existing 15-foot-long, 30-inch-diameter steel penstocks; (5) a proposed concrete powerhouse containing one turbine/generator unit with an installed capacity of 40 kW, operating under a head of 20 feet; (6) a proposed 480-volt, 2,000-foot-long transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control; development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

16 a. Type of Application: Preliminary Permit.

b. Project No: 8553–000.

c. Date Filed: August 27, 1984.

d. Applicant: Pine Crest Hydro Ltd.

e. Name of Project: Pine Crest Hydroelectric Project.

f. Location: On Beaver Creek in Mendocino County, California, within Mendocino National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Roy McDonald, 1121 L St., Suite 1000, Sacramento, California 95814.

i. Comment Date: January 22, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 350-foot-long diversion weir at elevation 3,000 feet; (2) a 72-inch-diameter, 5,000-foot-long pipeline; (3) a 48-inch-diameter, 1,250-foot-long penstock; (4) a powerhouse with a total installed capacity of 4,400 kW; and (5) an 11-mile-long, 12.5-kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line.

A preliminary permit if issued, does not authorize construction. Applicant has required a 36-month permit to conduct feasibility studies and prepare a license application at a cost of $70,000.

k. Purpose of Project: The estimated 15.5 million kWh produced by the project would be sold to PG&E.

l. This notice also consist of the following standard paragraphs: A6, A7, A9, B, C and D2.

17 a. Type of Application: Preliminary Permit.

b. Project No: 8554–000.

c. Date Filed: August 27, 1984.

d. Applicant: Signal Peak Hydro Ltd.

e. Name of Project: Signal Peak Hydroelectric Project.

f. Location: On Mendenhall Creek in Mendocino County, California; within Mendocino National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Roy McDonald, 1121 L St., Suite 1000, Sacramento, California 98514.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 110-foot-long diversion weir at elevation 3,800 feet; (2) a 6000-foot-long, 52-inch-diameter pipeline; (3) a 1,400-foot-long, 36-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 6000 kW; and (5) a 21-mile-long, 12.5-kV transmission line connecting with an existing Pacific Gas and Electric (PG&E) transmision line.

A preliminary permit if issued, does not authorize construction. Applicant has required a 36-month permit to conduct feasibility studies and prepare a license application at a cost of $70,000.

k. Purpose of Project: The estimated 16.1 million kWh produced annually by the project would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

18 a. Type of Application: Preliminary Permit.

b. Project No: 8587–000.

c. Date Filed: September 10, 1984.

d. Applicant: Silver Wheel Hydro Ltd.

e. Name of Project: Silver Wheel Hydroelectric Project.

f. Location: On Little North Fork Salmon River, near Sawyers Bar, within Klamath National Forest, in Siskiyou County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Roy McDonald, 1121 L St., Suite 1000, Sacramento, California 95814.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 220-foot-long diversion dam at elevation 3,060 feet; (2) a 48-inch-diameter, 5,700-foot-long diversion pipeline; (3) a 36-inch-diameter, 1,000-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 3,980 kW operating under a head of 660 feet; and (5) a 2-mile-long, 12.5-kV transmisstion line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 17.5 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

19 a. Type of Application: Preliminary Permit.

b. Project No: 8588–000.

c. Date Filed: September 10, 1984.

d. Applicant: Trinity Empire Hydro Ltd.

e. Name of Project: Trinity Empire Hydroelectric Project.

f. Location: On Dubakella Creek, near Wildwood, within the Shasta-Trinity National Forest, in Trinity County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy McDonald, 1121 L St., Suite 1000, Sacramento, California 95814.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 18-foot-long diversion dam at elevation 4,450 feet; (2) a 36-inch-diameter, 11,000-foot-long diversion pipeline; (3) a 30-inch-diameter, 3,800-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 2,000 kW operating under a head of 660 feet; and (5) a 2.5-mile-long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy

generation at 4.9 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

20 a. Type of Application: Preliminary Permit.

b. Project No: 8592–000.

c. Date Filed: September 10, 1984.

d. Applicant: Quartz Valley Hydro Ltd.

e. Name of Project: Quartz Valley Hydroelectric Project.

f. Location: On Canyon Creek, near Quartz Valley, within the Klamath National Forest, in Siskiyou County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roy McDonald, 1121 L Street, Suite 1000, Sacramento, California 95814.

i. Comment Date: January 28, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 40-foot-long diversion dam at elevation 3,620 feet, (2) a 36-inch-diameter, 11,620-foot-long diversion pipeline, (3) a 24-inch-diameter, 1,800-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 3,150 kW operating under a head of 1,160 feet; and (5) a 600-foot-long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 14.8 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize constuction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $70,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

21 a. Type of Application: Preliminary Permit.

b. Project No: 8669–000.

c. Date Filed: October 15, 1984.

d. Applicant: Hydro-Energy Consulting Consortium.

e. Name of Project: Rush Creek.

f. Location: On Rush Creek, near Quincy, in Plumas County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Daniel L. Ostrander, 12750 Quail Run Drive, Chico, California 95926.

Mr. Robert J. Baiocchi, 1859 Salida Way, Paradise, California 95969

i. Comment Date: January 22, 1985.

j. Description of Project: The proposed project run-of-the-river project would consist of: (1) A 10-foot-high, 50-foot-long concrete diversion weir and intake structure located on Rush Creek at elevation 3,680 feet msl; (2) a 48-inch-diameter, 9,200-foot-long steel pipeline; (3) a 42-inch-diameter, 1,800-foot-long steel penstock; (4) a powerhouse located at elevation 2,800 feet msl with an installed capacity of 3,142 kW and producing an estimated average annual energy generation of 11 GWh; and (5) a 500-foot-long, 12-kV transmission line connecting the project to an existing Pacific Gas and Electric Company (PG and E) line. The proposed project would be located on Plumas National Forest lands. Project power would be sold to PG and E.

A preliminary permit, if issued, does not authorize constuction. The Applicant seeks a 24-month permit to study the feasibility of constucting and operating the project and estimates the cost of the studies at $125,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

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, 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 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 or conduit 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 preliminary permit application no later than 60 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 applications 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, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before 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 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the 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. 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 any 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: December 4, 1984.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-32009 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-76-000]

Solar Energy Technology Systems (Guam) Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 4, 1984.

On November 6, 1984, Solar Energy Technology Systems (GUAM) Inc., (Applicant) of J & R Building, Route 4, P.O. Box 1933, Agana, Guam 96910 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed facility will be located in the Tarzan Falls Area in Yona, Guam and will consist of 130 wind turbine generators each having a rated capacity of 150 kW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-32033 Filed 12-6-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Civilian Radioactive Waste Management

Civilian Radioactive Waste Transportation Business Plan; Strategy Options Document

AGENCY: Office of Civilian Radioactive Waste Management, DOE.

ACTION: Notice of availability for comment of the Transportation Business Plan; Strategy options document.

SUMMARY: The Office of Civilian Radioactive Waste Managmeent (OCRWM), U.S. Department of Energy, is developing a Transportation Business Plan related to responsibilities assigned by the Nuclear Waste Policy Act of 1982. The document will provide information on the plans and strategies for the development and operation of the projected system to transport spent fuel or high-level waste as authorized by the Act.

This notice is to announce the availability of a Strategy Options Document, the purpose of which is to provide an opportunity for public reaction and comment. Section I contains background information and defines the purpose, policy basis, and scope of transportation business activities as well as issues related to these activities. Section II discusses the evolving strategy that will direct the Department's business actions and describes various strategy options that are under consideration. Also described is a phased approach for development of the transportation system: systems definition; engineering development and certification; cask fleet procuremetn and carrier negotiations; and transportation operations.

This interim document is specifically intended to be an instrument for interaction to help ensure consensus planning. The Department seeks (1) to identify industry interests in participating with the Department to establish and operate the waste transportation system, and (2) to identify and address State, local and tribal concerns in devlopment of specific strategies and action plans. This is in accord with the principle of consultation and cooperation among affected parties as established by the Waste Policy Act. The Department expects to prepare a Final Transporation Business Plan by the Fall of 1985.

Copies of the Strategy Options Document may be obtained after December 7, 1984, by telephoning (202) 252-5568 and by direct pickup from or writing to the Office of Public Affairs, Transportation Business Plan: Strategy

Options Document (OCRWM), U.S. Department of Energy, Room 1E-218, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

To enable timely consideration, all comments on the Strategy Options Document should be submitted in writing no later than February 5, 1985, to Mr. Robert Philpott, Chief, Transportation Branch, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., December 4, 1984.

Robert H. Bauer,

RW-10, Associate Director for Resource Management, Office of Civilian Radioactive Waste Management.

William H. Mellor,

GC-10, Deputy General Counsel for Legislation and Regulations, Office of General Counsel.

[FR Doc. 84-32178 Filed 12-6-84; 9:42 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00059; FRL-2733-3]

Toxic Substances; Confidential Business Information; Revised Security Manual

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Toxic Substances has adopted revised procedures for maintaining the security of Confidential Business Information (CBI) submitted under the Toxic Substances Control Act (TSCA). A manual has been developed to replace the existing TSCA Confidential Business Information Security Manual. This notice announces the availability of the revised manual and summarizes some of the changes from the previous one.

DATE: The requirements of this revised manual are effective December 7, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

One copy of the manual can be obtained from the TSCA Assistance Office at no cost.

SUPPLEMENTARY INFORMATION: This notice announces the adoption of a revised TSCA Confidential Business Information Security Manual which sets forth procedures to be followed by EPA to maintain the security of CBI submitted under TSCA. This revised security manual replaces the manual for EPA use announced in the Federal Register of October 8, 1981 (46 FR 49942). The second manual announced in the October 1981 notice, for EPA contractors and subcontractors, remains in effect and may be revised and amended in the future.

For more than 3 years, EPA has followed the procedures set forth in the present security manual. During that time, program changes have necessitated minor changes to the Agency's security procedures for TSCA data. In addition, EPA's periodic review of existing procedures has led to a number of additions and deletions to the security manual that are designed to clarify and improve the TSCA security system. These changes are reflected in the revised manual announced by this notice. Changes of note include:

1. A more detailed description of access authorization procedures for clearing contractors and subcontractors has been added.

2. The responsibilities of EPA contract project officers has been described in greater detail.

3. Procedures have been added for reconciling document handling records upon the completion of a contract.

4. Procedures have been added for using TSCA CBI on office micro-computers.

5. Procedures for handling internal draft documents containing TSCA CBI have been clarified.

6. Procedures have been added for declassifying computer printouts and tapes from TSCA CBI data systems.

7. The manual's section on remote computer terminals has been expanded.

8. Procedures have been revised for processing of 35 mm film that contains TSCA CBI.

9. Chapter IV of the existing manual has been removed and issued separately as operating procedures for the TSCA CBI Computer Center.

In general, sections on responsibilities and duties have been clarified and updated. Also, procedures for obtaining access to TSCA CBI and for document storage and handling have been clarified and set forth in greater specificity.

Dated: November 30, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-31975 Filed 12-6-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59174; FRL-2733-4]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-3. The test marketing conditions are described below.

EFFECTIVE DATE: December 3, 1984.

FOR FURTHER INFORMATION CONTACT: James Alwood, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613C, 401 M St. SW., Washington, DC. 20460, (202-382-3374)

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-3. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-85-3. A bill of lading accompanying each shipment must state that use of the substance is restricted to

that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME 85–3

Date of Receipt: October 25, 1984.
Notice of Receipt: November 2, 1984 (49 FR 44143).
Applicant: Confidential.
Chemical: (G) Alumina Organic Metallic Compound.
Use: (G) Contained Industrial Use.
Production Volume: 5000 kilograms.
Number of Customers: Confidential.
Workers Exposure: 5–10 workers dermal.
Test Marketing Period: 1 year.
Commencing on: December 3, 1984.
Risk Assessment: No significant health or environmental concerns were identified. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.
Public Comments: None.
The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: December 3, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–31974 Filed 12–6–84; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51548; FRL–2732–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-seven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 85–190, 85–191, 85–192, 85–193, 85–194, 85–195, 85–196, and 85–197—February 20, 1985.

PMN 85–198, 85–199, 85–200, 85–201, 85–202, 85–203, 85–213, 85–214, 85–215, and 85–216—February 23, 1985.

PMN 85–217, 85–218, 85–219, 85–220, 85–221, 85–222, 85–223, 85–224, 85–225, 85–226, 85–227, 85–228, 85–229, 85–230, 85–231, 85–232, and 85–233—February 24, 1985.

PMN 85–234 and 85–235—February 26, 1985.

Written comments by:

PMN 85–190, 85–191, 85–192, 85–193, 85–194, 85–195, 85–196, and 85–197—January 21, 1985.

PMN 85–198, 85–199, 85–200, 85–201, 85–202, 85–203, 85–213, 85–214, 85–215, and 85–216—January 24, 1985.

PMN 85–217, 85–218, 85–219, 85–220, 85–221, 85–222, 85–223, 85–224, 85–225, 85–226, 85–227, 85–228, 85–229, 85–230, 85–231, 85–232, and 85–233—January 25, 1985.

PMN 85–234 and 85–235—January 27, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS–51548]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNS received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address. (PMNs 85–204 thru 85–212 have been consolidated into PMN 85–203).

PMN 85–190

Manufacture. Confidential.
Chemical. (S) N,N-dimethyl-2-nitrobenzenesulfonamide.
Use/Production. (G) Chemical intermediate. Prod. range: 150–200 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: Dermal, a total of 8 workers, up to 1.0 hr/da, up to 3 da/yr.
Environmental Release/Disposal. 0 to 0.6 kg/batch released to water. Disposal by navigable waterway with less than 0.05 kg/batch incinerated.

PMN 85–191

Manufacturer. Confidential.
Chemical. (S) Phenyl 4-methoxy-3-nitrobenzenesulfonate.
Use/Production. (G) Chemical intermediate. Prod. range: 250–350 kg/yr.
Toxicity Data. Acute oral: Males and females—3,200 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.
Exposure. Manufacture and use: Dermal, a total of 6 workers, up to 1.0 hr/da, up to 3 da/yr.
Environmental Release/Disposal. Less than 0.1 kg/batch released to water. Disposal by navigable waterway with less than 0.01 to less than 6 kg/batch incinerated.

PMN 85–192

Manufacturer. Confidential.
Chemical. (S) 2-amino-N,N-dimethylbenzenesulfonamide.
Use/Production. (G) Chemical intermediate. Prod. range; 120–160 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: Dermal, a total of 8 workers, up to 1.0 hr/da, up to 4 da/yr.
Environmental Release/Disposal. Less than 0.1 to less than 8 kg/batch incinerated.

PMN 85–193

Manufacturer. Confidential.
Chemical. (S) Phenyl 3-amino-4-methoxybenzensulfonate.
Use/Production. (G) Chemical intermediate. Prod. range: 220–300 kg/yr.
Toxicity Data. Irritation: Skin—Slight; Skin sensitization: Low Potential.
Exposure. Manufacture and use: Dermal, a total of 4 workers, up to 1.0 hr/da, up to 6 da/yr.
Environmental Release/Disposal. No data submitted.

PMN 85–194

Manufacturer. Confidential.
Chemical. (G) Acid amide salt.
Use/Production. (S) Industrial cotton softener. Prod. range· Confidential.
Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 1 worker.

Environmental Release/Disposal. 25 kg/batch released to sewer. Disposal by publicly owned treatment works (POTW).

PMN 85–195

Manufacturer. Confidential.

Chemical. (G) Substituted silyl epoxide.

Use/Production. (G) Sealant additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–196

Manufacturer. Confidential.

Chemical. (G) Substituted alkyl silyl urea.

Use/Production. (G) Sealant additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–197

Importer. CHEMIE LINZ U.S. Inc.

Chemical. (S) Melamine cyanurate.

Use/Import. (S) Industrial flame retardant for polyamide. Import range: Confidential.

Toxicity Data. Acute oral: 2,500 mg/kg.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85–198

Manufacturer. Ethyl Corporation.

Chemical. (G) Alkylated aromatic diamine.

Use/Production. (S) Industrial plastics modifier comonomer. Prod. range: Confidential.

Toxicity Data. Acute oral: 366.8 mg/kg; Acute dermal: >5 g/kg; Irritation: Skin—Mild, Eye—Irritant; Ames test: Non-mutagenic; HPC/DNA repair: No genotoxic activity.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 85–199

Manufacturer. Confidential.

Chemical. (G) Hydrocarbon resin.

Use/Production. (G) Open non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 3.16 g/kg; Irritation: Eye—Mild.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 85–200

Manufacturer. Confidential.

Chemical. (G) Cyanoacrylate ester.

Use/Production. (S) Industrial cyanoacrylate adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–201

Importer. Confidential.

Chemical. (G) Substituted dioxazine.

Use/Import. (G) Paper dye. Import range: 1,600–3,200 kg/yr.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Severe/corrosive; Ames Test: Negative; TL_0 48 hr (Zebra fish): 0.3 mg/l; TL_{50} 48 hr (Zebra fish): 1.3 mg/l; TL_{100} 3 mg/l; TL_0 96 hr (Zebra fish): 0.3; TL_{50} 96 hr (Zebra fish): 0.8 mg/l; TL_{100} 96 hr (Zebra fish): 3 mg/l; Bacterial Toxicity: 100 mg/l; BOD_5: 100 mg/kO_2; COD: 1185 mg/gO_2.

Exposure. Processing Dermal, a total of 2 workers, up to 0.5 hr/da, up to 2 da/yr, 3 shifts times 12 plants.

Environmental Release/Disposal. Less than 0.2 released to water. Disposal by POTW and biological treatment system.

PMN 85–202

Importer. Confidential.

Chemical. (G) Substituted dioxazine.

Use/Import. (G) Paper dye. Import range: 500–1,000 kg/yr.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Ames Test; Negative; LC_{50} 96 hr (Zebra fish): 1.2 mg/l; Bacterial Toxicity—100 mg/l; BOD_5 O mg/gO_2; COD: 1011 mg/gO_2; COD/TOC: .70.

Exposure. Processing: Dermal, a total of 2 workers, up to 0.5 hr/da, up to 2 da/yr, 3 shifts times 12 plants.

Environmental Release/Disposal. Less than 0.1 released to water: Disposal by POTW and biological treatment system.

PMN 85–203

Manufacturer. Phillips Chemical Company.

Chemical. (G) Sulfur—containing polyalkylene oxides.

Use/Production. (S) Industrial and commercial degreaser additive. Prod. range: Confidential.

Toxicity Data. Acute oral: Males—2,667 mg/kg, Females—1,885 mg/kg; Irritation: Skin—Extremely mild, Eye—Primary irritant; LC_{50} 48 hr (Daphnia magna): 2.4 mg/l; LC_{50} 96 hr (Fathead minnow): 64 mg/l

Exposure. Manufacture: Dermal, a total of 4 workers.

Environmental Release/Disposal. 0.03 kg/batch released to water. Disposal by Phillips Dixon Creek Water Treatment.

PMNs 85–204 thru 85–212

(PMNs 85–204 thru 85–212 have been consolidated into PMN 85–203).

PMN 85–213

Manufacturer. Essex Specialty Products, Inc.

Chemical. (G) Aromatic polyurethane prepolymer containing tertiary amine.

Use/Production. (S) Polymer for use in adhesive manufacture. Prod. range: 9,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 85–214

Manufacturer. Essex Speciality Products, Inc.

Chemical. (G) Aromatic polyurethane prepolymer containing polyether.

Use/Production. (S) Polymer for use in adhesive manufacture. Prod. range: 9,000–1000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 85–215

Manufacturer. Confidential.

Chemical. (G) Polyester polyol.

Use/Production. (S) Coating resin component. Prod. range: 82,000–220,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 9 workers, up to 1–2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 1 to 20 kg/batch released to control technology. Disposal by incineration and aqueous waste treatment facility.

PMN 85–216

Manufacturer. The Dow Chemical Company.

Chemical. (G) Substituted pyridine.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: Male and female <250 mg/kg; Acute dermal: >1,000 mg/kg; Irritation: Eye—Readily absorbed; Ames test: Non-mutagenic; LC_{50} 96 hr (Fathead minnows): 0.48 mg/L; Acute ingestion: Serious; Inhalation (3–4 days): 0.08 g/m^3.

Exposure. Confidential.

Environmental Release/Disposal. Release to air and land. Disposal by incineration and navigable waterway after treatment.

PMN 85–217

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate with glycol.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–218

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate with glycol.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–219

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate with glycol.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–220

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate with glycol.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–221

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–222

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polymer of diisocyanate.

Use/Production. (S) Industrial property enhancer for flexible urethane foams. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 16 workers.

Environmental Release/Disposal. 25 to 300 gm analytical sample/batch released to air. Disposal by incineration.

PMN 85–223

Manufacturer. Confidential.

Chemical. (G) Polyester diol.

Use/Production. (S) Industrial coating resin component. Prod. range: 400,000–800,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 9 workers, up to 1–2 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 1 to 20 kg/batch released to control technology. Disposal by incineration.

PMN 85–224

Manufacturer. Confidential.

Chemical. (G) Polyester polyol.

Use/Production. (S) Industrial coating resin component. Prod. range: 175,000–200,000.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 9 workers, up to 1–2 hrs/da, up to 14 da/yr.

Environmental Release/Disposal. 1 to 20 kg/batch released to control technology. Disposal by incineration.

PMN 85–225

Importer. Aceto Chemical Company, Inc.

Chemical. (S) 2-n-butoxyethyl 4-(dimethylamino)benzoate.

Use/Import. (S) Industrial photoactivator for the photocuring of. U.V. curing compositions. Import range: Confidential.

Toxicity Data. Acute oral: 1 g/kg; Acute dermal: >500 mg/kg Ames test: Non-carcinogenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85–226

Manufacturer. Mazer Chemicals, Inc.

Chemical. (G) Substituted succinic acid.

Use/Production. (G) Metalworking fluid component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–227

Manufacturer. Confidential.

Chemical. (G) Acrylic acid ester.

Use/Production. (S) Site-limited and industrial monomer used as an intermediate in the synthesis of polymers. Prod. range: 10,000 kg/yr.

Toxicity Data. Acute oral: Males—0.21 g/kg, Females—0.17 g/kg, Combined—0.18 g/kg; Irritation: Skin—Corrosive, Eye—Corrosive; Ames test: Non-mutagenic; Cytotoxicity assay: 3.0 μg/ml, 25% and 150 μg/ml; Transformation assay: 2.5 gμ/ml.

Exposure. Manufacture and processing: Dermal, a total of 7 workers, up to <1 hr/da, up to <75 da/yr.

Environmental Release/Disposal. Less than 1.75 kg released to air with less than 5.0 kg to water. Disposal by POTW and incineration.

PMN 85–228

Manufacturer. Confidential.

Chemical. (G) Disubstituted pyridinium bromide.

Use/Production. (G) Consumer article component-contained use. Prod. range: 15,000–20,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: Dermal, a total of 34 workers, up to <1 hr/da, up to <250 da/yr.

Environmental Release/Disposal. Less than 0.20 kg released to air with less than 5.00 kg to water and less than 2.50 kg land. Disposal by POTW, incineration and licensed landfill.

PMN 85–229

Manufacturer. Confidential.

Chemical. (G) Epoxy polyester.

Use/Production. (S) Binder for car refinishing. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–230

Manufacturer. Confidential.

Chemical. (G) Acrylated alkyd resin.

Use/Production. (S) Binder for car refinishing system. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential

Environmental Release/Disposal. Confidential.

PMN 85–231

Manufacturer. Confidential.

Chemical. (G) Polyester base.

Use/Production. (S) Base for epoxy polyester. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 85–232

Importer. Marubeni America Corporation.

Chemical. (S) Chromate (2-), [2-[[1-(3-chlorophenyl)-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfobenzoato-(2)] [2-[4,5-dihydro-5-oxo-1,3-diphenyl-1H-pyrazol-4-yl]azo]benzoato(2-)]-, sodium hydrogen (9CI).

Use/Import. (S) Commercial dye for polyamide fibres. Import range: 10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85–233

Importer. Marubeni America Corporation.

Chemical. (S) Benzenamine, 4-[(dichloro-1,3-benzothiazol-2-yl)azo]-N-methyl-N-(3-phenylpropyl)-.

Use/Import. (S) Commercial dye for polyester fibres. Import range: 10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Ames test: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 85-234

Importer. Confidential.

Chemical. (G) Disubstituted sulfide.

Use/Import. (S) Industrial decomposition promoter in chemical blowing agents. Import range: 15,000–30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

PMN 85–235

Manufacturer: Confidential.

Chemical. (G) Vegetable oil polymer with alkane diols.

Use/Production. (G) Binder component for an industrially applied coating. Prod. range: 15,000–400,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 24 workers, up to 8 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 10 to 130 kg/batch released to land. Disposal by incineration and landfill.

Dated: December 3,1984.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–31970 Filed 12–6–84; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-2732-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 19, 1984 through November 23, 1984 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–507576. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-COE-E34028-FL, Rating EO2, Canaveral Harbor West Basin and Approach Channel Improvement, FL. Summary: EPA believes that the mitigation measures proposed to offset the environmental losses of this project are insufficient. EPA identified significant environmental objections to the proposed mitigation plan and requested additional consultation to resolve this matter. EPA indicated that the DEIS conclusions regarding the insignificance of environmental losses caused by the project were not supported by information or data in the document.

ERP No. DB-COE-K35013-CA, Rating EO2, Sacramento River Bank Protection Project, CA. Summary: EPA believes that the proposed mitigation is inadequate to protect designated beneficial uses of the Sacramento River, such as fish/wildlife habitat and fish spawning and migration.

ERP No. DA-COE-K36013-CA, Rating LO, Walnut Creek Flood Control Plan, CA. Summary: EPA agrees with the conclusion that no significant concerns still exist for this project. However, EPA recommended that mitigation be included in the FEIS, based on close coordination with the US Fish and Wildlife Service.

ERP No. DS-FHW-F40215-OH, Rating LO, OH-241 Relocation, OH-241/US 30 to Oberlin Road Viaduct/OH-21, OH. Summary: EPA agrees that there have been no significant changes in the impacts associated with each alternative since publication of the DEIS.

Final EISs

ERP No. F-CDB-K89054-CA, Oakland Hotel Two/Parking Garage Development, CA. Summary: The FEIS adequately addressed the concerns EPA had raised on the DEIS.

ERP No. F-COE-E03003-SC, South Carolina (Georgetown) Oil Refinery/Underwater Pipeline Installation, Sampit River, SC. Summary: EPA believes that the location of the proposed refinry would lead to unacceptable environmental impacts and that other options for providing petroleum products could satisfy national and regional needs. EPA's main concerns are the risks associated with oil spills in Winyah Bay, the environmental consequences of petrochemical discharges during refinery operation, and the secondary impacts associated with the refinery. EPA recommended that the section 404 permit application for the pipeline crossing be denied and indicated that if a decision is made to issue the permit, the project will be a candidate for referral to CEQ for resolution. EPA also expressed concerns about changes that have been made to the air and water quality sections, which EPA prepared for the DEIS. These changes have not been adequately coordinated with EPA and interagency disagreements were not explained in the body of the EIS. Since these changes are contrary to the interagency Memorandum of Agreement of October 1983 concerning presentation of the DEIS and FEIS for the proposed project, EPA is requesting that a supplemental be prepared that would accurately reflect EPA's input.

ERP No. F-DOE-J08018-WY, Thermopolis-Alcova-Casper Transmission Line Construction, WY. Summary: The change in preferred routing of the Alcova-Casper segment should not result in any significant environmental impacts.

Regulations

ERP No. R-AFS-A86215-00, Notice of Proposed Revision, National Environmental Policy Act, Revised Implementing Procedures. Summary: EPA commended the Forest Service for placing increased emphasis on the use of scoping. EPA suggested, however, that the revisions should clarify the

relationship between environmental analyses, scoping, and subsequent NEPA documentation of actions. In particular we suggested that the revisions clearly set forth how these processes will be used to identify specific projects within categorically excluded classes which require some environmental analysis.

Dated: December 4, 1984.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-32043 Filed 12-6-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2732-8]

Withdrawal of a Notice of Intent and Notice of Preparation of an Environmental Assessment for the Use of Freshwater Wetlands for Wastewater Disposal

AGENCY: U.S. Environmental Protection Agency, Region IV Environmental Assessment Branch.

FOR FURTHER INFORMATION CONTACT: Ronald J. Mikulak, Project Officer, NEPA Compliance Section, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365, Phone No. (404) 881-3776.

On December 18, 1981, EPA published in the **Federal Register** (Vol. 46, No. 243 page 61714) its intention to prepare a generic environmental impact statement on Freshwater Wetlands for Wastewater Management. This study addresses the use of freshwater wetlands in wastewater management for EPA's eight southeastern states (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Region IV has since determined that an Environmental Assessment (EA) will adequately fulfill the requirements of the National Environmental Policy Act and allow for the development of guidance in evaluating wetland wastewater management alternatives. No changes will be made to the already published EIS Phase I Report (EPA 904/9-83-107, March 1983). The major EA product to be prepared is the Freshwater Wetlands for Wastewater Management Handbook which is anticipated for publication in early 1985. Any comments should be directed to Ronald J. Mikulak at the above address.

Dated: December 4, 1984.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-32041 Filed 12-6-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2732-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements filed November 26, 1984 through November 30, 1984 Pursuant to 40 CFR 1506.9.

EIS No. 840532, Final, CDB, NY, Norstar Plaza Development Project, UDAG, Albany County, Due: January 7, 1985, Contact: Daniel Hershberg (518) 459-3096

EIS No. 840533, Final, FHW, CA, I-215 Freeway Construction, Van Buren Boulevard to CA-60, Riverside County, Due: January 7, 1985, Contact: Michael Cook (916) 440-2521

EIS No. 840534, Draft, COE, LA, Lower Boeuf River, Big La Fource, Big and Colewa Ceeks, Flood Control Plan, Due: January 21, 1985, Contact: Charles Crowther (601) 634-5430

EIS No. 840535, Final, USA, TX, NM, Fort Bliss Ongoing Mission, US Army Air Defense Artillery Center, El Paso County, Texas and Otero and Dona Ana Counties, New Mexico, Due: January 7, 1985, Contact: Col. Kenneth Halleran (202) 694-4269

EIS No. 840536, Final, BLM, Mobil-Pacific Oil Shale Development, Purchase, Exchange or Lease and Right-of-Way, Piceance Creek Basin, Garfield County, Due: January 7, 1985, Contact: Robert Kline (303) 243-6552

EIS No. 840537, Final, BLM, AZ, Firebird Stadium Construction, Gila River Indian Community Land, Leasing, Maricopa County, Due: January 7, 1985, Contact: Randall Morrison (602) 241-2275

EIS No. 840538, Draft, BLM, WY, Medicine Bow National Forest and Thunder Basin National Grassland, Land/Resource Mgmt. Plan, Niobrara, Platte and Weston Counties, Due: March 14, 1985, Contact: Sonny O'Neal (307) 745-8971

EIS No. 840539, Final, COE, LA, Lake Pontchartrain and Vicinity Hurricane Protection Levee, Construction, Due: January 7, 1985, Contact: Larry Hartzog (504) 838-2524

EIS No. 840540, Draft, COE, WA, Elliott Bay Small Craft Harbor and Marine Development, Permit, King County, Due: January 21, 1985, Contact: Richard Makinen (202) 272-0121

EIS No. 840541, Final, BLM, UT, CO, Book Cliffs Resource Area, Resource Management Plan, Duchesne, Grand and Uintah Cos., Utah and Garfield, Mesa, Moffat and Rio Blanco Cos. Colorado, Due: January 7, 1985, Contact: Curtis Tucker (801) 789-1362

EIS No. 840542, Final, IBR/NPS, WY, ID, Jackson Lake Dam, Safe Operation Project, Flood Control, Snake River, Teton National Park, Due: January 7, 1985, Contact: Elaine Van Stelle (208) 334-9581

EIS No. 840543, FSuppl, COE/FHW, NY, I-478 Construction/Westside Highway Replacement, Battery to 42nd Street, Impact of the Westway Landfill on Fisheries in the Hudson River, New York County, Due: January 7, 1985, Contact: Dennis Suszkowski (212) 264-3996

EIS No. 840544, Draft, SCS, DE, Muderkill River Watershed Protection and Flood Prevention, Kent County, Due: January 31, 1985, Contact: Bobbye Jones (302) 678-0750

EIS No. 840545, Draft, USN, NV, Fallon Naval Air Station, Supersonic Operations Area, Designation and Strike Warfare Center, Establishment, Churchill, Eureka, Humboldt, Lander, Pershing and Washoe Cos., Due: January 21, 1985, Contact: Mr. Dana Sakamoto (415) 887-7573

EIS No. 840546, Draft, COE, FL, Kissimmee River Basin Flood Control Plan, Osceola, Okeechobee, Orange, Lake, Polk, Glades, Martin, Highlands and St. Lucie Cos., Due: January 21, 1985, Contact: Mr. Rea Boothby (904) 796-3453

Dated: December 4, 1984.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-32042 Filed 12-6-84; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2733-1]

Battery Manufacturing, Coil Coating (Phase I and II), Electroplating and Metal Finishing, Iron and Steel Manufacturing, Nonferrous Metals Forming, Nonferrous Metals Manufacturing (Phase I and II), Metal Molding and Casting, Porcelain Enameling; Intent to Transfer Confidential Information to a Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to transfer confidential information to a contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to provide an Agency contractor with access to confidential information for analysis in connection with the preparation of effluent limitations and standards regulating discharges of process

pollutants in wastewater for the Nonferrous Metals Manufacturing (Phase II) Point Source Category, Electroplating and Metal Finishing (Phase II) Point Source Category and the Metal Molding and Casting Point Source Category. This information will be needed by EPA's contractor in analyzing, revising and reviewing the technical data base which supports effluent limitations and standards and NPDES permits required by the Clean Water Act.

DATE: Comments on the notice of transfer are due December 24, 1984.

ADDRESS: Ernst P. Hall, Metals Industry Branch, Industrial Technology Division (WH-552), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, Metals Industry Branch, Industrial Technology Division, (202) 382-7126.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Office of Water Regulations and Standards is responsible for regulating dischargers from industrial point source categories.

On November 15, 1982, EPA proposed effluent limitations and standards for the Metal Molding and Casting Point Source Category (47 FR 51512). EPA proposed effluent limitations and standards for Nonferrous Metals Manufacturing Point Source Category (Phase II) on June 28, 1984 (49 FR 26352). EPA also is developing information on segments of the Electroplating and Metal Finishing Point Source Category not regulated in the final regulation issued on July 15, 1983 (48 FR 32462). This information is being gathered to allow consideration of a new regulation for these unregulated segments.

EPA has awarded a contract to Radian Corporation of McLean, Virginia (contract No. 68-01-6999) to provide technical and economic support to the Office of Water Regulations and Standards for preparing final regulations for the three categories listed above.

One of the sources of information which EPA will use to develop final effluent limitations and standards is the data collected from questionnaires sent to the following industry categories under authority of Section 308 of the Clean Water Act: battery manufacturing, coil coating (phases I and II), electroplating and metal finishing, nonferrous metals forming, nonferrous metals manufacturing (phases I and II), iron and steel manufacturing, metal molding and casting and porcelain enameling plants. More specifically, this data is from industry survey questionnaires mailed since 1975, as well as follow-up communications and submissions. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. Certain of the information provided has been claimed as confidential by the responding company.

The Agency also has used the authority of section 308 to conduct numerous conventional, nonconventional and toxic pollutant parameter field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of these data also have been claimed as confidential by the sampled facilities. The data collected by EPA from questionnaires and from field sampling and analysis surveys, including portons that have been claimed as confidential, will be accessed by the EPA contractor identified above.

The industrial point source categories, designated EPA contact person, selected contractor, EPA contract number accessing the data, SIC codes and descriptions of industries whose data is being accessed and remarks are listed below.

- Battery Manufacturing Point Source Category, Coil Coating (Phases I and II) Point Source Category, Electroplating and Metal Finishing Point Source Category, Iron and Steel Manufacturing Point Source Category, Nonferrous Metal Forming Point Source Category, Nonferrous Metals Manufacturing (Phases I and II) Point Source Category, Metal Molding and Casting Point Source Category, and Porcelain Enameling Point Source Category.

a. For further information contact Ernst P. Hall, EPA (WH-552), Washington, D.C. 20460, FTS: 8-382-7126, Comm: 202-382-7126.

b. Contractor: Radian Corporation, McLean, Virginia (Contract No. 68-01-6999).

c. SIC codes and description: The industries covered by the Batteries Manufacturing Category are included in Standard Industrial Classification (SIC) Major Group 36 (electrical machinery, equipment and supplies).

The industries covered by the Coil Coating Category are included in Standard Industrial Classification (SIC) Major Group 34 (fabricated metal products, except ordnance).

The industries covered by the electroplating and Metal Finishing Category are included in Standard Industrial Classification (SIC) Major Groups 34 through 39 as follows:

Major Group 34—Fabricated metal products, except ordnance, machinery, and transportation equipment
Major Group 35—Machinery, except electrical
Major Group 36—Electrical machinery, equipment and supplies
Major Group 37—Transportation equipment
Major Group 38—Professional, scientific, and controlling instruments, photographic and optical goods; watches and clocks
Major Group 39—Miscellaneous manufacturing industries.

The industries covered by the Metal Molding and Casting Category are covered in Standard Industrial Classification (SIC) Major Group 33 (primary metal industries).

The industries covered by the Iron and Steel Manufacturing Category are covered in Standard Industrial Classification (SIC) Major Group 33 (primary metal industries).

The industries covered by the Nonferrous Metals Forming Category are covered in Standard Industrial Classification (SIC) Major Groups 33 and 34 as follows:

Major group 33—Primary metal industries
Major Group 34—Fabricated metal products, except ordnance, machinery, and transportation equipment.

The industries covered by the Nonferrous Metals Manufacturing Category are included in Standard Industrial Classification (SIC) Major Group 33 (primary metal industries).

The industries covered by the Porcelain Enameling Category are included in Standard Industrial Classification (SIC) Major Groups 34 and 36 as follows:

Major Group 34—Fabricated metal products, except ordnance
Major Group 36—Electrical machinery, equipment and supplies.

d. Remark: The confidential files will be accessed by Radian Corporation under contract 68-01-6999.

EPA has determined that it is necessary to transfer this information to the designated contractor in order that it may carry out the work required by its contract. The contract contains all confidentiality provisions required by EPA's confidentiality regulations (40 CFR 2.302(h) (2-3)). In accordance with

those regulations, sampled facilities and questionnaire respondents who have submitted information claimed confidential have 15 days from the date of this notice to comment on EPA's proposed transfer of this information to these contractors for the purposes outlined above (40) CFR 2.302(h) (2–3).

Dated: November 27, 1984.

Henry Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 84–31979 Filed 12–6–84; 8:45 am]

BILLING CODE 6960–50–M

[SAB–FRL–2733–8]

Clean Air Scientific Advisory Committee Science Advisory Board; Subcommittee on the National Ambient Air Quality Standard Setting Process; Cancellation of Open Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that the meeting of the Clean Air Scientific Advisory Committee's Subcommittee on the National Ambient Air Quality Standard Setting Process that was scheduled to be held on December 6–7, 1984 at U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. has been cancelled.

The meeting is cancelled because insufficient time was available to prepare and review background materials. The meeting is being rescheduled for early 1985.

For further information please contact Mr. A. Robert Flaak, Executive Secretary, Science Advisory Board on (202) 382–2552.

Dated: December 4, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–32090 Filed 12–6–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

November 29, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Doris R. Peacock, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on any information collection should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–4814.

OMB No.: 3060–0027
Title: Application for Construction Permit for Commercial Broadcast Station
Form No.: FCC 301
Action: Extension
Estimated Annual Burden: 3,328 Responses; 496,928 Hours.

OMB No.: 3060–0041
Title: Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization
Form No.: FCC 301–A
Action: Extension
Estimated Annual Burden: 52 Responses; 13 Hours.

OMB No.: 3060–0076
Title: Annual Employment Report
Form No.: FCC 395
Action: Extension
Estimated Annual Burden: 9,500 Responses; 9,500 Hours.

OMB No.: 3060–0095
Title: Annual Employment Report—Cable Television
Form No.: FCC 395–A
Action: Extension
Estimated Annual Burden: 7,000 Responses; 3,500 Hours.

OMB No.: 3060–0107
Title: Application for Renewal of Radio Station License and/or Notification of Change to License Information
Form No.: FCC 405–A
Action: Extension
Estimated Annual Burden: 10,700 Responses; 1,787 Hours.

William J. Tricarico,

Secretary,

[FR Doc. 84–31924 Filed 12–6–84; 8:45 am]

BILLING CODE 6712–01–M

[FCC 84–534; 35046 MM Docket Nos. 84–1051 et al, File No. BR–790 402CZ, et al.]

RKO General, Inc. (WHBQ) et al.; Memorandum Opinion and Order; For Renewal of License and Construction Permit

In the matter of application of:

RKO General, Inc. (WHBQ), Memphis, Tennessee.	MM DOCKET NO. 84–1051; File No. BR–790402CZ.
For Renewal of License:	
Donnie Simpson Enterprises, Inc., Memphis, Tennessee.	MM DOCKET NO. 84–1052; File No. BP–830512AH.
First City Communications, Inc., Memphis, Tennessee.	MM DOCKET NO. 84–1053; File No. BP–830512BC.
South Jersey Radio, Inc., Memphis, Tennessee.	MM DOCKET NO. 84–1054; File No. BP–830512BS.
Stephen E. Powell, Memphis, Tennessee.	MM DOCKET NO. 84–1055; File No. BP–830512BL.
River City Radio Limited Partnership, Memphis, Tennessee.	MM DOCKET NO. 84–1056; File No. BP–830512CD.

For Construction Permit.

Adopted: November 8, 1984.
Released: November 30, 1984.

By the Commission.

1. The Commission has under consideration the license renewal application of RKO General, Inc. (RKO), for Station WHBQ, Memphis, Tennessee [1] and the above-captioned mutually exclusive applications to operate on the same channel with identical facilities. In addition, we have before us a petition to dismiss the South Jersey Radio, Inc. (South Jersey) application filed by RKO General, Inc; a request for waiver of our multiple ownership and inconsistant application rules filed by South Jersey; motions for leave to amend and accompany amendments filed by RKO [2] and South Jersey; [3] and related pleadings. In view of the matters already being considered in the KHJ–TV case, note 1 *supra*, and in view of the fact that those matters may have a bearing upon the ultimate resolution of this case, we believe that it would be premature to commence any consideration of either RKO's qualifications or the comparative elements of the applicants' proposals, pending the outcome of the KHJ-TV case. Accordingly, in the interest of managing and ordering our docket of adjudicatory proceedings so as to permit the most efficient and effective utilization of Commission resources, we direct the parties to deal first with any petitions to enlarge issues and/or basic qualifying issues that involve the mutually exclusive applicants (i.e., applicants other than RKO) who seek

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[1] We have designated the license renewal application of RKO's Station KHJ–TV, Los Angeles, California, as the forum for inquiring into the impact of RKO's disqualification as the licensee of WNAC–TV, Boston, Massachusetts on its overall basic and comparative qualifications to remain a licensee elsewhere. See our Memorandum Opinion and Order adopted this same date, *RKO General, Inc. (WHBQ–TV)*, —— FCC 2d —— (1984), for a full discussion of this matter.

[2] Since the "B" cut-off date (March 29, 1984), RKO has filed several petitions for leave to amend and accompanying amendments to its renewal application. The purpose of these amendments is to update information previously submitted to the Commission. We have reviewed the motions and amendments and find that in each case good cause exists for accepting the amendments for § 1.65 purposes only.

[3] For the reasons set forth in *RKO General, Inc. (WHBQ–TV), supra*, concerning a similar pleading filed by South Jersey, we will grant the motion and accept the amendment.

construction permits to operate on the channel(s) now held by RKO. Upon completion of all appropriate proceedings, including such evidentiary hearings as may be warranted, relating to these questions concerning the mutually exclusive applications for construction permits, the presiding Administrative Law Judge should so inform the Commission and await guidance from the Commission before setting the date for filing any proposed findings and conclusions or going forward with any further proceedings. In other cases involving multiple license owners, we have assinged all of the proceedings to a single Administrative Law Judge for the purpose of considering the impact of common qualifications questions on each of the owner's stations, *e. g., Intercontinental Radio, Inc.*, 88 FCC 2d 819 (1981). Here, we have already made provision for consideration of the questions concerning RKO's overall qualifications by a single ALJ in the Los Angeles, California, KHJ-TV, proceeding. Thus, the procedures used in cases such as *Intercontinental, supra*, are unnecessary for the instant proceeding. Indeed, the Intercontinental approach, if applied here, involving substantial numbers of comparative hearings and competing applicants presided over by a single Judge, will inevitably delay resolution of these matters. Instead, we believe that the interests of administrative efficiency will be better served by providing for assignment of a presiding Administrative Law Judge for this proceeding by the Chief Administrative Law Judge in accordance with his regular and ordinary rotational procedures.

2. *The RKO petition and the South Jersey waiver request.* South Jersey and Stephen E. Powell each seek both AM and television stations in Memphis. As such common ownership violates § 73.3555 of our Rules, each combination of proposals includes a conflicting or inconsistent application, subject to dismissal as such pursuant to § 73.3518. Acknowledging this fact, South Jersey seeks waiver of the relevant provisions and RKO seeks dismissal of the South Jersey proposal.[4] With respect first to the waiver request, South Jersey has set forth no public interest considerations justifying the allocation of Commission resources to the processing and comparative evaluation of applications which cannot be granted. See *Comark Television, Inc.*, 51 RR 2d 738 (1982). Hence, waiver is unwarranted. At the same time, we believe that election by the applicants as to which proposal will be prosecuted is a more appropriate remedy than the immediate dismissal which RKO seeks.

3. *The Donnie Simpson Enterprises, Inc. and Stephen E. Powell applications.* The Simpson and Powell applications were not complete when filed in that applications for other facilities now operated by RKO were not listed. Given the public nature of this information, no motive to conceal or misrepresent is apparent. Hence, we will specify no issues in this regard. Both should amend their applications here to reflect all pending proposals, however.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That the petitions for leave to amend filed by RKO General, Inc. Are granted and the amendments accompanying those motions ARE ACCEPTED for the purposes of § 1.65 of the Commission's Rules.

7. It is further ordered, That the motion for leave to amend filed by South Jersey Radio Inc. is granted and the accompanying amendment is accepted *nunc pro tunc.*

8. It is further ordered, That the petition to dismiss filed by RKO General, Inc. is granted to the extent noted herein and is otherwise denied.

9. It is further ordered, That South Jersey Radio, Inc.'s request for waiver of the Commission's Rules is denied.

10. It is further ordered, That unless South Jersey Radio, Inc. and Stephen E. Powell each file a statement to the contrary within 20 days after this Order is released, it will be assumed that each applicant wishes to prosecute its television application and its pending AM application will be dismissed.

11. It is further ordered, That Donnie Simpson Enterprises, Inc. and Stephen E. Powell shall file the amendments specified herein with the presiding Administrative Law Judge within 20 days after this Order is released.

12. It is further ordered, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., NW., Washington, D.C. 20554.

13. It is further ordered, That the Initial Decision in this proceeding shall consider the findings in Docket No. 16679 (KHJ–TV) as to RKO's basic or comparative qualifications.

14. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

15. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 74.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

16. Finally, copies of this Memorandum Opinion and Order shall be sent Certified Mail-Returned Receipt Requested to the parties to this proceeding by the Secretary of the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–31925 Filed 12–6–84; 8:45 am]

BILLING CODE 6712–01–M

[4] There are no comparable requests and pleadings attached to the Powell application.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA 720-DR]

Amendment to a Major-Disaster Declaration; Utah

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major diaster for the State of Utah (FEMA-720-DR), dated August 17, 1984, and related determinations.

DATED: November 29, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

The notice of a major disaster for the State of Utah, dated August 17, 1984, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 17, 1984: Salt Lake, Weber, and Summit Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-31948 Filed 12-6-84; 8:45 am]

BILLING CODE 6718-02-M

[Docket No. FEMA-REP-7-NE-1]

The Nebraska Radiological Emergency Response Plan for Nuclear Power Plant Incidents Site-Specific to the Fort Calhoun Nuclear Power Station; Certification of FEMA Findings and Determination

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Nebraska submitted its plans relating to the Fort Calhoun Nuclear Power Station to the Director of FEMA Region VII on March 31, 1982, for FEMA review and approval. On June 29, 1984 the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Fort Calhoum facility, and evaluations of the joint exercises conducted on December 6-7, 1983, September 15, 1982, and July 22, 1981, in accordance with § 350.9 of the FEMA rule, and a report of the public meeting held on August 4, 1981, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Fort Calhoun Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Fort Calhoun Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-7-NE-1 maintained by the Regional Director, FEMA Region VII.

Dated: December 3, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-31950 Filed 12-6-84; 8:45 am]

BILLING CODE 6718-02-M

FEMA Advisory Board Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, announcement is made of the following FEMA Advisory Board meeting:

Name: Federal Emergency Management Agency Advisory Board

Date of Meeting: December 19, 1984

Time: 9:00 a.m. to 5:00 p.m.

Place: Federal Emergency Management Agency, Emergency Information and Coordination Center, 500 C Street SW., Washington, DC 20472

Purpose: FEMA program office staff will provide status reports on their major activities and present issues to the Board for consideraton and possible follow-on study. Discussions will include issues that involve classified information and official use only information related to proposed and future Presidential budgets.

The Director has determined that the Board meeting should be closed to the public because discussions will involve information that is specifically authorized to be kept Secret in the interest of national defense or foreign policy and is properly classified pursuant to Executive Order.

Bernard A. Maguire,

Associate Director, National Preparedness.

[FR Doc. 84-31949 Filed 12-6-84; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010693.

Title: Florida/Caribbean Liner Association.

Parties:

Bernuth Lines, Ltd.

Calypso Lines

West Indies Shipping Corp.

Tropical Shipping & Construction Co., Ltd.

Seguenay Shipping Ltd.

TEC Lines Ltd.

Synopsis: The proposed agreement would establish a conference in the trade from South Florida ports and inland points in the Continental United States via such ports to ports and points in the Leeward/Windward Islands and Trinidad and Tobago.

Agreement No.: 206-010694.

Title: Trans-Atlantic Conferences.

Parties:

The North Europe-U.S. Atlantic Conference.

The U.S. Atlantic-North Europe Conference.

Synopsis: The proposed agreement would permit the parties to collectively

engage (1) in ratemaking, tariff formulation and service contract activities with or in respect to common two-way shippers; (2) ratemaking and tariff formulation relating to terminal services and inland transport of containers; and (3) space/slot chartering arrangements under their respective conference agreements, and would establish administrative procedures applicable to such operations.

Dated: December 4, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-31999 Filed 12-6-84; 8:45am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 202-002846-057.

Title: The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference.

Parties:

Atlanttrafik Express Service
C.ia Trasatlantica-Spanish Line
Consteallation Lines, S.A.
Costa Line
Egyptian Navigation Co., Ltd.
Farrell Lines, Inc.
"Italia" Societa' per Azioni di Navigazione
Jugolinija
Nedlloyd Lines
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would delete the interim mandatory provision governing independent action and modify another article of the agreement concerning independent action. It would also add a new article authorizing conference action with respect to service contracts.

Agreement No: 202-007590-038.

Title: United States Atlantic and Gulf/Colombia Conference.

Parties:

Coordinated Caribbean Transport, Inc.
Delta Steamship Lines, Inc.
Flota Mercante Grancolombia, S.A.
Lykes Bros. Steamship Co., Inc.

Synopsis: The proposed amendment would permit the parties to offer intermodal service in the United States and Colombia and would restate the agreement to conform to the Commission's format requirements. The parties have requested a shortened review period.

Agreement No.: 224-010642-001.

Title: Oakland Marine Terminal Agreement.

Parties:

The Port of Oakland (Port)
Stevedoring Service of America (SSA)

Synopsis: Agreement No. 224-010642-001 between the Port and SSA, modifies the basic agreement by amending the performance standards provisions of the agreement to increase SSA's performance standards in each of the five contract years of the term of the agreement, and by 20,000 revenue tons increasing the related minimum annual compensation.

By Order of the Federal Maritime Commission.

Dated: December 4, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-32000 Filed 12-6-84; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 202-000014]

Trans Pacific Freight Conference (Hong Kong); Erratum

The notice of filing of Agreement No. 202-000014 appearing on November 16, 1984 (49 FR 45488) incorrectly identified the agreement as Agreement No. 202-000014-056, whereas it should have been identified as Agreement No. 202-000014-054.

By Order of the Federal Maritime Commission.

Dated: December 4, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-32001 Filed 12-6-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 3, 1984.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control number to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register**.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. except as provided in § 261.5(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from

the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

Request for Extension With Minor Revisions to Instructions

1. Report title: Ownership of Demand Deposit Accounts of Individuals, Partnerships, and Corporations
Agency form number: FR 2591
OMB Docket number: 7100–0082
Frequency: Quarterly
Reporters: Commercial Banks
Small businesses are affected.
General description of report: This information collection is voluntary [12 U.S.C. 248(a)(2)] and is given confidential treatment [5 U.S.C. 552(b)(4)].

This report, which collects information on demand deposits in five categories, is used by the Federal Reserve to explain the implications of short-run variations in the money supply. The definition of financial businesses is the only revision on this proposal.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–31931 Filed 12–1–84; 8:45 am]

BILLING CODE 6210–01–M

Agency Forms Under Review

December 3, 1984.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors, of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

Request for Extension With Minor Revisions to Definitions

1. Report title: Monthly Survey of Selected Deposits and Other Accounts
Agency form number: FR 2042
OMB Docket number: 7100–0066
Frequency: Monthly
Reporters: Commercial banks, mutual savings banks and FDIC insured federal savings banks
Small businesses are affected.
General description of report: This information collection is voluntary [12 U.S.C. 248(a)(2)] and is given confidential treatment [U.S.C. 552(b)(4)].

These data, which are collected from a sample of commercial banks, mutual savings banks, and FDIC-insured federal savings banks, are used by the Federal Reserve (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of banks and thrifts.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 31932 Filed 12–6–84; 8:45 am]

BILLING CODE 6210–01–M

Bankers Trust New York Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 24, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York; to engage *de novo* through its subsidiaries, Bankers Trust Connecticut Corporation, Greenwich, Connecticut and Private Clients Group, in the activities of making or acquiring, for its own account or the account of others, loans and other extensions of credit, secured and unsecured, to individuals and businesses including but not limited to consumer lending, residential and non-residential real estate lending and commercial lending; servicing loans and other extensions of credit; the sale of credit-related life and accident and health insurance by licensed agents or brokers, as required, and the sale of mortgage life and mortgage disability insurance directly related to the extensions of mortgage loans; and to exercise trust powers to the extent permitted to a state bank and trust company or a national banking association.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 31927 Filed 12-6-84; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corp., et al; Formation of; Acquisition by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Eacn application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 27, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation*, Jersey City, New Jersey; to acquire 100 percent of the voting shares or assets of Peoples National Bank of North Jersey, Denville, New Jersey.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Columbia Corporation*, Topeka, Kansas; to become a bank holding company by acquiring at least 84.36 percent of the voting shares of Topeka Bank Shares, Inc., Topeka, Kansas, thereby indirectly acquiring Topeka Bank & Trust, Topeka, Kansas.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *RB Bancorp*, San Diego, California; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Rancho Bernardo, San Diego, California.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-31928 Filed 12-6-84; 8:45 am]

BILLING CODE 6210-01-M

Omnibank Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 28, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Omnibank Corp.*, Wyandotte, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Wyandotte Savings Bank, Wyandotte, Michigan.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens Fidelity Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares of successor by merger to American Bank and Trust Company, Inc., Lexington, Kentucky.

2. *Columbia Bancshares, Inc*, Columbia, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Columbia, Columbia, Kentucky.

3. *First National Corporation of Wynne*, Wynne, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Wynne, Wynne, Arkansas.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Home State Bancorporation, Inc.*, Hobart, Oklahoma; to acquire 100 percent of the voting shares of Security State Bank, Roosevelt, Oklahoma.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[Fr Doc. 84-31933 Filed 12-6-84; 8:45 am]

BILLING CODE 6210-01-M

Preferred Equity Investors of Florida, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 27, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Prefered Equity Investors of Florida, Inc.*, Knoxville, Tennessee and *Landmark Banking Corporation of Florida;* to acquire 100 percent of the voting shares of Landmark Bank of Seminole County, Casselberry, Florida, a *de novo* bank.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Beverly Bancorporation, Inc.*, Chicago, Illinois; to acquire 91 percent of the voting shares of M–R Financial Corporation, Matteson, Illinois, thereby indirectly acquiring Matteson-Richton Bank, Matteson, Illinois.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Security Banks of Montana, Billings, Montana; to acquire 6.15 percent of the voting shares of Bank of Montana, Great Falls, Montana. Applicant would acquire Bank of Montana System indirectly through Montana Bancsystem, Inc., Billings, Montana. Applicant proposes to acquire Montana System Inc. which owns 6.15 percent of Bank of Montana System.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Moody Bancshares, Inc.*, Galveston, Texas; to acquire 100 percent of the voting shares of The South Shore Harbour National Bank, League City, Texas, a *de novo* bank.

2. *Moody Bancshares, Inc.*, Galveston, Texas; to acquire 51 percent of the voting shares of The Moody National Bank of Galveston, Galveston, Texas.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–31929 Filed 12–6–84; 8:45 am]

BILLING CODE 6210–01–M

Security Banks of Montana; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under §.225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 24, 1984.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Banks of Montana*, Billings, Montana; to acquire 100 percent of the voting shares of Montana Bancsystem, Inc., Billings, Montana, thereby indirectly acquiring Montana Bank of Billings, Billings; Montana Bank of Circle, N.A., Circle; Montana Bank of Livingston, Livingston; First National Montana Bank of Missoula, Missoula; Montana Bank of South Missoula, Missoula; Montana Bank of Forsyth, Forsyth; and Baker Bancorporation, Inc., Baker (Montana Bank of Baker, N.A., Baker); Bozeman Bancorporation, Inc., Bozeman (Montana Bank of Bozeman, N.A. Bozeman); Butte Bancorporation, Inc., Butte (Montana Bank of Butte, N.A., Butte); Mineral County Bancorporation, Inc., Superior (Montana Bank of Mineral County, Superior); Red Lodge Bancorporation, Inc., Red Lodge (Montana Bank of Red Lodge, N.A., Red Lodge); Roundup Bancorporation, Inc., Roundup (Montana Bank of Roundup, N.A., Roundup); and Sidney Holding Company, Sidney (Montana Bank of Sidney, N.A., Sidney); all located in Montana. Applicant has also applied to acquire 6.2 percent of Bank of Montana System, Great Falls, Montana.

Security Banks of Montana has also applied to acquire certain nonbank activities conducted by Montana Bancsystem, Inc. These activities are providing data processing services and conducting general insurance agency activities in communities with populations not exceeding 5,000. Applicant's data processing activities would be performed at Applicant's existing data processing center in Billings, Montana, and Montana Bancsystem, Inc's two data processing centers in Missoula, Montana and Billings, Montana. The insurance activities are conducted in the following Montana communities; Baker, Circle, Forsyth, Superior, Red Lodge, and Roundup.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–31934 Filed 12–6–84; 8:45 am]

BILLING CODE 6210–01–M

Valley Community Bancorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFC

225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.212(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 28, 1984.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Valley Community Bancorp*, McMinnville, Oregon; to engage *de novo* through its subsidiary, Valley Community Mortgage Services, McMinnville, Oregon, in making, acquiring and servicing loans or other extensions of credit for company's account or the account of others such as would be made, for example, by a mortgage company; performing appraisals of real estate; arranging commercial real estate equity financing; and acting as investment or financial advisor to the extent of serving as the advisory company for a mortgage or real estate investment trust.

Board of Governors of the Federal Reserve System, December 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-31930 Filed 12-6-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published in November 30, 1984.

Social Security Administration

Subject: Quarterly Statement of Expenditures—SSA-41 Extension—No Change—(0960-0294)
Respondents: States
Subject: Report of New Information in Disability Cases—SSA-612EV Extension—No Change—(0960-0071)
Respondents: Disabled Social Security Beneficiares
OMB Desk Officer: Rebert J. Fishman

Health Care Financing Administration

Subject: Third Party Premium billing Request (HCFA-2384) Extension—No Change—(0930-0041)
Respondents: Beneficiaries
Subject: Evaluation of the Arizona Health Care Cost Containment System HCFA-386-New
Respondents: Beneficiaries/Providers
OMB Desk Officer: Fay S. Iudicello

Public Health Service

Office of the Assistant Secretary for Health

Subject: 1986 National Health Interview Survey (First Pretest)—New
Respondents: Individuals

Centers for Disease Control

Subject: CDC Hospital Infection Guideline Evaluation Project—New
Respondents: Hospitals
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Self Assessment and Validation Instrument for Program Performance Standards (0980-0037) Reinstatement
Respondents: HHS funded runaway and homeless youth centers
OMB Desk Officer: Robert J. Fishman

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503
ATTN: (name of OMB Desk Officer)

Dated: November 30, 1984.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-31862 Filed 12-6-84; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 84N-0377]

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of funds for Fiscal Year 1985 for awarding grants to support clinical trials on safety and effectiveness of orphan products. FDA has funds to award approximately 20 to 30 grants ranging from $20,000 to $70,000. The agency will consider grants greater than $70,000 if they extend over a 2- or 3-year period.

DATES: Applications must be received by February 5, 1985. The earliest beginning date for awards is July 1, 1985.

ADDRESS: Applications should be submitted to and applications are available from Kathryn McKnight, State Contracts and Assistance Agreements Branch (HFA-520), Food and Drug Administration, Rm. 15A-17, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6170.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Lewis, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: FDA will support the clinical studies covered by

this notice under section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 13.103.

I. Background

FDA has established the Office of Orphan Products Development to identify and facilitate the availability of orphan products. Orphan products are drugs, biologics, medical devices (including in vitro diagnostics), foods for medical purposes, and veterinary products that may be useful in an uncommon or common disease but lack committed commercial sponsorship because they are not considered commercially attractive for marketing. A subcategory of orphan products includes those marketed products for which there is evidence suggesting usefulness in an uncommon, serious disease but which are not labeled for that disease because substantial evidence of safety and effectiveness for that use is lacking.

One way to make orphan products more easily available is to support research to determine whether the products are safe and effective. FDA has allocated funds toi support such research.

II. Research Goals and Objectives

A. Clinical Studies

FDA will consider only clinical studies for determining whether the products are safe and effective for premarket approval under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), including the addition of new uses to marketed drugs. Ordinarily, there should already be available at least some preliminary clinical research suggesting effectiveness and relative safety. However, FDA will consider applications in which persuasive pharmacologic evidence is available that a product has a reasonable possibility of being effective even though no clinical trials have yet been performed. All studies subject to the requirements for clinical investigations imposed by the act and the regulations promulgated thereunder are to be conducted in accordance with those requirements in addition to the requirements of the request for application (RFA).

Because funds are relatively limited, FDA cannot consider large research projects involving many subjects (human, or animal in the case of a veterinary drug) and long-term followup. The typical study that FDA will consider for support may involve up to several dozen subjects, will be well-controlled, and will be directed to providing substantial evidence of the product's safety and effectiveness. The agency will also consider funding pharmacokinetic studies if such studies are necessary to determine safe and effective doses in subjects with serious organ disease that might affect drug disposition. FDA will consider pharmacokinetic studies, however, only if they are part of studies for determining effectiveness of a drug or are proposed as desirable information to obtain for drugs that already have a significant amount of evidence showing effectiveness. In designing a well-controlled study, the investigator should keep in mind that historical controls or use of the subject as his or her own control is generally less desirable and reliable than active cointrol or, when ethical, placebo controls.

Each investigator submitting a grant application for a proposed human or veterinary orphan use in response to this RFA should include a short statement explaining why the proposed product meets the objectives of the orphan products development program as described above. This statement should be in the application under Section 2—"Significance". In the case of veterinary products, research studies should be directed to the following area only: A true orphan animal product for which the animal disease being studied can be transmitted to man.

In addition to FDA's general interest in clinical studies for the safety and effectiveness of orphan products, the agency is also interested in receipt of applications for studies on the use of *gamma*-hydroxybutyrate for the treatment of narcolepsy. These applications will compete with others received in response to this RFA. The agency will award only one application for this purpose.

B. Statistical Support

Statistical expertise is helpful in the planning, design, execution, and analysis of clinical investigation and clinical pharmacology to ensure the validity of estimates of safety and efficacy obtained from human studies. Applicants will be expected to provide a statistical basis for the number of patients chosen for the trial based upon the proposed outcome measures. Applicants should also document the appropriateness of the statistical procedures to be used in analysis of the results.

C. Journal References

Published reports are necessary and often critical for the review process and can help to support the investigator's research intent. Applicants will be expected to include six copies of reprints of the references necessary and critical for the review.

D. Informed Consent of Human Subjects

Consent and/or assent forms and any additional information to be given to a subject must accompany the grant submission (Form PHS 398). Information that is given to the subject or the subject's representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

E. Elements of Informed Consent (45 CFR 46.116) and (21 CFR 50.25)

1. Basic elements of informed consent: In seeking informed consent, the following information shall be provided to each subject:

a. A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

b. A description of any reasonably foreseeable risks or discomforts to the subject.

c. A description of any benefits to the subject or to others which may reasonably be expected from the research.

d. A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

e. A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained and that notes the possibility that FDA may inspect the records.

f. For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained.

g. An explanation of whom to contact for answers to pertinent questions about the research and research subjects'

rights, and whom to contact in the event of a research-related injury to the subject.

h. A statement that participation is voluntary, that refusal to participate will involve no penalty of loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional elements of informed consent: When appropriate, one or more of the following elements of information shall also be provided to each subject:

a. A statement that the particular treatment of procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

b. Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

c. Any additional costs to the subject that may result from participation in the research.

d. The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

e. A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject.

f. The approximate number of subjects involved in the study.

3. The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

4. Nothing here is intended to limit the authority of a physician to provide emergency medical care to the extent the physician is permitted to do so under applicable Federal, State, or local law.

III. Reporting Requirements

Financial status reports will be required at the end of each budget period. The progress reports required under a grant award (45 CFR Part 74) should be submitted by the principal investigator or project manager.

IV. Mechanism of Support

A. Award Instrument

Support will be in the form of grant awards. These awards will be subject to all policies and requirements that govern the research grant programs of the Public Health Service including the provisions of 42 CFR Part 52, 45 CFR Part 74, and requirements for cost sharing.

B. Eligibility

These grants are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity.

C. Length of Support

The length of support will depend upon the nature of the study and may extend beyond 1 year. For studies where the expected date of completion is more than 1 year, however continuation of support beyond the first year will be based upon review of performance during the preceding year and availability of funds.

D. Funding Plan

The number of studies funded will depend on the quality of the applications received and the availability of funds.

V. Review Procedure and Criteria

A. Review Method

Applications will undergo initial review by experts in the field relative to the specific application. The experts will review and evaluate each application based on its scientific merit. The applications will be subject to a second-level review to evaluate them based on their relevance to the aims of the Orphan Products Development program. Application will also be reviewed before issuance of an FDA grant award to ensure to the extent practicable that proposed studies are consistent with requirements for approval under the act.

B. Review Criteria

Applications must be responsive to this request for applications. Applications that are judged to be unresponsive will not be considered for funding under this RFA and will be returned to the applicant. Applications will be reviewed according to the following criteria:

1. Responsiveness to the RFA.

2. The soundness of the rationale for the study.

3. The appropriateness of the study design to answer the question posed.

4. The evidence presented by the applicant that it will be able to recruit the proposed number of subjects and complete the study during the allotted period.

5. The plans for complying with regulations for protection of human and animal subjects as applicable to the proposed study.

6. The research experience, training, and competence of the principal investigator and the support staff.

VI. Submission Requirements

A. Completed Form PHS 398, "Application for Public Health Service Grant." Part of Section 2 "Significance" should include a short statement of why the product is appropriate to the objectives of the orphan products grants program.

B. If human subjects are involved, completed Form HHS 596, "Protection of Human Subjects," Assurance/Certification/Declaration (part of Form PHS 398) and Human Subject Consent Forms and/or Assent Form(s).

C. Six copies of all reprints critical to the review process should accompany the Form PHS 398 grant application.

Note.—The forms and reprints described above are to be mailed to FDA as stated in the address section of this notice. Do not use the NIH mailing label at end of application kit.

VII. Format for Application

Applications must be submitted on Form PHS 398, Public Health Service Grant Application. The face page of the application must reflect the RFA number RFA–FDA–OP–85–1. To ensure confidentiality of individual salary information, applicants may choose to include that information on the original application only. In that case, all copies of the application should reflect only a total amount for salaries and fringe benefits. The funding agency will take no action to delete confidential information. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA regulations implementing that Act (21 CFR 20.61).

The collection of information requested on the Form PHS 398 and the instructions have been submitted by the Public Health Service to the Office of Management and Budget (OMB), and were approved and assigned OMB control number 0925–0001.

Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be

used or disclosed except for evaluation purposes.

The original and six copies of the completed application should be delivered to, and applications kits are available from, Kathryn McKnight (address above).

Note.—Do not mail the application to the National Institutes of Health.

Label the outside of the mailing package and the top of the application face page "Response to RFA–FDA–OP–85–1."

Applications must be received by 5 p.m. on February 5, 1985. A package carrying a legible proof-of-mailing date assigned by the carrier, and which is no later than 1 week prior to the receipt date, is also acceptable. The receipt date will be waived only in extenuating circumstances. To request such a waiver, include an explanatory letter with the signed completed application. No waiver will be granted prior to receipt of application. Unless a waiver is granted, applications received after the deadline date will be returned to the applicant.

Dated: November 29, 1984.

Mark Novitch

Acting Commissioner of Food and Drugs

[FR Doc. 84–31921 Filed 12–4–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84F–0371]

Glenn M. W. Scott; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Glenn M. W. Scott has filed a petition proposing that the food additive regulations be amended to prohibit the use of cinnamyl anthranilate as a food additive.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–9463.

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 5A3831) has been filed by Glenn M. W. Scott, P.O. Box 99, Lexington, KY 40501, proposing that § 172.515 *Synthetic flavoring substances and adjuvants* (21 CFR 172.515) be amended to provide a tolerance level of zero for the amount of cinnamyl anthranilate in food.

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: November 29, 1984.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84–31922 Filed 12–6–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of the Disapproval of a Louisiana State Plan Amendment

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administration hearing on January 30, 1985, in Dallas, Texas, to reconsider our decision to disapprove Louisiana State Plan Amendment 83–27.

CLOSING DATE: Requests to participate in the hearing as a party must be received by December 24, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Louisiana State Plan Amendment 83–27.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issue to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Louisiana's request to provide a State maximum allowable cost (LMAC) for the pharmacy program violates sections 1902(a)(30) and 1903(i)(5) of the Social Security Act and implementing regulations at 42 CFR 447.331, 447.332, and 42 CFR 442.25.

Under section 1902(a)(30) and its implementing regulation at 42 CFR 447.331, reimbursement for prescribed drugs is limited to the lower of the ingredient cost of the drug plus a reasonable dispensing fee or the provider's usual and customary charge to the general public. Under the proposed Louisiana amendment, the State does not provide that reimbursement for drugs is based on this formula. Therefore HCFA has determined that Louisiana's proposed plan amendment is in violation of section 1902(a)(30) and regulations at 42 CFR 447.331. Regulations at 42 CFR 447.332(c)(3) require that the basis for the estimate in the "Estimated Acquisition Cost" must be package size providers buy most frequently. HCFA has determined that Louisiana's approval does not use the most frequently purchased package size in determining pricing limits and therefore is in violation of 42 CFR 447.332.

Lastly, the proposed listing of State MAC drugs erroneously contains drugs that have been determined by the Food and Drug Administration as "less-than-effective" and not subject to reimbursement under section 1903(i)(5) of the Act and 42 CFR 441.25. Such drugs listed are DESI 497 and DESI 2238 which were added to the DESI listing in May and August 1983 respectively. Therefore, HCFA has determined that the proposed State plan amendment is inconsistent with section 1903 (i)(5) of the Act and regulations at 42 CFR 441.25.

The notice to Louisiana announcing an administrative hearing to reconsider our disapproval of the State Plan Amendment reads as follows:

Ms. Marjorie T. Stewart,

Assistant Secretary, Office of Family Security, Department of Health and Human Resources, P.O. Box 44065, Baton Rouge, Louisiana

Dear Ms. Stewart: This is to advise you that your request for reconsideration of the decision to disapprove the Louisiana State Plan Amendment 83-27 was received on November 6, 1984. You have requested a reconsideration of the disapproval of whether this plan amendment, which would provide a State maximum allowable cost for the pharmacy program, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on January 30, 1985, at 10 a.m., in the 23rd Floor Conference Room, 2535 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: December 3, 1984.

Carolyne K. Davis.

Administrator, Health Care Financing Administration.

[FR Doc. 84-31954 Filed 12-6-84; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Establishment; Neurology C Study Section

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the establishment by the Secretary of Health and Human Services of the Neurology C Study Section.

The Neurology C Study Section shall advise the Secretary; the Assistant Secretary for Health; and the Director, National Institute of Health, regarding applications for grants-in-aid for research and research training activities and proposals relating to the fields of molecular and cellular neurology, neurogenetics, reuroimmunomodulation and neuroimmunopathology with emphasis on linking the basic sciences and clinical substrates of neurological dysfunction.

Authority for this committee shall terminate on September 30, 1986 unless the Secretary, HHS, formally determines that continuance is in the public interest.

Dated: November 30, 1984.

Thomas E. Malone, Ph.D.,

Acting Director, National Institutes of Health.

[FR Doc. 84-31947 Filed 12-6-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. I-84-130]

Intent To Issue a Finding of No Significant Impact; Coco Beach Housing Development, Rio Grande, PR

The Department of Housing and Urban Development gives notice concerning the proposed Coco Beach Housing Development, Project #84-529, Rio Grande, Puerto Rico, that it intends to issue a Finding of No Significant Impact (FONSI) based on an Environmental Assessment (EA) for this project. Comments are solicited before the New York Regional Administrator of HUD makes a final determination whether to proceed without preparing and Envrionmental Impact Statement (EIS).

Description

Coco Beach is an 814 Acre tract of land located east of the City of San Juan in Comezon Cove and Espiritu Santo River at Zarzal Ward, Rio Grande, Puerto Rico. The project site, approximatley 200 acres, is defined by a Department of the Army, Corps of Engineers' Dredge and Fill Permit dated May 12, 1980. This permit area was allowed to be filled above the designated flood-plain elevation and contains the necessary conditions and safeguards as defined by FEMA and the Corps of Engineers.

The subject 200 acre development area will contain approximately 1900 mixed housing units. Directly West and Northwest of the subject development area is a 246 acre mangrove and wetland area. This area will not be developed or disturbed and will remain permanent open space. This is in accord with local approvals, the Corps of Engineers Dredge and Fill Permit and the requirements of HUD's conditions of approval. Any plans for future development on the remaining 368 acres will require a new application, will have to go through the local review process and will be subject to required permits and approvals by affected Commonwealth and Federal agencies.

An "Early Start" request for approximately 200 units located in the project site was approved July 12, 1984. The request was in accordance with procedures contained in HUD regulations 24 CFR 50.43. The total project area, including Early Start, was reviewed and evaluated in accordance with Executive Order 11988, Floodplain Management and Executive Order 11990, Wetland Protection and all procedural steps were followed. Appropriate mitigation measures have been identified and will be required for project approval. All local approvals and permits have been received for project construction.

Purpose of FONSI Notice

According to Council on Environmental Quality and HUD environmental regulations, an environmental assessment (EA) has been prepared to determine whether or not and Environmental Impact Statement is required. It is the finding of the EA that there would be no significant impact on the human environment, given the existing project site condition and the mitigating measures that are to be required. Therefore, in accordance with the applicable regulations a FONSI has been prepared, and a Notice to that effect is hereby published. Pursuant to 40 CFR 1501.4(e)(2) of the CEQ regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested individuals, governmental agencies, and private organizations are invited to comment on the FONSI by the date and to the address set forth below.

Additional Information and Comments

The Environmental Assessment which serves as the basis for the Finding of No Significant Impact (FONSI) and supporting documentation related to the Executive Orders are available for inspection until the close of the comment period at the HUD Caribbean Office, Monday to Friday, 8:30 a.m. to 5:00 p.m. Contact concerning inspections should be made with Mr. Jose E. Febres-Silva, Manager, HUD Caribbean Office, Federico Degetau Federal Building, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918-2276, telephone: Commercial/FTS 809-735-4201. (This is not a toll-free number).

Comments on the FONSI and Executive Orders should be submitted to the New York Regional Administrator, Joseph D. Monticciolo, 26 Federal Plaza, New York, NY 10278-0068 (Attention Regional Environmental Officer); telephone: (212) 264-0793 (this is not a

toll-free number) within thirty (30) days of the publication of this notice.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc 84-31983 Filed 12-6-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT 84-40]

Colorado; Final Mobil-Pacific Oil Shale Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM has prepared an FEIS for two separate private oil shale developments at the southern edge of the Piceance Creek Basin in Garfield County, Colorado. The two projects are Mobil Oil Corporation's proposed Parachute Shale Oil Project and the Pacific Shale Project proposed by a joint venture of Sohio Shale Oil Company, Superior Oil Company, and Cliffs Oil Shale Corporation.

DATE: Comments on the FEIS will be accepted until January 7, 1985.

ADDRESS: Comments should be sent to: Robert Kline, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81501.

FOR FURTHER INFORMATION CONTACT: Address and name as above or (303) 243-6552.

SUPPLEMENTARY INFORMATION: Mobil Oil Corporation ("Mobil") proposes to develop a 100,000-barrel per calendar day shale oil project north of the town of Parachute. It would involve underground mining, onsite surface retorting and upgrading, surface disposal of processed shale, and delivery of shale oil to a regional pipeline system.

Pacific Shale Project ("Pacific") proposes to develop a 100,000-barrel per stream day shale oil project on a site about 10 miles northwest of the town of DeBeque. The project would involve underground mining, onsite surface retorting, upgrading, surface disposal of retorted shale onsite, and transfer of shale oil to a regional multiproject product pipeline system. The EIS was prepared pursuant to requests from Mobil and from Pacific for rights-of-way, sales, or leases of public land.

Availability

Limited single copies of the FEIS may be obtained at the above address. Public reading copies are also available at the following locations:

Arthur Lakes Library, Colorado School of Mines, Golden, CO 80401
Colorado Mountain College, Glenwood Springs, CO 81601
Colorado State University, Fort Collins, CO 80523
Conservation Library, Denver, CO 80203
Glenwood Springs Public Library, Glenwood Springs, CO 80601
Mesa College Library, Grand Junction, CO 81501
Mesa County Public Library, Grand Junction, CO 81501
Natural Resources Library, U.S.D.I., Washington, DC 20240

Dick Freel,

Associate District Manager, Grand Junction District.

[FR Doc. 84-30650 Filed 12-6-84; 8:45 am]

BILLING CODE 4310-JB-M

[N-41048]

Nevada Realty Action; Exchange of Private and Public Lands in Washoe and Clark Counties

November 21, 1984.

The following described Federal land in Clark County, Nevada, has been determined to be potentially suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian, Clark County, State of Nevada

Township 22 South, Range 61 East,
Sec. 14, W½SW¼NE¼NW¼NE¼, N½NW¼NW¼NE¼, SE¼NW¼NW¼NE¼, E½SW¼NW¼NW¼NE¼, NW¼SW¼NW¼NE¼, W½NE¼SW¼NW¼NE¼, S½SW¼NW¼NE¼, W½SE¼NW¼NE¼, W½NE¼SW¼NE¼, N½NW¼SW¼NE¼, SE¼NW¼SW¼NE¼, E½SW¼NW¼SW¼NE¼, N½SW¼SW¼NE¼, E½SE¼SW¼SW¼NE¼, W½SW¼SW¼SW¼NE¼, SE¼SW¼NE¼, W½NW¼SW¼SE¼NE¼, W½SW¼SW¼SE¼NE¼, N½NE¼NE¼NW, SW¼NE¼NE¼NW¼, W½SE¼NE¼NE¼NW¼, N½SE¼NE¼NW¼, SW¼SE¼NE¼NW¼, W½SE¼SE¼NE¼NW¼, NE¼SE¼NW¼, E½NW¼SE¼NW¼, S½SE¼SE¼NW¼, NE¼SE¼SE¼NW¼.

Comprising 97.5 acres of public land.

In exchange for this land, the United States will acquire the following described private lands in Washoe County, Nevada, from FLEX, Inc.:

Mount Diablo Meridian, Nevada

Township 16 North, Range 18 East.

	Accessor parcel No.
Section 1	126-020-01
Sections 2 & 11	126-020-53
Section 12	126-020-51
Section 13	126-010-36
Section 14	126-010-51
Sections 23 & 24	126-010-54

Comprising 2,265.85 acres of private land.

The purpose of the exchange is to acquire the private land which has high public value as environmentally sensitive land in the Lake Tahoe Basin as well as for wildife and recreation. Acquisition of these lands will help produce a better public ownership pattern and thus improve management efficiency. The public interest will be served by completing this exchange.

The values of the land to be exchanged are approximately equal with the final determination to be made by appraisals of both parcels. Full equalization of value, if not equal, will be achieved by payment to the United States by FLEX, Inc., of funds in an amount not to exceed 25% of the total value of the land to be transferred out of Federal ownership.

Patent, when issued, will contain reservations to the United States, will be subject to valid existing rights, and will be subject to reservations for future streets and public utilities. These reservations will be published, separately, at a later date in the Federal Register.

Upon publication of this Notice of Realty Action in the Federal Register, and subject to all valid existing rights, the above described public land will be segregated from all forms of appropriations under the public land laws, including the mining laws except land exchanges and mineral leasing for a period of two (2) years or upon issuance of patent whichever occurs first.

Detailed information concerning this exchange including the Environmental Assessment Record/Lands Report, Cultural Resource Report, and Mineral Report are available for review at the Bureau of Land Management, Las Vegas District, 4765 Vegas Drive, Las Vegas, Nevada.

For a period of 45 days from the date of publication, interested parties may submit

comments to the District Manager, P.O. Box 26569, Las Vegas, NV 89126.

William C. Calkins,

Acting District Manager, Las Vegas District.

[FR Doc. 84-31987 Filed 12-6-84; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

Intention To Negotiate Concession Permit; Cape Cod National Seashore, MA

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Mr. Charles W. Silva authorizing him to continue to provide refreshment stand facilities and services for the public at Cape Cod National Seashore, Massachusetts for a period of five (5) years from January 1, 1985 through December 31, 1989.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed his obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1984, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109, for information as to the requirements of the proposed permit.

Dated: November 21, 1984.

Steven H. Lewis,

Acting Regional Director, North Atlantic Region.

[FR Doc. 84-31994 Filed 12-6-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than December 17, 1984. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Ms. Melita E. Yearwood, (202) 632-3378, IRM/PE, Room 708B, SA-12, Washington, D.C. 20523.

Date Submitted: November 29, 1984.
Submitting Agency: Agency for International Development.
OMB Number: 0412-0506.
Form Number: AID 1420-50.
Type of Submission: Extension
Title: AID Consultant Registry Information System (ACRIS) — Organization and Individual Profile.
Purpose: This information collection will be used to obtain information on capabilities of firms and individual consultants in order that they may participate in AID-financed procuring activities. It will also provide greater opportunities to small, small disadvantaged and women-owned businesses to participate.

Date Submitted: November 29, 1984.
Submitting Agency: Agency for International Development.
OMB Number: None.
Form Number: None.
Type of Submission: New.
Title: Guidelines for Development Education Project Grants
Purpose: This information collection specifies the criteria and proposal format for grant applications. Private and voluntary organizations, as defined under Section III of the guidelines are eligible for consideration.

Date Submitted: November 29, 1984.
Submitting Agency: Agency for International Development.
OMB Number: 0412-0019.
Form Number: IAP 66A.
Type of Submission: Extension.
Title: Certificate of Eligibility for Exchange Visitor (J-1) Status.
Purpose: This information collection will allow students to apply for Visas and/or Visa extensions as required by the Immigration and Naturalization Service. The students will then be able to remain legally in the U.S. while being trained.

Reviewer: Francine Picoult (202) 395-7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: November 29, 1984.

Fred D. Allen,

Planning and Evaluation Division.

FR Doc. 84-31991 Filed 12-6-84; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-19; Sub-98X]

The Baltimore & Ohio Railroad Co.; Abandonment Exemption; in Tuscarawas and Carroll Counties, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts The Baltimore and Ohio Railroad Company from the requirements of 49 U.S.C. 10903 *et. seq.*, in connection with the abandonment of 5.68 miles of rail line in Tuscarawas and Carroll Counties, OH subject to employee protective conditions.

DATES: This exemption shall be effective on January 7, 1985. Petitions to stay must be filed by December 17, 1984, and petitions for reconsideration must be filed by December 27, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB-19 (Sub-No. 98X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's Representative: Rene J. Gunning, Suite 2204, 100 No. Charles Street, Baltimore, OH 21201.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer; (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5023.

Decided: November 30, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio.

Commissioner Lamboley concurred with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 84-31995 Filed 12-6-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6; Sub-226]

Burlington Northern Railroad Co.; Abandonment in Pierce County, WA; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 11.08-mile rail line between Orting (milepost 28.10) and Cascade Junction (milepost 17.02) in Pierce County, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-31997 Filed 12-6-84; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: ARA Services, Inc. ("ARA"), Independence Square West, Philadelphia, PA 19106.

2. Wholly-owned subsidiaries which will participate in the operations, and their States of incorporation:

Name and Jurisdiction Where Incorporated

Aero Carolina, Inc., North Carolina
Aero Enterprises, Inc., D.C.
Aero Kitty Hawk, Inc., Idaho
Aluminum Recycling Co., Pennsylvania
ARA Environmental Services, Inc., Maryland
ARA Healthcare Management, Inc., Delaware
  Meditrans, Inc., Louisiana
  Care Inn, Inc., Indiana
ARA Food Service Co., Pennsylvania
ARA Health/Care, Inc., Delaware
  ARA Child Care Systems, Inc., Pennsylvania
  ARA DevCon, Inc., Florida
  ARA Home Health Care, Inc., Pennsylvania
Geriatrics, Inc., Nevada
  Arbor Manor, Inc., Nebraska
  Crete Nursing Home, Inc., Nebraska
  Nebraska Nursing Homes, Inc., Nebraska
  Retama Manor Nursing Centers, Inc., Texas
  Nationwide Health Services, Inc., Texas
National Living Centers, Inc., Delaware
  Blalock Nursing Home, Inc., Texas
    Blalock Nursing Home-East, Inc., Texas
    Blalock Nursing Home-North, Inc., Texas
    Blalock Nursing Home-Southwest, Inc., Texas
    Blalock Nursing Home-Spring Branch, Inc., Texas
  Development Realty Corporation, Texas
  National G. South, Incorporated, Texas
  National Living Centers, Inc. #3, Texas
  NLC Management Company, Inc., Texas
Western Medical Enterprises, Inc., California
  Balkt Convalescent Hospital, Inc., California
  Driftwood Convalescent Hospital, Inc., California
  Driftwood Pharmacy, Inc., California
  Pasadena Medical Pharmacy, Inc., California
ARA Health Facilities of Florida, Inc., Florida
ARA Healthcare Nutirition Services, Inc., Delaware
ARA Healthcare Textile Services, Inc., Delaware
  K.L.P. Corporation, Florida
  Upton's Laundry, Inc., Florida
ARA Leisure Services, Inc., Delaware
  ARA Leisure Convention Services, Inc., Pennsylvania
  ARA Leisure Services of Texas, Inc., Texas
ARA Leisure Services of Vermont, Inc., Vermont
  Mile High Enterprises, Inc., Colorado
  Pittsburgh Stadium Concessions, Inc., Pennsylvania
ARA Magazine & Book Division, Inc., Delaware
ARA Maintenance Mangement Systems, Inc., D.C.
ARA Managed Logistics Systems, Inc., Delaware
ARA Fleet Maintenance of Boston, Inc., Massachusetts
ARA Medical Rehabilitation Services, Inc., Missouri
  ARA Physical Therapy Services, Inc., Missouri
  Professional Therapy Services, Inc., Missouri
ARA Services of California, Inc., California
ARA Services of Texas, Inc., Texas
ARA Sunset Airport Systems, Inc., California
ARA Trailblazer, Inc., Texas
ARA Transportation Services of Dayton, Inc., Ohio
ARA Transportation Services of Boston, Inc., Masasachusetts
ARA Virginia Sky-Line Co., Inc., Virginia
Aramont Risk Management Services, Inc., Virginia
ARASERVE of Lehigh Valley, Inc., Pennsylvania
ARASERVE of Puerto Rico, Inc., Delaware
ARASERVE, Inc., Delaware
  Advertising Services, Ltd., Pennsylvania
  Coffee System, Inc., Delaware
Aratex Services, Inc., Delaware
  AMI Automated Management Information, California
  Araclean Services, Inc., Delaware
  Aratex Textile Rental Services, Inc., Delaware
  Fashion-Tex Services, Inc., California
  Landy Textile Rental Services, Inc., Pennsylvania
  Neway Uniform & Towel Supply of Florida, Inc., Florida
  Rental Uniform Service of Roanoke, Inc., Virginia
  Silco, Inc., Ohio
Cooper Motor Lines, Inc., South Carolina
Davre's, Inc., Delaware
Daybridge Learning Centers, Inc., Delaware
Encore Service Systems, Inc., Florida
Galley Services, Inc., Louisiana
Golden Gate Magazine Company, California
Ground Services, Inc., Delaware
Ground Services, Inc. St. Croix, Virgin Islands
Ground Services, Inc. (St. Thomas), Virgin Islands
H.S.T., Ltd., Hawaii
Kenworthy Air Freight Services, Inc., Indiana
Mack Bros., Ltd., New York
Mack Bros. Sales Corp., New York
Means Services, Inc., Delaware
  Linen Supply Services, Inc., Illinois
  Robinson's Fabric Care Center, Inc., Wisconsin
Medicare Equipment Services, Inc., Illinois
Mesa Verde Company, Colorado
Mid-Continent News Co., Inc., Delaware
National Bus Sales and Leasing Co., Inc., California
Resort Concessions, Inc., New York
Smith's Transfer Corporation, Virginia
  M R & R Trucking Company, Florida
Solon Automated Services, Inc., Delaware
  ABC Electric Motor Service, Inc., Delaware
  Bakst Service, Inc., Delaware
  International Dryer Corporation, Massachusetts
  M&S Coin Laundry Service, Inc., Indiana
  Metro Laundry Service, Inc., Virginia
  Sped Laundry Service, Inc., Maryland
  Sugarbush Valley, Inc., Vermont
  Mountain Water Co., Vermont
  The Laundry Room, Inc., Virginia
Spectrum Emergency Care, Inc., Missouri
  Correctional Medical Systems, Inc., Missouri
  Correctional Medical Systems, Inc., Alabama
  Correctional Medical Systems of Illinois Inc., Illinois
  Correctional Medical Systems of Ohio, Inc., Ohio
  Group Three Advertising, Inc., Missouri
S W V Corporation, West Virginia
Terminal Newsstands, Inc., Florida
Terminal Shops, Inc., Florida
Trebor Truck and Trailer Leasing, Inc., Delaware

Vendors Supply Corp., Delaware

(1) Directly owned subsidiaries appear at the left hand margin, first tier and second tier subsidiaries are indicated by single and double indentation, respectively, and are listed under the names of their respective parent companies.

1. Parent corporation and address of principal office: The Gillette Company, Prudential Tower Building, Boston, Massachusetts 02199.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Oral-B Laboratories, Inc., State of Incorporation—Delaware
(ii) Jafra Cosmetics, Inc., State of Incorporation—California

1. Parent corporation and address of principal office: Spancrete Industries, Inc., 10919 W. Bluemond Road, Wauwatosa, Wisconsin 53226.

2. Wholly-owned subsidaries which will participate in the operations, and State(s) of incorporation:

(i) Spancrete, Inc.—Wisconsin
(ii) Spancrete of Illinois, Inc.—Illinois
(iii) Waukesha Block Co., Inc.—Wisconsin
(iv) WBC Corp.—Wisconsin
(v) Spancrete Machinery Corp.—Wisconsin

James H. Bayne,

Secretary.

[FR Doc. 84-32170 Filed 12-6-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correction Facility, Glynco Jetport, Near Brunswick, Glynn County, GA

AGENCY: U.S. Department of Justice; Federal Bureau of Prisons.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

Summary

1. *Proposed Action:* The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new medium security prison is needed in its system. A 300 acre tract of land at the Glynco Jetport, near Brunswick, GA is being evaluated for the site of the facility. The proposal calls for the construction of a 500 bed facility to house medium security inmates. Approximately 60–70 acres would be required for road access, dormitory and food buildings, laundry and dry cleaning facilities. In addition exercise areas would be included in the needed acreage.

2. In the process of evaluating the tract of land, the following aspects will receive a detailed examination: Wetlands threatened and endangered species, cultural resources, unique and prime farmlands, and socioeconomic impacts.

3. *Alternatives:* In developing the DEIS, the alternatives of no action, fragmentation of the facility, and modifications to the proposed facility will be fully and thoroughly examined.

4. *Scoping Process:* During the preparation of the DEIS there will be numerous opportunities for public involvement in order to determine the issues to be examined. There will be an initial scoping meeting on Thursday, December 13, 1984, at 7:30 P.M. The meeting will be held in Building Number 90 of the Federal Law Enforcement Training Center, Glynco, Georgia. The public and all interested agencies or organizations are invited to attend.

5. *DEIS Preparation:* The DEIS should be available for public scrutiny in June, 1985.

6. *Address:* Questions concerning the proposed action and the DEIS can be answered by:

Charles W. Belin, Jr., Ph.D., Environmental Resources Branch, U.S. Army Engineer District, P.O. Box 889, Savannah, GA 31402, Telephone: (912) 944–5838

or:

Mr. Robert A. Smith, Project Manager, U.S. Army Engineer District, P.O. Box 889, Savannah, GA 31402, Telephone: (912) 944–5724.

Dated: December 4, 1984.

Loy F. Hayes,

Chief, Office of Facilities Development and Operations, Federal Bureau of Prisons, Department of Justice.

[FR Doc. 84-32084 Filed 12-6-84; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Under Secretary

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with General Services Administration (GSA), I have determined that renewal of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its committees are broadly representative of the union organizations in the United States. These include representation from organizations of all sizes of membership, with national coverage which reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed on January 5, 1985 with GSA and the appropriate congressional committees.

Further information may be obtained from: Joseph P. Goldberg, Executive Secretary, Bureau of Labor Statistics, Department of Labor, Room 2114, GAO Building, Fourth and G Streets NW., Washington, D.C. 20212, phone: 202–523–0001.

Signed at Washington, D.C., this 4th day of December.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 84-32037 Filed 12-6-84; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council; Renewal

In accordance with the provision of the Federal Advisory Committee Act, and after consultation with GSA, I have determined that the establishment of the Business Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics on technical economic and statistical matters, in the analysis of the Bureau's statistics, and on the broader aspects of its program from an informed business point of view; and provide a realistic and timely two-way communications structure between users and providers of basic economic statistics and a major governmental statistics-producing unit.

Council membership is selected to assure a technically competent group of economists, statisticians and industrial relations experts who represent a cross section of American business and industry. The members serve in their individual capacities, not as

representatives of their companies or their organizations.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act by January 5, 1985.

Interested persons are invited to submit comments regarding renewal of the Business Research Advisory Council. Such comments should be addressed to: Janice D. Murphey, Liaison for BRAC, Bureau of Labor Statistics, Department of Labor, Room 2021, GAO Building, Fourth and G Streets NW., Washington, D.C. 20212, phone: 202–523–1347.

Signed at Washington, D.C., this 4th day of December.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 84–32036 Filed 12–6–84; 8:45 am]

BILLING CODE 4510–24–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Boston Edison Company (Pilgrim Station); Request for Action Under 10 CFR 2.206 Regarding Equipment Qualification at the Pilgrim Station

Notice is hereby given that by his Petition/Request for Show Cause Order dated October 20, 1984 (Petition), Mr. John F. Doherty requests that the Director of Nuclear Reactor Regulation institute a proceeding pursuant to 10 CFR 2.202 to suspend or revoke the operating license for the Pilgrim Station of the Boston Edison Company (licensee) by serving the licensee with an order to show cause why the operating license should not be revoked or suspended due to hazardous conditions at the facility based on alleged deficiencies in the area of equipment qualification.

The Petition identifies 24 items where alleged deficiencies in equipment qualification exist. The items were developed after review of a Technical Evaluation Report for the Pilgrim Station performed by the Franklin Research Center and replies to that report by the licensee.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Local Public Document Room for the Pilgrim facility located at the Plymouth Public Library, North Street, Plymouth, Massachusetts.

Dated at Bethesda, Maryland, this 29th day of November 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–32003 Filed 12–6–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co; Big Rock Point Plant; Issuance of Director's Decision Under 10 CFR 2.206

By a petiton sent in the form of a "Motion for Show-Cause Order Regarding the Financial Qualifications of Consumers Power" dated August 15, 1984 to the Director of the Office of Nuclear Reactor Regulation of the Nuclear Regulatory Commission (the Commission) (NRC), Mr. John O'Neill, II requested that the NRC issue a show-cause order requiring Consumers Power Company (the licensee) to prove that the company is financially qualified to safely operate the Big Rock Point Plant with the expanded-capacity spent fuel storage pool. The petitioner expressed concern over the financial burden the cancellation of the Midland Plant may have placed on the licensee's ability to safely operate the Big Rock Point Plant. On September 28, 1984 a notice was published in the **Federal Register** (49 FR 38426) that the petition was being treated under 10 CFR 2.206.

Upon review of information pertaining to this issue and the information provided in Mr. O'Neill's petition, the Director of Nuclear Reactor Regulations has determined that no basis exists for issuing a show-cause order requiring the Consumers Power Company to prove that the company is financially qualified to safely operate the Big Rock Point Plant. Accordingly, the request of Mr. John O'Neill, II is denied. The reasons for this denial are explained in the "Director's Decison" under 10 CFR 2.206 (DD–84–25), which is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission 25 days after issuance unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 3rd day of December 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–32004 Filed 12–6–84; 8:45 am]

BILLING CODE 7590–01–M

University of Texas; Receipt of Application for Construction Permit and Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application from the University of Texas dated November 9, 1984, filed pursuant to section 104c of the Atomic Energy Act, as amended, for the necessary licenses to construct and operate a TRIGA nuclear reactor. The reactor is to be constructed for the University of Texas and will be located at the University of Texas Balcones Research Center in Austin, Texas. It is proposed for operation at a power level of 1 megawatt for eduational training and research.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Dated at Bethesda, Maryland, this 4th day of December 1984.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Section Leader, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 84–32005 Filed 12–6–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–281]

Virginia Electric and Power Company; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a relief from the requirements of ASME Code Section XI to the Virginia Electric and Power Company (the licensee), for the Surry Power Station, Unit No. 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action: This relief will permit the licensee to hydrotest certain weld repairs on main steam piping at a pressure less than that required in the ASME Code Section XI,

as incorporated into Commission regulation in 10 CFR 50.55a(g).

The relief is responsive to the licensee's application dated December 9, 1983 and supplemented by letter dated August 17, 1984.

The Need for the Proposed Action: The proposed relief is needed because hydrotest pressure required by the Code cannot be attained due to system lay-out and pump capabilities. The licensee's proposed hydrotest procedures would ensure that these weld repairs attained sufficient integrity for future service. The licensee supplemented the Code requirements with a surface examination of the area which confirmed the adequacy of the repair.

Environmental Impacts of the Proposed Action: The proposed relief will provide a degree of assurance of operability that is equivalent to that prescribed by the ASME Code. Consequently, the probability of the weld repair not retaining system pressure will not be increased and post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed relief.

With regard to potential non-radiological impacts, the proposed relief involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Surry Power Station, Unit No. 2.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has determined not to prepare an environmental impact statement for the proposed relief.

For further details with respect to this action, see the application for the relief dated December 9, 1983, and supplement dated August 17, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland, this 30th day of November 1984.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 84-32006 Filed 12-6-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Amendment to Prompt Payment Circular No. A-125, "Prompt Payment," Opportunity for Comment

AGENCY: Office of Management and Budget.

ACTION: Comment on proposed OMB Circular amendment.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed amendment to OMB Circular A-125, "Prompt Payment."

OMB Circular A-125 provides that agencies will make payments as close as possible to, but not later than, the due date specified in the contract. Where there is no due date in the contract, payment will be made 30 days after receipt of a proper invoice, or 30 days after the property or service is accepted by the Government. The Federal Acquisition Regulations permit agencies to deviate from this policy by using procedures such as "fast pay" to make payments to vendors based upon vendor assurance that goods have been shipped, rather than waiting for goods to be received. These procedures are necessary in unusual circumstances, such as when deliveries are made to remote locations or where the Government takes advantage of early payment discounts. However, these procedures should not be used for deliveries to depot stocks or in other instances where receipt and acceptance are routine.

Experience has shown that payments made without receiving reports are more subject to error than those made after the goods are received, inspected, and accepted. A recent Inspector General report disclosed that millions of dollars of material purchased and paid for by the Federal Government under "fast pay" procedures was not received. The auditors attributed these discrepancies to inadequate internal control over the award and administration of "fast pay" contracts.

The proposed changes to Circular A-125 permit payment without receiving reports only in limited circumstances.

Interested parties are invited to comment on this proposed change. Comments should be submitted to the Office of Management and Budget, Financial Management Division, Room 10235, Washington, D.C. 20503. All comments should be received within 45 days of this publication.

Issued in Washington, D.C., December 4, 1984.

Candice C. Bryant,

Deputy Associate Director for Administration.

[Circular A-125; Attachment 2]

Payment Standards

1. This attachment establishes standards for payment procedures to be used in certain circumstances where the general provisions in paragraph 6, "Payment Standards," of the basic Circular may be difficult to apply.

2. In limited situations payment may be made without evidence that supplies have been received. Instead, a vendor certification that supplies have been shipped may be used as a basis for authorizing payment.

3. These payment procedures may be employed only when:

a. Individual orders do not exceed $25,000.

b. Deliveries of supplies are to occur at remote locations outside of the ordering organization.

c. The delivery location and the lack of adequate communications facilities make it impractical to match receiving information with invoices in time to take advantage of discounts offered for early payment.

d. Title to the supplies will vest in the Government (1) upon delivery to a post office or common carrier for mailing or shipment to destination, or (2) upon receipt by the Government if the shipment is by means other than Postal Service or common carrier.

e. The supplier agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase requirements.

4. Agencies shall promptly inspect and accept supplies acquired under these procedures and shall ensure that receiving reports and payment documents are matched.

5. Agencies shall ensure that specific internal controls are in place to assure that supplies paid for are received.

6. This amendment is effective upon issuance.

[FR Doc. 84-31984 Filed 12-6-84; 8:45 am]
BILLING CODE 3110-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

State Agency Advisory Committee; Regular Meeting

AGENCY: State Agency Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Review of meeting between Council and Commissioners on Policy for Out-of-Region Sales.
- Discuss the need for additional analysis.
- Review of the DSI Interruptibility Issue Paper.
- Review of Costs of Delaying the Model Conservation Standards Issue Paper.
- Status of Inertie Upgrades.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its State Agency Advisory Committee.

DATE: Tuesday, December 11, 1984. 2:00 p.m.

ADDRESS: The meeting will be held at the Council Conference Room at 859 SW., Broadway; Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jim Litchfield, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-31988 Filed 12-6-84; 8:45 am]
BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23508; 70-7051]

Columbia Gas System, Inc., et al.; Proposed 1985 Intercompany Financing External Short-Term Financing and Money Pool Programs; Exception From Competitive Bidding

November 30, 1984.

In the matter of the Columbia Gas System, Inc., Columbia Gas System Service Corp., Columbia LNG Corp., Columbia Alaskan Gas Transmission Corp., Wilmington, Delaware, and Columbia Gas Transmission Corp., Big Marsh Oil Co., Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas Brokerage Corp., Charleston, West Virginia, and Columbia Gulf Transmission Co., Columbia Gas Development Corp., Houston, Texas, and Columbia Gas Development of Canada Ltd., Calgary, Alberta, Canada, and Commonwealth Gas Pipeline Corp., Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., Richmond, Virginia, and Columbia Hydrocarbon Corp., the Inland Gas Company, Inc., Columbia Coal Gasification Corp. Ashland, Kentucky.

The Columbia Gas System, Inc. ("Columbia" and "System", when referred to in connection with its subsidiaries), a registered holding company, and its subsidiaries ("Subsidiaries") above, have proposed a transaction to this Commission pursuant to sections 6, 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 43, 45 and 50(a)(5) thereunder.

The proposal involves the System's 1985 Intercompany Financing, External Short-Term Financing and Money Pool Programs. The Intercompany Financing Program is intended to meet the long and short-term financing requirements of the subsidiaries. The System's long-term needs for capital expenditures are estimated to be $349,262,000. Of that amount $249,762,000 has been approved by prior Commission orders, or will be financed with internally generated funds. Authorization is sought to finance up to $99,500,000 to be financed through the sale to Columbia, by December 31, 1985, of unsecured installment promissory notes ("Notes") and/or common stock. Columbia Kentucky will issue $800 of common stock. The Notes will be issued by the Subsidiaries in the following amounts in millions aggregating $98,700,000. Columbia Kentucky—$1,900; Columbia Ohio—$11,200; Columbia Maryland—$600; Columbia New York—$2,000; Columbia Pennsylvania—$5,800; Columbia Virginia—$1,000; Columbia Transmission—$55,000; Development Canada—$18,100; Commonwealth Propane—$800; Commonwealth Services—$1,500; Service—$800. The interest rate will equal Columbia's cost of money on its most recent sale of long-term debt or preferred stock. The Notes are payable in 15 equal annual installments on January 31 from 1987 through 2001, except for interest on Development Canada Notes, which will be paid to the extent that they reduce U.S. consolidated income tax liability.

The Subsidiaries short-term requirements are estimated to be $946,300,000, to be funded first from the Intrasystem Money Pool, and then from borrowings from Columbia funded by Commission approved sales of commercial paper. Advances are limited as follows, in millions: Columbia Kentucky—$40,000; Columbia Ohio—$300,000; Columbia Maryland—$2,800; Columbia New York—$11,500; Columbia Pennsylvania—$74,500; Columbia Virginia—$11,000; Columbia Transmission—$450,000; Development—$10,000; Development Canada—$3,900; Commonwealth Propane—$2,500; Commonwealth Services—$7,600; Commonwealth Pipeline—$14,000; Hydrocarbon—$5,500; Inland —$5,000; Coal Gasification—$5,000; Service—$3,000. The funds will be advanced, repaid and reborrowed as needed for periods not exceeding one year. The cost to the subsidiaries on all advances will be the composite weighted average daily cost or yield to Columbia for its external short-term money market transactions or *The Wall Street Journal's* daily 30-day commercial paper note rate. The Money Pool will be operated through 1985 as last ordered by this Commission. (HCAR No. 23188, December 29, 1983).

Columbia's 1985 External Short-Term Financing Program will involve either commercial paper or bank loans not exceeding $525 million or 27% of secured debt, extending and reducing the exemption from 6(a) of the Act as provided by 6(b). Columbia proposes to issue and sell commercial paper in the form of unsecured notes to one or more commercial paper dealers with a right to repurchase and resell, and continue to do so as long as the effective rate on such commercial paper is less than the effective interest cost on bank borrowings, except that, in order to obtain greater flexibility, commercial paper may be issued with an effective interest cost in excess of the effective interest cost on bank borrowings if the paper has a maturity of not more than 60 days from the date of issue. Commercial paper will be issued in denominations of not less than $50,000 nor more than $5 million, and will be reoffered by the dealer(s) in non-public offerings. The commercial paper will be sold to the dealer(s) at the then prevailing discount rate for similar commercial paper, and will not be prepayable. The dealer(s) may reoffer the paper at a discount rate of up to ⅛ of 1% per annum less than the rate borne by Columbia as issuer.

Columbia currently has $525 million of confirmed bank lines of credit, and intends to maintain that amount (HCAR No. 23188, December 29, 1983). In no event will the proposed commercial

paper and/or short-term bank borrowings exceed an aggregate amount at any one time outstanding of $525 million. Any borrowings under these lines of credit will be repaid within nine months from the date of issuance of the respective notes. Columbia will have the right to prepay bank borrowings, in whole or in part, without penalty. Bank borrowings will result in borrowing costs not more than the prime rate, in effect from time to time at each lending bank, adjusted for the effect of compensating balances or fees in lieu thereof. Assuming a fee of ¼% in lieu of compensating balances, and prime rate of 12%, the effective cost would be 12¼%.

The proposal and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31956 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23503; 70-7056]

Consolidated Natural Gas Co.; et al.; Proposal for the Temporary Prepayment by Subsidiary Companies of Long-Term Notes Owned by the Parent Company

November 30, 1984.

In the matter of Consolidated Natural Gas Co., 100 Broadway, New York, New York 10005, and Consolidated System LNG Co., Consolidated Gas Transmission Corp., Hope Gas, Inc. 445 West Main Street, Clarksburg, West Virginia 26301, and CNG Producing Co., Suite 3100, One Canal Place, New Orleans, Louisiana 70130, and The East Ohio Gas Co., the River Gas Co. 1717 East Ninth Street, Cleveland, Ohio 44114, and The Peoples Natural Gas Co., Two Gateway Center, Pittsburgh, Pennsylvania 15222, and West Ohio Gas Co., 504 Colonial Building, Lima, Ohio 54802.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiary companies, Consolidated System LNG Company, CNG Producing Company, Consolidated Gas Transmission Corporation, Hope Gas, Inc., The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, and West Ohio Gas Company ("Subsidiary Companies"), have proposed a transaction subject to sections 6, 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 and Rules 42(b)(2), 45, and 50(a)(3) thereunder.

The Subsidiary Companies propose to prepay temporarily, from time to time prior to December 31, 1986, from excess cash funds, an amount not to exceed the aggregate amounts of their outstanding long-term nonnegotiable notes held by Consolidated, or, with respect to state regulated companies, the amount authorized by their respective state regulatory commission having jurisdiction. The long-term notes temporarily prepaid by an individual subsidiary will be those bearing the highest interest rate outstanding at the time of each prepayment. Prepayments will be evidenced by letter, and the notes will not be altered. Interest on such notes will cease upon prepayment and start again upon reinstatement. As funds are thereafter required by such subsidiary for corporate purposes, including construction, it is proposed that advances be made on open account to the subsidiary by Consolidated in an aggregate amount not to exceed the amount of long-term notes previously prepaid, less any current maturities applicable to notes which have matured subsequent to the prepayment dates.

The open account advances will bear interest during 1985 and 1986 at the same rate or rates as borne by the equivalent principal amount of the notes previously prepaid by such subsidiary but in reverse order to that of the prepayments, i.e., from the lowest rate on the notes previously prepaid to the highest rate. Interest on the open account advances will commence on the date of the advance and will become due on June 30 and December 31, of each year, and/or on the date such advances are repaid by the reinstatement of the prepaid notes.

It is proposed that open account advances to a subsidiary be increased or decreased from time to time in accordance with variations in the cash flow of the subsidiary. However, at no time will the advances outstanding be in excess of the notes prepaid.

At such time as the open account advances equal the aggregate amount of the prepaid notes, or in any event not later than December 31, 1986, the notes prepaid by a subsidiary will be reinstated in repayment of the related outstanding open account advances made to the subsidiary by Consolidated. However, if the aggregate of the notes prepaid exceeds such advances at the end of 1986, Consolidated proposes to make cash repayment of the differences in order to effect reinstatement of the prepaid notes in full.

No financing of any subsidiary which may be presently or subsequently authorized by this Commission in connection with the construction or gas storage programs of any such subsidiary will be consummated until such time as advances have been made in amount equal to the amount of notes prepaid.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31956 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14263; 812—5956]

Deutsche Bank AG, Deutsche Bank Financial Inc; Application for Order Exempting Applicants

November 30, 1984.

Notice is hereby given that Deutsche Bank AG (the "Bank"), a West German bank, and Deutsche Bank Financial Inc. ("DBFI"), a Delaware corporation ("Applicants"), c/o Barry L. Dastin, Esquire, White & Case, 1155 Avenue of the Americas, New York, New York, 10036, filed an application on October 4,

1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Bank was formed to conduct banking business of all kinds but especially to promote and facilitate trade relations with other European countries and overseas markets. Applicants state that the Bank is the largest privately owned bank in the Federal Republic of Germany. Applicants state further that, on December 31, 1983, the Bank had total assets of $43,242,734,000. According to the application, the Bank is extensively regulated by the Federal Republic of Germany. Regulatory supervision is exercised by the Federal Banking Supervisory Office in Berlin, which is an independent federal office directly subordinated to the Federal Ministry of Finance given regulatory authority under the Banking Act of 1961, as amended. The Bank proposes to issue commercial paper in the United States directly and/or obtain loans from the issuance of commercial paper by DBFI.

Applicants state that DBFI's sole business will consist of issuing and selling its commercial paper notes and loaning the net proceeds of sale thereof to the Bank (the "Loans"). Applicants state that all of DBFI's outstanding capital stock, when issued, will be owned by the Bank. DBFI represents that there has been and, in the future, there will be, no public offering of DBFI's capital stock or of any other equity security of DBFI. Applicants state further that substantially all of DBFI's assets will consist of DBFI's right to receive repayments from the Bank of indebtedness of the Bank arising by reason of the Loans. Applicants intend to limit the commercial paper program of the Bank and DBFI to a maximum face amount of commercial paper notes (the "Notes") outstanding of $750,000,000. DBFI will issue and sell commercial paper because certain institutional purchasers of commercial paper in the United States may have a policy of limiting their purchases of debt obligations to those of domestic issuers.

The Notes will be issued in minimum denominations of $100,000 and the other terms, including maturity and manner of offering, will be such as to qualify the Notes for the exemption from registration under the Securities Act of 1933 (the "1933 Act") provided by section 3(a)(3) or section 4(2) thereof. Accordingly, neither DBFI nor the Bank will be required to register the Notes under the 1933 Act. Neither DBFI nor the Bank will issue and sell Notes until having received an opinion of special United States counsel that, under the circumstances of the proposed offering, the Notes would be entitled to such exemption. The Bank does not request Commission review or approval of counsel's opinion regarding the availability of an exemption under section 3(a)(3) or section 4(2) of the 1933 Act. It is stated that neither the Bank nor DBFI is subject to the reporting requirements of the Securities Exchange Act of 1934 and neither will become subject to such requirements in connection with the issuance and sale of the Notes.

Applicants represent that, prior to issuance, the Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that their United States counsel will have certified that such rating has been received, provided, however, that no such rating will be required if in the opinion of United States counsel for Applicants, such counsel having considered for the purpose thereof the doctrine of "integration" referred to in Rule 502 under the 1933 Act, and various releases and no-action letters made public by the Commission, and exemption from registration is available respecting such issue under section 4(2) of the 1933 Act.

The Notes will be issued and sold by Applicants either directly or through one or more commercial paper dealers in the United States. The Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors and other entities and individuals who normally purchase commercial paper. Applicants undertake to ensure that there will be provided to each offeree who has indicated an interest in Applicant's securities, prior to any sale of Notes to such offeree, a memorandum which (1) describes the business of the Bank together with, in the case of Notes issued by DBFI, the business of DBFI, (2) contains the most recent publicly available fiscal year-end balance sheet and income statement of the Bank, audited in the manner customary for German banks, and (3) describes the material differences, if any, between the accounting principles applied by the Bank in the preparation of such financial statements and generally accepted accounting principles applied by banks in the United States. The memorandum will be at least as comprehensive as those customarily used in commercial paper offerings in the United States, and such memorandum will be updated periodically to reflect material changes in the Bank's financial status to the extent not previously reflected in the memorandum or financial statements.

If DBFI issues Notes, the Bank will support the Notes by means of an unconditional guarantee or unconditional, irrevocable letter of credit. Applicants state that the Bank's obligations in respect of its direct liability to holders of Notes and its liabilities to DBFI will rank *pari passu* with all deposit liabilities and other unsecured, unsubordinated indebtedness of the Bank and superior to any subordinated indebtedness of the Bank and to claims of holders of the Bank's capital stock.

Applicants state that the Bank will expressly accept the jurisdiction of any State or Federal court in the City of New York, and will authorize any agent in the City of New York to accept service of process, in any action based upon (1) the Notes issued or guaranteed by the Bank or (2) the Bank's obligations to DBFI. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicants.

Applicants may, from time to time, offer debt securities other than the Notes for sale in the United States. The proceeds of any such debt securities would, in the case of debt securities of DBFI, be loaned or advanced to the Bank. Applicants state that the obligations of DBFI in respect of any such debt securities issued by DBFI will be supported by the Bank's unconditional guarantee or unconditional, irrevocable letter of credit. Applicants undertake that, prior to issuance, any future issue of the Bank's or DBFI's debt securities other than the Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicants' United States counsel will have certified that such rating was received. However, no such rating will be required respecting debt securities other than the Notes if, in the opinion of United States counsel to Applicants, such counsel having taken into account for the purpose thereof the doctrine of "integration" referred to in Rule 502 under the 1933 Act and various releases and no-action letters made public by the Commission, an exemption

from registration is available for the issue under section 4(2) of the 1933 Act.

Applicants undertake that neither of them will issue or sell in the future any of their debt securities in the United States without having received an opinion of United States counsel or a "no-action" letter issued by the staff of the Commission to the effect that the proposed offering is in compliance with, or entitled to exemption from, the registration requirements of the 1933 Act. Applicants also undertake that any such future offering will be affected on the basis of disclosure documents appropriate for such registration or exemption. Applicants represent that such disclosure documents will not be less comprehensive than is customary for United States offerings of similar debt securities. Applicants undertake to ensure that such disclosure documents will be provided to each offeree indicating an interest in the Bank's or DBFI's securities then being offered, prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act. Applicants consent to any order granting the relief requested being conditioned upon Applicants' compliance with the foregoing undertaking regarding disclosure documents.

Applicants state that the Bank will, in connection with any future offering of its debt securities in the United States and in connection with any future offering of DBFI's debt securities in the United States, appoint an agent to accept service of process in any suit, action or proceeding brought against the Bank on its obligation under its guarantee of DBFI's debt securities. Applicants will expressly consent to the jurisdiction of any State or Federal court located in the City and State of New York respecting any such suit, action or proceeding. Such appointment of an agent for service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due respecting such issuance of debt securities have been paid.

According to the application, Applicants are not the types of entities intended to be regulated by the Act and would be precluded from selling securities in the United States were they required to register as investment companies and comply with the Act. Applicants state that the rationale for exempting the Bank applies equally to DBFI because of Applicants' close relationship and because the obligations of DBFI will in effect be obligations of the Bank, since DBFI's sole business is financing the operations of the Bank.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 26, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant ot delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31957 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23505-70-7062-31-805]

Inter-City Gas Corp., et al., Application To Acquire Public Utility Companies and Request for Exemption

November 30, 1984.

In the matter of Inter-City Gas Corp., Suite 1800, 444 St. Mary Avenue, Winnipeg, Manitoba, Canada, and Northern and Central Gas Corp., Ltd. 246 Yorkland Boulevard, North York, Ontario, Canada, and Greater Winnipeg Gas Co., 265 Notre Dame Avenue, Winnipeg, Manitoba, Canada, and Le Gaz Provincial du Nord de Quebec, Ltee., 245 Yorkland Boulevard, North York, Ontario, Canada.

Inter-City Gas Company ("Inter-City"), an exempt holding company, and Northern and Central Gas Corporation Limited ("N&C") and its subsidiaries Greater Winnipeg Gas Company ("Greater Winnipeg") and Le Gaz Provincial du Nord de Quebec Ltee. ("Le Gaz"), have filed a joint application with this Commission pursuant to section 3(b), 9(a)(2) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 10 and 11(a) promulgated thereunder.

Inter-City, a Canadian corporation, is a "gas utility company", as defined in section 2(a)(4) of the Act. It distributes natural gas, at retail, in 39 Northern Minnesota communities and throughout Canada. In addition, it is a "holding company" pursuant to section 2(a)(7) of the Act because it owns wholly and/or in part directly and indirectly subsidiaries engaged in the retail distribution of natural gas in Canada. Inter-City is also engaged in, *inter alia*, the exploration, development and production of crude oil, natural gas and natural gas liquids and the operation of a natural gas processing plant; the distribution of propane, gasoline and related products and the manufacture and distribution of industrial gases; the transmission of natural gas; the distribution of electricity; and the manufacture and distribution of heating and air conditioning equipment and related products and the fabrication of large diameter and corrugated steel pipe. For the year ended December 31, 1983, Inter-City reported consolidated operating revenues of $657,150,00, of which $202,611,000 were derived from its natural gas, electricity and pipeline operations. At that date, Inter-City reported consolidated assets of $814,491,000.

By order dated July 22, 1967 (HCAR No. 16121) the Commission granted an application by Inter-City Gas Utilities Ltd., a wholly-owned public utility subsidiary of Inter-City, for an exemption from all provisions of the Act pursuant to section 3(b). By order dated December 8, 1977 (HCAR No. 20306), the Commission granted a similar Section 3(b) application by Inter-City and six public utility subsidiaries of Canadian Hydrocarbons Limited, which Inter-City acquired between 1976 and 1978.

As of October 30, 1984, Inter-City and its subsidiaries, ICG Resources, Ltd. ("Resources") and Vigas Propane, Ltd. ("Vigas") entered into an agreement ("Acquisition Agreement") under which they will acquire from Norcen Energy Resources Limited ("Norcen") all of the issued and outstanding common shares of N&C. N&C in turn owns all of the outstanding common stock of Le Gaz and 99.8% of the outstanding common stock of Greater Winnipeg. N&C, Le Gaz and Greater Winnipeg are gas utility companies for purposes of the Act. In its current application, Inter-City seeks approval pursuant to section 9(a)(2) and 10 of the Act with respect to its direct and indirect purchase of the securities of N&C, Le Gaz, and Greater Winnipeg, while N&C Le Gaz and Greater Winnipeg seek exemptions from regulation under the Act pursuant to section 3(b). If such approval and exemptions are granted, then Inter-City and all intermediate holding companies will be exempt from the Act pursuant to Rule 10.

N&C, Le Gaz and Greater Winnipeg are all Canadian corporations. N&C is engaged directly, and indirectly, in the distribution of natural gas to residential, commercial, and industrial customers in certain areas of Ontario, Quebec, and Manitoba. In addition to Greater Winnipeg, which distributes natural gas, N&C has two wholly-owned subsidiaries engaged in the transmission and distribution of natural gas: Le Gaz and Champion Pipe Line Corporation. At September 30, 1984, retail gas distribution customers totaled 304,424 and for the twelve months ending that date, 154,218 mmcf of natural gas had been sold with gas revenues in the amount of $724,031,000. At December 31, 1983, their net utility plant and for the twelve months ending December 31, 1983, their gross utility revenues, were as follows:

	Net plant	Gross revenues
N&C (minus Le Gaz & Greater Winnipeg)	$238,732	$496,863
Greater Winnipeg	104,727	219,094
Le Gaz	5,253	13,930
Total	$348,712	$729,887

Le Gaz has no U.S. common shareholders while Greater Winnipeg has 86 such shareholders. N&C has only one common shareholder, which is Norcen. N&C does have outstanding three series of preference shares of which there are 4 U.S. shareholders of the first series and 1 of the second series.

Pursuant to the Acquisition Agreement, Inter-City and Resources will each acquire 48% of N&C while Vigas will acquire the remaining 4%. The purchase price will be $240 million, of which $163 million will be paid in cash and the remaining $77 million will be paid by the issuance of 8% First Preferred Share Series A ("Series A Shares") of Inter-City. The Series A Shares will pay a quarterly 8% dividend, rank on a parity with other First Preferred Shares and be redeemed pursuant to a sinking fund over the 8 year period beginning in 1988. If Inter-City should fail to timely pay a dividend or meet a sinking fund obligation, Norcen will have the right to require Inter-City to redeem all or any part of Series A Shares. N&C will pay its normal $.25 quarterly dividend on November 30, 1984, subject to adjustment upward and downward depending upon whether its retained earnings as of December 31, 1984 are above or below a certain amount calculated in accordance with the Acquisition Agreement. In addition, a demand 7.6% promissory note of Norcen in the amount of $47.3 million payable to N&C will be restructured to call for payment in annual installments between 1988 and 1999. Closing is expected to take place no later than December 31, 1984.

Inter-City states that U.S. shareholder interest in N&C, Le Gaz and Greater Winnipeg is extremely limited, both in terms of number of U.S. holders and the number of shares held and that there is no known trading activity in their shares in the U.S. Also that none of them derive any material part of its income directly or indirectly from sources within the U.S. and none of them are public utility companies operating in the U.S. Based upon the foregoing it is contended that it is not necessary in the public interest or for the protection of investors to subject the applicants to the Act and an order under section 3(b) exempting them from all of the provisions of the Act should be granted.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 24, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31958 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23507; 70-7046]

National Fuel Gas Co. and Seneca Resources Corp.; Proposal To Issue and Sell Common Stock

November 30, 1984.

National Fuel Gas Company ("National"), 30 Rockfeller Plaza, New York, New York, 10112, a registered holding company, and its subsidiary, Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo New York, 14203, have proposed a transaction to this Commission pursuant to section 6(a), 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 thereunder.

National proposes to issue and sell prior to December 31, 1986, in one or more transactions pursuant to Rule 415 under the Securities Act of 1933, at competitive bidding, an aggregate of not to exceed 2,000,000 authorized but unissued shares of its Common Stock, no par value ("Common Stock"). Alternatively, National will attempt to issue and sell all or a portion of the Common Stock through a continuous offering shelf registration program.

In the event that National issues and sells all or a portion of the Common Stock through a continuous offering shelf registration program, National proposes to enter into one or more Sales Agency Agreements with one or more investment bankers ("Agent") under which the Agent will act as National's exclusive agent for the purposes of offering and selling the Common Stock in the usual course of business at market value, or at a fixed price with National's and this Commission's approval.

The proceeds of the issuance will be contributed to the capital of Seneca for the purpose of reducing borrowings from Seneca's credit lines. (HCAR No. 23427, September 20, 1984).

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case or an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31959 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23511; 70-7055]

New England Energy Inc.; Proposal To Amend Oil and Gas Exploration and Development Partnership Agreement and To Invest in Oil and Gas Exploration

December 3, 1984.

New England Energy Incorporated ("NEEI"), a fuel supply subsidiary of New England Electric System ("NEES"), a registered holding company, 25 Research Drive, Westborough, Massachusetts, 01581, has filed a proposal with this Commission pursuant to section 9 and 10 of the Public Utility Holding Company Act of 1935 ("Act").

NEEI participates in ventures for exploration, development and production of oil and gas, the conversion of such production, and the sale of fuel oil to its affiliate, New England Power Company ("NEP"). Since 1974, NEEI has participated in most of its oil and gas exploration and development through its partnership ("Partnership") with Samedan Oil Corporation ("Samedan"), a subsidiary of Noble Affiliates, Inc.

NEEI had invested about $625 million in oil and gas exploration and development through September 30, 1984. NEEI's share of the total proved and probable reserves discovered by its oil and gas ventures through that date was 29.5 million equivalent barrels. Costs associated with these reserves including capital costs and costs associated with production, totalled about $697 million. NEEI production and revenue through September 30, 1984 were about 8.6 million equivalent barrels and about $176 million, respectively. This production has resulted in about $9 million of savings in fuel costs for customers of the NEES system. NEEI estimates that its 1985 production will be about 3.1 million equivalent barrels. NEEI currently has before the Commission an application requesting authority to amend the terms upon which it sells fuel to NEP (File No. 70-6958).

Under the terms of the NEEI-Samedan Partnership Agreement ("Partnership Agreement"), each partner owns a 50% interest in Partnership property. Samedan normally places into the Partnership 100% of any and all interests which it or any of its affiliates may acquire in new oil and gas leases. Subject to certain conditions, NEEI may elect to reduce this percentage for any calendar year. NEEI did elect to reduce the percentage to 80% for prospects initiated in 1984, giving NEEI a 40% interest.

The Partnership Agreement provides for capital contributions by the partners to be used to pay the costs and expenses of the Partnership. NEEI pays a disproportionate share of the costs of exploration to compensate Samedan for its accumulated geological and geophysical work in evaluating prospects, as well as for management and expertise in running the Partnership as managing partner. The partners share equally the development and production costs for successful prospects. The Partnership Agreement assigns to Samedan, as managing partner, responsibility for selecting new prospects. The current five-year term of the Partnership Agreement expires on December 31, 1984.

NEEI proposes to enter into an Amended and Restated Partnership Agreement ("New Agreement"). The current agreement provides that, upon termination of the Partnership, each of the partners receives a 50% interest in each of the partnership properties. NEEI would then be an independent participant in each property and would be responsible for looking after its own interest on each of its properties. There are a large number of properties in the Partnership, and NEEI states it lacks in-house expertise in oil and gas operations. Therefore, the New Agreement provides for two phases of the Partnership—Phase I and Phase II. During Phase I, NEEI participates in existing prospects and new prospect initiated by Samedan—essentially the way the Partnership operates now. Phase II would come into effect when NEEI elects not to participate in any further new prospects with Samedan. During Phase II, the New Agreement will provide for Samedan to manage the Partnership's affairs on all existing prospects, but will not add any new prospects to the Partnership. Samedan will be committed to manage existing Partnership properties for at least five years following the termination of Phase I. Thereafter, Samedan may terminate upon one year's notice. As compensation for this management, NEEI will continue to pay a disproportionate share of exploration costs for the first three years of Phase II, and will pay a management fee based upon total Partnership expenditures thereafter. NEEI will have the option to terminate the Partnership in its entirety, including both Phase I (if not previously terminated) and Phase II, upon sixty days' notice at the end of any calendar year. NEEI would than have to take over management of its own interests.

The New Agreement provides that Phase I of the Partnersip, during which Samedan would put new prospects in the Partnership, would be extended to December 31, 1985. Thereafter, NEEI would be able to renew Phase I from year to year upon sixty days' notice at the end of any calendar year (unless Samedan desires to terminate), subject to prior approval of this Commission. Whenever Phase I is terminated, Phase II takes over.

To assure that NEEI may take its full share of tax deductions generated by the Partnership the New Agreement modifies the tax provisions of the Partnership Agreement.

The New Agreement spells out Samedan responsibility as managing partner, giving them responsibility for initiation of prospects, exploration and development of those prospects, and marketing of production. NEEI will retain: (1) The ability to remove certain prospects from the Partnership, to be exercised when, for financial or other reasons, NEEI wishes to take over management from Samedan of its share in any such prospect; (2) the ability to take and market its own share of production; (3) the ability to reduce the Partnership's participation in new prospects initiated by Samedan from the maximum 100% level. NEEI may not reduce the Partnership's participation below the 50% level without terminating Phase I and going into Phase II.

For 1985, NEEI requests authority to elect to have the Partnership participate at a 50% level (thus giving NEEI a 25% interest) in prospects initiated by Samedan in 1985. Based on projected exploration and development activities, NEEI estimates, that assuming a 50% Partnership participation level in 1985 prospects (25% for NEEI), its share of Partnership expenses for exploration purposes will be approximately $45 million in 1985 (of which no more than $25 million relates to prospects to be initiated in 1985). NEEI estimates, on the basis of Samedan projections, that its share of expenses for development of successful prospects will be approximately $85 million. In order to provide for contingencies, such as unanticipated development opportunities, NEEI requests authority to invest up to a total of $150 million in the Partnership in 1985. NEEI's total expenditures for 1984 are estimated to be approximately $125 million.

NEEI proposes to finance its investment in the Partnership through: an increase in authorized bank loans (to be the subject of a future application); deferred taxes; additional investment by NEES of up to $50 million (pending File No. 70-6958); and amortization of its investment through the pricing policy authorized by Commission order dated July 19, 1978 (HCAR No. 20632).

The proposal and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31960 Filed 12-6-84; 8:45am]

BILLING CODE 8010-01-M

[Release No. 23506, 70-7036]

Southwestern Electric Power Co.; Proposed Sale of Three Gas Turbines

November 30, 1984.

Southwestern Electric Power Company ("SWEPCO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, P.O. Box 1106, Shreveport, Louisiana, 71156; has filed a proposal with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

SWEPCO is currently the owner of three gas turbines maintained on a standby basis at SWEPCO's Lone Star Plant in Lone Star, Texas. These turbines are Westinghouse Model W191G, with rated generating capacity of 16,470 kilowatts each using natural gas and 16,070 kilowatts each using distillate oil. SWEPCO purchased the three turbines in 1968 for $4,397,121.47, excluding the cost for installation. Depreciated book value of the turbines as of September 30, 1984, was $1,317,570.

SWEPCO has determined that these turbines are not necessary for the operation of the Lone Star Plant, and they are not presently in operation. Nevertheless, these turbines require substantial continuing maintenance expenditures. Therefore, SWEPCO desires to sell these turbines and is seeking interested non-affiliated buyers.

SWEPCO currently plans to sell any or all of the turbines at a price in cash approximating $500,000 each. This sale price, which is relatively close to the current book value of such units, is based on SWEPCO's review of current market valuations for other comparable equipment. At the time of the proposed sale, market conditions may reflect a higher or lower value of such equipment. If such is the case, SWEPCO will sell the turbines at some higher or lower negotiated price. In no case, however, would the sale be made at a materially lower price without further authorization of this Commission. The terms of the sale will be "as is", "where is", and no warranties will be made. The purchaser will be responsible for the removal and shipment of the Turbines.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 26, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-31961 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23512; (70-7052)]

System Fuels, Inc., et al.; Proposal by Fuel Procurement Subsidiary To Make Borrowings From Its Public-Utility Parent Companies for Its Fuel Supply Programs

December 4, 1984.

In the matter of Systems Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Lousisiana 70130; Arkansas Power & Light Co., First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Co., 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Co., Electric Building, Jackson, Mississippi 39205; and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Systems Fuels, Inc. ("SFI"), a fuel procurement subsidiary of Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L"), and New Orleans Public Service Inc. ("NOPSI") (collectively the "Operating Companies"), each a subsidiary of Middle South Utilities, Inc., a registered holding company, and the Operating Companies have filed a proposal with this Commission pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50, 90, and 91 promulgated thereunder.

SFI intends to enter into a new loan agreement with the Operating Companies providing for borrowings in 1985 not to exceed $120 million from the Operating Companies to be used to finance, in part, transactions entered into by SFI in the ordinary course of its fuel business during the period January 1, 1985, through December 31, 1985. In accordance therewith, SFI proposes to issue during 1985, to the Operating Companies, its notes maturing on December 31, 2010, in an aggregate amount not to exceed $105,900,000, and the amount outstanding at December 31, 1984 under the 1984 Loan Agreement. Currently this is estimated to be $14,100,000 which will be converted into loans under the 1985 Loan Agreement. Such borrowings would be in addition to the $10 million of outstanding borrowings authorized in File Nos. 70-5415 and 70-5951 and $98 million of outstanding borrowings authorized in File No. 70-6097. The commitment of each Operating Company is as follows: AP&L—$39,459,000, LP&L—$51,741,000, MP&L—$18,000,000, NOPSI—$10,800,000.

Each Operating Company's commitment is equal to the same proportion of the total commitments as its kilowatt-hour sales for the twelve months ended September 30, 1984, bear to the total kilowatt-hour sales of the Operating Companies for that period. Each note will bear interest on the unpaid principal balance thereof, adjustable monthly on the first day of each month, at an annual rate for such month equal to the annual rate of interest borne on the 1st day of the preceding month by the short-term bank borrowings of the Operating Company to which such note shall have been issued. If such Operating Company shall not have any short-term bank borrowings outstanding, the prime commercial rate shall apply. The notes will be prepayable at any time in any amount without premium or penalty. Each prepayment on account of the

unpaid principal balance of the notes will be made by SFI to the Operating Companies pro rata in accordance with their respective percentage shares of the commitments. The rights and obligations of the parties under the loan agreement will be subject to certain restrictions relating principally to the payment or prepayment by SFI of its indebtedness to the Operating Companies during the terms of certain other agreements.

SFI also requests that the following authorization be extended during 1985: (1) That the Operating Companies, in connection with transactions in the ordinary course of SFI's business and not involving the issuance of a security, assure any party contracting with SFI that the Operating Companies will, in accordance their respective shares of ownership of the common stock of SFI, take such actions as may be appropriate from time to time to keep SFI in a sound financial condition so that it may discharge its obligations under the particular contract; and (2) To have personnel employed by the other companies in the system perform services to SFI at cost where it is more economical and efficient to do so.

It is requested that the companies be authorized to file certificaties under Rule 24 with respect to the proposed transactions on a quarterly basis.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-32035 Filed 12-6-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 924]

State Department Performance Review Board Members

In accordance with section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register and in so doing amends accordingly Department of State Public Notice No. 703 45 6877-6878 (January 30, 1980), effective December 3, 1984.

Barry J. Kefauver, Executive Director, OES/EX;

Mary Beth West, Assistant Legal Adviser, L/EUR;

C. Thomas Thorne, Deputy Assistant Secretary, INR/AA.

Dated: December 1, 1984.

Alfred L. Atherton, Jr.,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 84-32006 Filed 12-6-84; 8:45 am]

BILLING CODE 4710-15-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB Nov. 8-Nov. 29, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation, during the period Nov. 8-Nov. 29, 1984, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 426-1887, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set fort in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **FOR FURTHER INFORMATION CONTACT** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **FOR FURTHER INFORMATION CONTACT** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Nov. 8-Nov. 29, 1984:

DOT No: 2517
OMB No: 2115-0504
By: U.S. Coast Guard
Title: Tank Vessel Examination Letter (CG-840s-1 and -2), Certificate of Compliance, Boiler/pv repairs, Cargo Gear Records and Shipping Papers
Forms: CG-840s-1, CG-840s-2
Frequency: On occasion
Respondents: Owners/operators of large merchant vessels and all foreign-flag tankers calling on U.S. ports
Need/Use: This information collection is needed to enable the Coast Guard to fulfill its responsibilities for maritime safety under Title 46, United States Code. If these requirements were no longer permitted, many items critical to the safety of personnel, their vessels and out ports, as well as the marine environment, would be jeopardized

DOT No: 2518
OMB No: 2120–0042
By: Federal Aviation Administration
Title: Aircraft Registration
Forms: AC 8050–1, 8050–2, 8050–4, 8050–81, 8050–117
Frequency: On occasion
Respondents: All Aircraft Owners
Need/Use: The registration system provides identification of all civil aircraft in the United States. The registration record also provides evidence of ownership which may be used in court if there is a controversy over ownership. The affected public is any aircraft owner (individual or business). Note: Combines 2120–0042 and 2120–0029

DOT No: 2519
OMB No: 2125–0039
By: Federal Highway Administration
Title: Planning Program Performance Report
Forms: None
Frequency: Quarterly
Respondents: State highway agencies
Need/Use: For the Federal Highway Administration to monitor progress made by States toward achieving the planned goals on highway programs

DOT No: 2520
OMB No: 2137–0047
By: Materials Transportation Bureau
Title: Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting (combined 2137–0031 and 0047).
Forms: Liquid Pipeline Accident Report, DOT Form 7000–1
Frequency: On occasion
Respondents: Operators of interstate and certain intrastate pipelines transporting petroleum, anhydrous ammonia, etc.
Need/Use: The form is used to accumulate data on the frequency and cause of accidents and to determine the need for new or amended safety standards. The records are kept to assure compliance with safety standards and are used to investigate accidents involving spills or explosions.

DOT No: 2521
OMB No: 2115–0518
By: U.S. Coast Guard
Title: Requirements for the Installation and Use of Discharge Monitoring Equipment on Tank Vessels and the Retention of Discharge Data (33 CFR Part 157)
Forms: None
Frequency: On occasion
Respondents: Tanker owners and operators
Need/Use: This information collection requirement is needed to determine if a vessel's construction, arrangement and equipment meet the regulatory requirements for oil discharge and monitoring

DOT No: 2522
OMB No: 2115–0012
By: U.S. Coast Guard
Title: Application for Appointment as Cadet, U.S. Coast Guard Academy
Forms: CG–4151, CGAD–618, CGAD–634, CGAD–635
Frequency: On occasion
Respondents: Applicants are men and women between 18 and 22 years of age with university preparatory qualifications.
Need/Use: The Academy application forms permit qualified individuals, from the public at large, an opportunity to compete for a Cadet appointment ot the USCG Academy

DOT No: 2523
OMB No: 2115–0015
By: U.S. Coast Guard
Title: Masters Report of Seamen Shipped or Discharged
Forms: CG–735T
Frequency: On occasion
Respondents: Merchant Vessel operators
Need/Use: This information collection requirement is needed to ensure that the master of a vessel engaged on a foreign or intercoastal voyage comply with the various safety standards. The Coast Guard also uses this information to ensure accuracy of employment records submitted on the Certificates of Discharge

DOT No: 2524
OMB No: New
By: U.S. Coast Guard
Title: Sailing School Vessel Regulations
Forms: None
Frequency: On occasion
Respondents: Owners/operators of sailing school vessels
Need/Use: This requirement allows the Coast Guard to properly administer and enforce the new sailing school inspection program. The Coast Guard needs this information collection to: (1) Determine if a vessel meets the conditions to be classified as a sailing school vessel; (2) ensure that the owner or charterer has adequate financial resources to protect persons on board the vessel; (3) ensure that the respondents meet the tax-exempt law; (4) ensure that individuals understand that they are in a training atmosphere and are expected to assist in the operation of the vessel; and (5) ensure the safety of the vessel and all persons on board

DOT No: 2525
OMB No: 2125–0506
By: Federal Highway Administration
Title: Planning Program Financial Recordkeeping and Status Report
Forms: None
Frequency: Quarterly
Respondents: State Highway Agencies
Need/Use: The status report is necessary in order for the Federal Highway Administration to monitor and evaluate progress and expenditures by State Highway Agencies and Metropolitan Planning Organizations in conducting approved highway planning and research activities

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

Jon H. Seymour,

Acting Assistant Secretary for Administration.

[FR Doc. 84–31953 Filed 12–6–84; 8:45 am]

BILLING CODE 4910–62–M

[Notice No. 84–19]

Advisory Commission on the Reorganization of the Metropolitan Washington Airports

Notice is hereby given of the sixth and seventh meetings of the Advisory Commission on the Reorganization of the Metropolitan Washington Airports, an advisory committee reporting to the Secretary of Transportation. The Commission is charged with developing a plan for the transfer of the Metropolitan Washington Airports, Washington National and Dulles International, from the federal government to an appropriate state, local, or interstate governmental body. Its charter was published in the **Federal Register** of June 18, 1984 (49 FR 24967).

The sixth meeting will be held Thursday, December 13 at 10:00 a.m., and the seventh meeting on Tuesday, December 18, both meetings in room 2230 of the Department of Transportation headquarters building (Nassif Building), 400 Seventh Street, SW., Washington, D.C.

Summary agenda for both meetings:

I. Further discussion of alternate structures for a new airport authority; possibility of an interstate authority; and development of a position for the report to the Secretary.

II. Related matters, as raised by the members.

The meetings will be open to the public.

Additional information may be obtained from the Commission's office at: Room 9413, U.S. Department of Transportation, 400 Seventh Street, SW.,

Washington, D.C. 20590, or by calling 202–472–7934.

Issued at Washington, D.C., on December 3, 1984.

Gregory Wolfe,

Executive Director, Advisory Commission on the Reorganization of the Metropolitan Washington Airports.

[FR Doc. 84–31952 Filed 12–6–84; 8:45 am]

BILLING CODE 4910–62–M

National Highway Traffic Safety Administration

Denial of Petition to Conduct Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On May 15, 1984, William M. Kazmierczak of Alexandria, Virginia, petitioned for an investigation to determine whether inherent braking system delay in a panic or spike stop situation in 1981 Dodge Diplomat police vehicles consititues a defect relating to motor vehicle safety. Petitioner alleged that the brake pedal is extremely hard to depress when jabbed suddenly in a panic stop situation, and that the vehicle, as a consequence, will continue to move forward for one or two seconds, unaffected by the operator's attempts to stop the vehicle.

Agency investigation disclosed that an identical brake power booster was used on the Ford E–250 Econoline van. A search of NHTSA's computerized complaint file revealed no other similar complaints for either vehicle. Subjective test rides in a number of police vehicles of the City of Alexandria disclosed no inability to achieve brake lockup or any other aberrant brake behavior. Instrumented brake tests of four police vehicles were also conducted.

NHTSA concluded that there was no reasonable possibility that the order requested would be issued at the conclusion of an investigation, and denied the petition on September 10, 1984.

(Secs. 124, 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority at 49 CFR 1.50 and 501.8)

Issued: November 29, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84–31951 Filed 12–6–84; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Insurance Company of California; Surety Companies Acceptable on Federal Bonds; Liquidation

Surety Insurance Company of California, a California corporation, formerly held a Certificate of Authority as an acceptable surerty on Federal bonds and was last listed as such at 48 FR 30540, July 1, 1983. The company's authority was terminated by the Department of the Treasury effective April 3, 1984. Notice of the termination was published in the **Federal Register** of April 9, 1984, on page 13948.

There is printed below a copy of a notice dated October 4, 1984, issued by the California Insurance Department, indicating the company is now being liquidated. Pleas note the notice stipulates liabilities are fixed as of August 20, 1984 and that all claims against the company must be filed on or before March 5, 1985.

Government agencies involved in Federal surety bonding operations where third parties such a subcontractors, materialmen, and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status based on section 3713 of the United States Code and provide them with copies of the notice of liquidation. If priority status is not being granted, please notify the Department of Treasury at the address indicated below.

Government agencies should be aware that, where reinsurance was obtained on a bond, the reinsuring company may be liable to the United States Government for the full amount of the reinsurance or the full amount of the default, whichever is less.

Questions concerning claims against the company may be directed to the Conservation and Liquidation Officer, California Insurance Department, at the address given in the liquidation notice. Copies of the Proof of Claim form may be obtained from the same office.

Questions concering this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service (formerly Bureau of Government Financial Operations), Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–2319. An information notice containing additional information concerning the filing of claims, as well as a copy of the Proof of Claim form, will be distributed by this office to Federal agencies.

Dated: November 27, 1984.

W. E. Douglas,

Commissioner, Financial Management Service.

Notice to All Former Bondholders, Principals, Obligees, Claimants, Creditors and Shareholders of Surety Insurance Company of California, and to All Persons Having a Claim Against Surety Insurance Company of California

[Insurance Code Section 1021]

This is to advise you that on August 20, 1984 the Superior Court, County of Orange, issued its order appointing the Insurance Commissioner of the State of California as Liquidator of Surety Insurance Company of California.

Wherefore, any and all bondholders, principals, obligees, claimants, creditors, shareholders or persons having a claim or demand of any kind against Surety Insurance Company of California are hereby notified to file their claims together with proper proof thereof with Bruce Bunner, Insurance Commissioner of the State of California as Liquidator of said Surety Insurance Company of California, Attention Ronald G. Rosen, Conservation and Liquidation Officer, Room 1401, 600 South Commonwealth Avenue, Los Angeles, CA 90005, on or before March 5, 1985.

Any such claim should be set forth in writing and under oath on a form prescribed by said liquidator, indicating:

(a) The particulars there of and the consideration therefor;

(b) Whether said claim is secured or unsecured and, if secured, the nature and amount of such security;

(c) The payments made thereon, if any;

(d) The sum claimed is justly owing from such person to the claimant;

(e) That there is no offset to the claim;

(f) Such other data or supporting documents as the Commissioner requires;

The rights of bondholders, principals, obligees, claimants, creditors, shareholders and all other persons interested in the assets of said Surety Insurance Company of California, a California corporation, are fixed as of August 20, 1984. No claim arising out of an incident or accident occurring subsequent to said date will be approved.

This notice is published pursuant to the provisions of Sections 1021 and 1022 of the Insurance Code for the purpose of liquidating and winding up the business of Surety Insurance Company of California, a California corporation, and all such persons are hereby warned that unless such a claim is filed in the manner and within the time herein specified, such claim is not entitled to filing

or allowing, and no action may be maintained thereon.

Bruce Bunner,

Insurance Commissioner.

Ronald G. Rosen,

Conservation & Liquidation Officer.

Directions for Filing and Proving Claims

Proof of Claim must contain the following facts:

1. Signature of claimant, name and address of claimant, printed or typewritten. All notices regarding claims and all payments on claims, if any, will be sent to the address shown on the claim form unless written instructions are given to the contrary.

2. A concise statement of facts constituting the claim and the total amount claimed, to be written in the space provided or on additional pages which you may attach to this claim form.

3. Nature and value of any security held by claimant for his benefit, including funds, securities, or contracts covering the loss.

The following document sustaining the claim must be submitted before the claim will be given consideration:

1. Any contract on which the claim is based.

2. Certified copy of the judgment if claim is based upon a judgment.

3. Detailed invoices covering claims for services, advertising, supplies, legal or adjusting services, etc. The original contract must be submitted with all claims based upon contracts other than insurance contracts. If such contract is oral, give name of person who acted for the company.

4. Proof of authority must be submitted to support claims filed by Receivers, Administrators, Assignees, Attorney-in-Fact, Agents and Guardians.

Mail the completed Proof of Claim form to: The Insurance Commissioner as Liquidator, 600 South Commonwealth Avenue, Room 1401, Los Angeles, CA 90005.

The Liquidator reserves the right to require such other information as may be deemed necessary.

[FR Doc. 84-31884 Filed 12-6-84; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 237
Friday, December 7, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—December 12, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Activities of Ariel Maritime Group, Inc.; Interlink Systems Incorporated dba Interlink Lines; Oasis Express Line, a division of Charles Klaus & Co., Ltd.; Javelin Lines, a division of Charles Klaus Co., Ltd.; Consolidated Commodities of America, Inc.; Merritt Enterprises Inc. dba. Cheerio International; Joshua Dean & Co. and Liberty Shipping International dba. Liberty Lines.
2. Agreements Nos. 202–010676, 202–010677, 202–010678 and 202–010679: Establishment of Four Conferences in the United States—Mediterranean Trades.
3. Agreement No. 202–010669: United States/Netherlands Antilles Ocean Carriers Association.
4. Agreement No. 202–008900–025: Modification of the "8900" Lines Rate Agreement with respect to Independent Action and Service Contracts.
5. Agreement No. 203–010633: Flota Mercante Grancolombiana, S.A. and Andino Chemical Shipping Company, Inc., Agreement to Own Shares in a Corporation Transporting Bulk Liquid Cargoes.
6. Docket No. 84–10: The Coca-Cola Export Corporation v. Peruvian Amazon Line—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–32085 Filed 12–5–84; 12:08 pm]

BILLING CODE 6730–01–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, December 12, 1984.

PLACE. Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council. (This item previously announced for a closed meeting on December 10, 1984.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 4, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–32034 Filed 12–4–84; 4:15 p.m.]

BILLING CODE 6210–01–M

3

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors.

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and section 4 of the Corporation's Statement of Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, section 4 of the Corporations By-laws, section 116(f) of the said Act and sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

1. Chairman's Oppening Remarks
2. Acceptance of Minutes of April 26, 1984 Board Meeting
3. Review of Committees of the Board—Appointment of Members
4. Consideration of Proposed System of Organization
5. Election of Corporate Officers
6. Consideration of Directors' Financial Interests
7. Report on Comprehensive Strategy
8. Overview of Authorized Letters of Intent: Procedures for Review: and Proposed Schedule for Board Consideration of Letters of Intent
9. Overview of Active Solicitations; and Proposed Schedule for Board Consideration of and Decisions on Active Solicitations
   a. Coal-Water Fuels Solicitation
   b. Retrofit Solicitation
   c. Fourth General Solicitation
10. Other Matters That May Properly Come Before the Board
11. Resolution to Close Meeting

Closed Session

12. Review of Negotiation Issues on Letter of Intent Projects
13. Discussion of Draft Comprehensive Strategy

TIME AND DATE: 9:30 a.m., December 13, 1984,

PLACE: U.S. Synthetic Fuels Corporation. 2121 K Street, NW. Room 503, Washington, D.C. 20584.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822–6341.

United States Synthetic Fuels Corporation.

Leonard Axelrod,

Group Vice President-Operations.

[FR Doc. 84–32053 Filed 12–5–84; 9:50 am]

BILLING CODE 0000–00–M

federal register

Friday
December 7, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1989). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Government Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA84–5022	Oct. 5, 1984.
Iowa:	
IA84–4043	June 15, 1984.
IA84–4011	Feb. 24, 1984.
IA84–4042	June 15, 1984.
Ohio: OH83–5122	Nov. 25, 1983.
Oregon: OR84–5020	June 22, 1984
Rhode Island: RI84–3043	Nov. 30, 1984.
Washington: WA84:5040	Nov. 16, 1984
Wisconsin: WI84–5033	Nov. 2, 1984.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of the decisions being superseded.

Georgia:	
GA81–1307(GA84–3045)	Oct. 30, 1981.
GA81–1305(GA84–3046)	Do.
GA81–1306(GA84–3047)	Do.
New York:	
NY81–3023(NY84–3044)	Apr. 3, 1981.
NY80–3054 (NY84–3044)	Sept. 5, 1980
NY80–3054 (NY84–3048)	Do.

Signed at Washington, D.C. this 30th day of November 1984.

James L. Valin

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #IA84-4043-MOD.#5 (49 FR 24856-June 15, 1984)	Basic Hourly Rates	Fringe Benefits
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn, & Polk Counties, Iowa		
CHANGE:		
Electricians		
Zone 1	$15.14	$1.25 + 3-3/4%
Zone 7	14.90	2.35 + 3-3/4%
Bricklayers & Stonemasons Zone 1	12.33	2.62
Painters: Zone 4 Structural Steel (over 25 FT.) and Sandblasting	15.00	.50
Plumbers & Pipefitters Zone 4	15.65	3.20

DECISION #IA84-4011-MOD.#6 (49 FR 7068-February 24, 1984)	Basic Hourly Rates	Fringe Benefits
Scott County, Iowa		
CHANGE:		
Roofers	$14.40	$2.86

DECISION #IA84-4042-MOD.#1 (49 FR 28455-June 15, 1984)	Basic Hourly Rates	Fringe Benefits
WOODBURY COUNTY, IOWA		
CHANGE:		
Electricians	$13.99	$2.07 + 3.75%

DECISION NO. CA84-5022-Mod. #2 (49 FR 39416 - October 5, 1984) Alameda, Alpine, Amador Counties, etc., California	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 1	$23.56	$7.298+ 3%

DECISION NO. RI84-3043 - MOD. #1 (48 FR November 30, 1984) Statewide, Rhode Island	Basic Hourly Rates	Fringe Benefits
ADD:		
IRONWORKERS	15.78	4.70

DECISION NO. WI84-5033-MOD #1 (49-FR-44189-November 2, 1984) Chippewa, Eau Claire and Pepin Counties, Wisconsin.	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers	$17.10	$3.64

DECISION NUMBER OH83-5122 - MOD. #8 (48 FR 53254 - November 25, 1983) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers & Stonemasons:		
Area 2	$15.05	$2.37
Area 6	15.52	1.47+o
Area 8	17.09	3.27
Area 12	16.00	2.40
Area 17	16.09	2.89
Area 21	17.50	2.30
Area 24	15.71	2.94
Area 28	17.92	4.97
Carpenters & Piledrivermen:		
Area 5:		
Carpenters	14.81	3.14
Piledrivermen	15.46	3.14
Area 7:		
Carpenters	17.00	2.675
Piledrivermen	17.00	2.675
Area 9:		
Piledrivermen	15.15	30%
Area 10:		
Carpenters	15.50	3.70
Piledrivermen	15.50	3.70
Area 16:		
Carpenters	17.40	3.79
Electricians:		
Area 1	17.28	3.36+ 3%
Area 2	17.25	2.37+ 3%+d
Area 5	19.11	1.76+ 9.7%
Area 6:		
Electricians	16.35	4.62+ 3%
Cable Splicers	16.60	4.62+ 3%
Area 7:		
Electricians	15.43	4.33+ 3%
Cable Splicers	15.68	4.33+ 3%
Area 15	18.24	1.55+ 15.5%
Area 16	16.10	1.90+ 3%
Area 23:		
Electricians	18.93	3.75+ 3.2%
Cable Splicers	19.18	3.75+ 3.2%

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits
Ironworkers:		
Area 1:		
Up to 10 miles from Union Hall in Ashland, Ky.	$17.33	$4.26
10 to 50 miles from Union Hall in Ashland, Ky.	17.66	4.26
50 miles and over from Union Hall in Ashland, Ky.	19.62	4.26
Area 2:		
Reinforcing	15.93	4.27
Area 3:		
Within 15 miles radius of Local Union Office #290	16.16	4.37
Outside 15 miles radius of Local Union Office #290	16.31	4.37
Area 4	13.35	6.76
Area 6	16.30	4.14
Area 10	14.79	5.63+ 8%
Plumbers; Steamfitters & Pipefitters:		
Area 2	18.35	3.10
Area 5	16.63	1.25+ 19%
Area 9	17.32	1.81
Area 10	18.14	3.23
Area 18	17.23	6.31
Power Equipment Operators:		
Zone 1: Columbiana, Mahoning & Trumbull Cos.:		
Class 1	17.38	3.56
Class 2	16.59	3.56
Class 3	15.83	3.56
Class 4	15.36	3.56
Class 5	15.26	3.56
Class 6	17.65	3.56
Line Construction:		
Area 3:		
Equipment Operators; Linemen	17.74	2.31+ 3.2%
Line Truck Driver	10.64	2.31+ 3.2%
Groundmen	11.53	2.31+ 3.2%
Area 4:		
Cable Splicers; Equipment Operators; Line Truck Drivers; & Linemen	18.20	3.80+ 3½%
Groundmen	15.20	3.80+ 3½%

MODIFICATIONS P. 3

DECISION NUMBER OH83-5122 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Line Construction (Cont'd):		
Area 5:		
Pole-digging Equipment	$17.55	$.85+ 10½%
Area 6:		
Equipment Operators; Linemen & Technicians	15.43	4.25+ 3½%
Cable Splicers; Welders	15.68	4.25+ 3½%
Groundmen	12.42	4.25+ 3½%
Area 11:		
Cable Splicers; Equipment Operators; Linemen	21.68	.85+ 3½%
Groundmen; Truck Drivers (Winch)	14.09	.85+ 3½%
Traffic Signal Work:		
Linemen; Operator	18.75	.85+ 3½%
Groundmen	15.63	.85+ 3½%
Area 14:		
Cable Splicers; Equipment Operators; Linemen	18.24	.85+ 3½%
Groundmen	10.66	.85+ 3½%
Area 16:		
Cable Splicers; Equipment Operators & Linemen	19.32	.85+ 3½%
Groundmen	10.66	.85+ 3½%
Area 18:		
Cable Splicers; Linemen; Operators: All Mechanized Equipment	17.50	.85+ 3½%
Groundmen - Truck Drivers	13.87	.85+ 3½%
Groundmen	10.70	.85+ 3½%
Area 20:		
Cable Splicers; Linemen	16.83	.85+ 3½%
Equipment Operators	14.67	.85+ 3½%
Groundmen	10.66	.85+ 3½%

	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Line Construction (Cont'd):		
Area 21:		
Cable Splicers	$19.18	$3.75+ 3%
Equipment Operators & Linemen	18.93	3.75+ 3%
Truck Drivers (Winch), Groundman; Groundman	12.30	3.75+ 3%
Add:		
Footnote:		
o. 8% of gross earnings		

DECISION NUMBER OH83-5127 - MOD. #7
(48 FR 56903 - December 23, 1983)
Adams, Allen,... Wood and Wyandot Counties, Ohio

Change:		
Asbestos Workers:		
Area 3	$18.90	$2.89
Area 4	17.45	3.36
Area 7	19.42	4.455
Boilermakers:		
Area 1	16.45	5.52
Area 2	20.325	3.58
Area 5	17.54	.79+ 12%+x
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 2	15.05	2.37
Area 4	15.52	1.47+y
Area 6	17.09	3.27
Area 9	16.00	2.40
Area 14:		
Bricklayers; Caulkers; Cement Blocklayers; Cleaners; Pointers; & Stonemasons	16.09	2.89
Rubble Work	15.29	2.89
Area 18	17.50	2.30
Area 21	15.71	2.94
Area 25	17.92	4.97

MODIFICATIONS P. 4

DECISION NUMBER OH83-5127 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Carpenters:		
Area 5	$17.00	$2.725
Area 12	17.40	3.79
Cement Masons:		
Area 6	17.09	3.27
Area 7	16.13	2.50
Area 13	17.50	2.30
Electricians:		
Area 1	17.28	3%+3.36
Area 2	17.25	3%+2.37 +w
Area 4:		
Electricians	15.43	3%+4.33
Cable Splicers	15.68	3%+4.33
Area 12	18.24	15.5%+ 1.55
Area 13	16.10	3%+1.90
Area 20	19.11	9.7%+ 1.76
Area 21:		
Electricians	18.93	3.2%+ 3.75
Cable Splicers	19.18	3.2%+ 3.75
Area 24:		
Electricians	16.35	3%+4.62
Cable Splicers	16.60	3%+4.62
Elevator Constructors:		
Area 7:		
Elevator Constructors	19.155	3.29 +e+f
Helpers	70%JR	3.29 +e+f
Helpers (Prob.)	50%JR	
Area 8:		
Elevator Constructors	17.39	3.00 +e+f
Helpers	70%JR	3.00 +e+f
Helpers (Prob.)	50%JR	
Glaziers:		
Area 5	14.80	1.11+g
Area 8	16.11	2.75
Ironworkers:		
Area 1:		
Up to 10 mi. from Union Hall in Ashland, Ky.	17.33	4.26
10 to 50 mi. from Union Hall in Ashland, Ky.	17.66	4.26
Over 50 mi. from Union Hall in Ashland, Ky.	19.62	4.26
Area 2:		
Reinforcing	15.93	4.27

	Basic Hourly Rates	Fringe Benefits
Change (Cont'd):		
Ironworkers (Cont'd):		
Area 3:		
Within 15 mi. radius of Local Union Office #290	$16.16	$4.37
Outside 15 mi. radius of Local Union Office #290	16.31	4.37
Area 4	13.35	6.76
Area 6	14.79	8%+ 5.63
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 2:		
Tile Setters	15.05	2.37
Area 5:		
Marble Setters	16.17	3.25
Terrazzo Workers	16.09	3.25
Tile Setters	16.00	3.25
Area 7	15.00	1.75
Area 9	16.00	2.40
Area 12	15.25	2.05
Area 15:		
Terrazzo Workers & Tile Setters	16.76	2.60
Area 16:		
Terrazzo Workers & Tile Setters	17.50	2.30
Area 18:		
Tile Setters	16.69	2.94
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:		
Area 1:		
Finishers & Grinders	16.33	
Marble Sanders; Polishers; Sawyers; & Waxers	16.495	
Terrazzo Base Grinders (While Operating Base Grinding Machine)	16.75	
Area 2	14.68	1.60
Area 5:		
Terrazzo Workers' Finishers	13.71	3.25
Terrazzo Grinders	15.55	3.25
Tile Setters' Finishers	13.59	3.25
Piledrivermen:		
Area 5	17.00	2.725
Area 7	16.14	28%
Pipefitters; Plumbers; & Steamfitters:		
Area 2	18.35	3.10
Area 4	16.63	19%+ 1.25
Area 7	17.32	1.81
Area 9	18.14	3.23

DECISION NUMBER OH83-5127 (Cont'd)

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits
Plasterers:		
Area 5	$17.09	$3.27
Area 9	17.27	2.46
Area 10	17.50	2.30
Roofers:		
Area 5	18.15	1.50
Area 6:		
Composition, Damp, & Waterproof	15.75	2.25+z
Slate, Tile & Asbestos	15.97	2.25+z
Area 7	16.45	3.88
Sheet Metal Workers:		
Area 2	17.46	3.18+1
Area 7	17.505	4.445
Area 9	20.21	4.38
Soft Floor Layers:		
Area 11	16.25	4.50+m
Laborers:		
Area 12:		
Group 1	14.26	3.00
Group 2	14.46	3.00
Group 3	14.66	3.00
Area 14:		
Group 1	11.94	3.00
Group 2	12.24	3.00
Area 17:		
Group 1	11.94	3.00
Group 2	12.24	3.00
Area 18:		
Group 1	15.02	3.06
Group 2	15.17	3.06
Group 3	15.22	3.06
Group 4	15.52	3.06
Line Construction:		
Area 3:		
Equipment Operators; Linemen	17.74	3.2%+ 2.31
Line Truck Driver	10.64	3.2%+ 2.31
Groundmen	11.53	3.2%+ 2.31
Area 4:		
Linemen; Technicians	15.43	3½%+ 4.25
Cable Splicers	15.68	3½%+ 4.25
Groundmen	12.42	3½%+ 4.25
Area 12:		
Pole Digging Equipment	17.55	10½%+ .85

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits
Line Construction (Cont'd):		
Area 20:		
Cable Splicers	$19.18	3%+3.75
Equipment Ops. & Linemen	18.93	3%+3.75
Truck Drivers (Winch) Groundmen; Groundmen	12.30	3%+3.75
Add:		
Footnotes:		
x. 2.5% of weekly gross earnings		
y. 8% of gross earnings		
z. .625% of gross earnings		

DECISION NO. WA84-5040 - Mod #1 (49 FR 45532 - Nov. 16, 1984) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Area 1:		
Electricians	$18.00	3%+2.46
Cable Splicers	18.40	3%+2.46
Area 2:		
Electricians	18.76	3%+3.61
Cable Splicers	19.70	3%+3.61
Area 3:		
Electricians	20.03	3%+2.56
Cable Splicers	22.03	3%+2.56

DECISION NO. OR84-5020 Mod #7 (49 FR 25821 - June 22, 1984) Statewide Oregon	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Area 2:		
Electricians	18.76	3%+3.61
Cable Splicers	19.70	3%+3.61
ADD:		
CARPENTERS:		
Zone Differential: (Add to base rate)		
Zone 1 - $0.00		
Zone 2 - 0.65		
Zone 3 - 1.15		
Zone 3 - 1.70		
Zone 5 - 2.75		
Zone Descriptions: See Zone Descriptions for Laborers, Power Equipment Operators, and Truck Drivers on page 8. Add Carpenters to Zone Description heading.		

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NUMBER GA84-3045
COUNTY: CHATHAM
DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1307, dated October 30, 1981, 46 FR 53926.
DESCRIPTION OR WORK: HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, supension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	5.87	
CONCRETE FINISHERS/CEMENT MASONS	6.21	
LABORERS:		
Unskilled	4.73	
Asphalt raker	5.64	
TRUCK DRIVERS	5.89	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	6.09	
Asphalt paving machine, screed, & spreader	7.09	
Backhoe	7.02	
Bulldozer	6.15	
Crane, derrick, dragline	6.63	
Front end loader	6.85	
Motor grader/Motor Patrol	8.03	
Pavement Striping Operator	5.10	
Roller	6.19	
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NO.: GA84-3046
DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1305, dated October 30, 1981, in 46 FR 53927.
COUNTIES: Appling, Atkinson, Bacon, Baker, Baldwin, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Charlton, Chattahoochee, Clarke, Clay, Clinch, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Henry, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Troup, Turner, Twiggs, Upson, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, Worth
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, supension, and spandrell arch bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	5.46	
CARPENTERS	6.39	
CEMENT MASONS/CONCRETE FINISHERS	5.51	
DRILL OPERATORS	6.00	
ELECTRICIANS	9.69	
FORM SETTERS	5.04	
IRONWORKERS	7.14	
LABORERS:		
General laborer	4.09	
Air tool operator, chain-saw power saws	6.00	
Asphalt raker	4.69	
Grade Checker	5.20	
Pipelayer	4.22	
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	4.97	
Asphalt paving machine screed & spreader	5.35	
Backhoe	5.84	
Bulldozer	5.77	
Crane, derrick, dragline	6.93	
Front end loader	5.35	
Mechanic	5.68	
Motor grader/motor patrol	5.99	
Roller	4.78	
Pan Scraper	5.99	
Pavement striping Operator	4.90	
Oiler - greaser	5.34	
Stone/aggregate spreader	4.74	
Tractor	4.09	
TRUCK DRIVER	4.22	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NO.: GA84-3047 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1306, dated October 30, 1981, in 46 FR 53924.
COUNTIES: Banks, Barrow, Bartow, Catoosa, Chattooga, Dade, Dawson, Douglas, Elgert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordan, Habersham, Hall, Haralson, Hart, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White and Whitfield
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, supension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	6.55	
CARPENTERS' HELPERS	5.89	
CEMENT MASONS/CONCRETE FINISHERS	6.18	
GUARDRAIL ERECTORS	5.36	
GUARDRAIL POST DRIVERS	5.30	
IRONWORKERS:		
Reinforcing	7.55	
Structural & Ornamental	8.10	
LABORERS:		
General Laborer	4.67	
Air tool operator, chain saw, power saw	4.80	
Asphalt raker	5.66	
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	5.99	
Asphalt paving machine, screed & spreader	6.14	
Backhoe	6.86	
Bulldozer	6.76	
Crane, derrick, dragline	7.59	
Front end loader	5.96	
Mechanic	7.91	
Motor grader (patrol)	7.09	
Oiler - greaser	5.70	
Pan - scraper	6.17	
Roller	5.87	
Stone or aggregate spreader	5.28	
Tractor	4.88	
TRUCK DRIVERS	5.27	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included with the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEADES DECISION

STATE: NEW YORK COUNTY: JEFFERSON
DECISION NO. NY84-3048 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY80-3054 dated September 5, 1980 in 45 FR 59104
DESCRIPTION OR WORK: BUILDING (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	18.21	3.16
BRICKLAYERS	16.54	2.21
CARPENTERS	14.78	2.255+a
CEMENT MASONS	16.54	2.21
DRY WALL FINISHERS	12.83	1.80
ELECTRICIANS:		
Electricians	16.00	2.38+3.8%
Cable Splicers	16.25	2.38+3.8%
IRONWORKERS, Structural & Ornamental:		
Antwerp, Philadelphia, Leroy, Wilma, Champion	16.18	3.63
Remainder of County	15.85	5.60
LABORERS	11.92	2.20
MASON TENDERS	10.03	
PAINTERS, Brush	12.18	2.55
PLUMBERS & PIPEFITTERS	15.81	3.45
ROOFERS	15.25	3.45
SHEET METAL WORKERS	13.75	
STEAMFITTERS	15.81	3.02
TILE SETTERS	16.54	2.21
TRUCK DRIVERS	9.82	
POWER EQUIPMENT OPERATORS:		
Backhoe	16.98	4.25+b
Bulldozers	16.09	4.25+b
Crane	17.98	
Forklifts	16.09	4.25+b
Loaders	16.09	4.25+b
Rollers	16.09	4.25+b
Shovel	16.98	4.25+b

WELDERS - Receive rate prescribed for craft to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, (a)(1)(ii)).

DECISION NO. NY84-3048

FOOTNOTES:

PAID HOLIDAYS: A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

a. PAID HOLIDAYS: B, D, and E, provided the employee was on the payroll in the calander week preceeding the holiday or any day of the holiday and works the day after the holiday.

b. PAID HOLIDAYS: A through F, provided the employee has worked five consecutive working days before and the working day after the holiday

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTIES: ST. LAWRENCE; LEWIS & JEFFERSON

DECISION NO. NY84-3044

DATE: DATE OF PUBLICATION

Supersedes Decision Nos. NY81-3023 dated April 3, 1981 in 46 FR 20432, and NY80-3054 dated September 5, 1980 in 45 FR 59105.

Description of Work: Building Construction in St. Lawrence and Lewis Counties only (does not include single family homes and apartments up to and including 4 stories), Heavy Construction (except water well drilling), and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	18.21	3.16
BOILERMAKERS	18.16	3.691
BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS; POINTERS; CAULKERS & CLEANERS; MARBLE, TILE & TERRAZZO WORKERS:		
Area 1	15.38	1.82
Area 2: Bricklayers, Stone Masons, Cement Masons, Plasterers, Pointers, Caulkers and Cleaners	13.35	3.85
Marble, Tile & Terrazzo Workers	11.75	3.55
Area 3	16.54	2.21
CARPENTERS:		
Area 1:		
Carpenters (Building)	14.02	1.775 +a
Millwrights	14.27	1.775 +a
Piledrivermen	14.17	1.775 +a
Carpenters (Heavy & Highway)	14.97	2.125 +b
Area 2:		
Carpenters (Building)	13.10	1.775
Millwrights	13.35	1.775
Piledrivermen	13.25	1.775
Carpenters (Heavy & Highway)	14.97	2.105 +b
CEMENT MASON (Heavy & Highway)		
Area 1	15.01	1.80+c
Area 2	14.60	2.20+c
Area 3	14.22	2.62+c
ELECTRICIANS:		
Electricians	16.00	2.38+ 3.8%
Cable Splicers	16.25	2.38+ 3.8%
GLAZIERS:		
Area 1	12.43	.81+f
Area 2	12.75	.86
Area 3	13.20	.86
IRONWORKERS:		
Area 1:		
Class 1	16.18	3.63
Class 2	16.30	3.63
Class 3	16.43	3.63
Area 2:		
Class 1	14.03	3.62
Class 2	14.155	3.62
Class 3	14.28	3.62
Area 3:		
Class 1	15.85	5.60
Class 2	15.97	5.60
Class 3	16.10	5.60
LABORERS (Building):		
Class 1	11.92	2.20
Class 2	12.12	2.20
Class 3	12.32	2.20
Class 4	12.52	2.20
LABORERS (Heavy & Highway):		
Class 1	12.69	2.20+d
Class 2	12.89	2.20+d
Class 3	13.60	2.20+d
Class 4	13.29	2.20+d
LINE CONSTRUCTION: Substations and switching structures; Pipe type cable installation and maintenance jobs or projects; Railroad catenary installation and maintenance; Bonding of rails:		
Lineman; Technician	17.75	4.35+e +6.25%
Cable Splicer	19.525	4.35+e +6.25%
Groundman digging machine operator; dynamite man	15.975	4.35+e +6.25%
Groundman truck driver (tractor trailer unit)	15.088	4.35+e +6.25%
Mobile equipment operator; groundman truck driver; mechanic	13.464	4.35+e +6.25%
Groundman	10.098	4.35+e +6.25%

DECISION NO. NY84-3044	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION CONT'D		
Overhead transmission line work (where no other work is or has been involved; Overhead & underground distribution work:		
Lineman; Technician	16.83	4.35+e +6.25%
Groundman digging machine operator; groundman dynamite man	15.147	4.35+e +6.25%
Groundman truck driver (tractor trailer unit)	14.306	4.35+e +6.25%
Groundman mobile equipment operator; groundman truck driver; mechanic	13.464	4.35+e +6.25%
Groundman	10.098	4.35+e +6.25%
Overhead transmission line work (where other work is or has been involved):		
Lineman; Technician	19.61	4.35+e +6.25%
Groundman digging machine operator; dynamite man	17.649	4.35+e +6.25%
Groundman truck driver (tractor trailer unit)	16.669	4.35+e +6.25%
Mobile equipment operator; Groundman truck driver; mechanic	15.688	4.35+e +6.25%
Groundman	10.098	4.35+e +6.25%
PAINTERS:		
Area 1:		
Painters	12.43	.81+f
Paperhanging, Spray cup and Taping	12.93	.81+f
Sandblasting, Swing Scaffold, Boatswain Chair, Hanging Scaffold, Structural Steel	13.18	.81+f
Seamless Floor Material	12.93	.81+f
Area 2:		
Brush, Roll. Seamless Floor Application	12.18	2.55
Paperhanging, Paper Removal, Wall Covering, Taping	12.43	2.55
Swing Stage, Window Jacks, Setamcleaning, Hydro-waterblasting	12.53	2.55
Bosun Chair, Sandblasting, Steel Painting	12.88	2.55
Spray	12.68	2.55
Area 3:		
Brush; Roll	12.10	3.25
Taping	12.35	3.25
Spray; Epoxy (brush and roll application)	12.60	3.25
Structural Steel	12.70	3.25
Swing	12.75	3.25
Epoxy (Spray application)	12.80	3.25
Boatswain Chair	12.85	3.25
Sandblasting	12.95	3.25
Bridge	13.30	3.25
PLUMBERS & STEAMFITTERS:		
Area 1	15.81	3.02
Service and repair jobs which do not exceed in the aggregate for all plumbing and HVAC labor and/or materials the sum of $120,000	18.45	3.02
Area 2	15.11	4.35
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Class 1	16.98	4.25+g
Class 2	16.09	4.25+g
Class 3	14.29	4.25+g
Class 4	17.48	4.25+g
Class 5	18.98	4.25+g
Class 6	17.98	4.25+g
Class 7	18.02	4.25+g
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY):		
Class 1	15.86	4.25+d
Class 2	15.32	4.25+d
Class 3	13.79	4.25+d
Class 4	12.44	4.25+d
ROOFERS	15.25	3.45
SHEET METAL WORKERS	17.12	5.045+ 3%
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS (Building + Except Ready-mix)		
Area 1:		
Jobs of $5,000,000 or less:		
Class 1	13.58	2.45
Class 2	13.73	2.45
Class 3	13.78	2.45
Class 4	13.98	2.45

DECISION NO. NY84-3044	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (Ready-mix):		
Highway):		
Area 1:		
Class 1	10.05	2.10+h
Class 2	10.50	2.10+h
TRUCK DRIVERS (Heavy & Highway):		
Area 1:		
Except Ready-mix:		
Class 1	13.74	2.20+d
Class 2	13.79	2.20+d
Class 3	13.84	2.20+d
Class 4	13.99	2.20+d
Class 5	14.14	2.20+d
Area 2:		
Class 1	13.49	2.45+d
Class 2	13.54	2.45+d
Class 3	13.59	2.45+d
Class 4	13.74	2.45+d
Class 5	13.69	2.45+d

	Basic Hourly Rates	Fringe Benefits
WELDERS - Rate for craft to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

DECISION NO. NY84-3044

FOOTNOTES:

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independece Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Paid Holidays: B, D and E, provided the employee was on the payroll in thecalendar week preceeding the holiday or any day of the holiday week proceeding the holiday and works the day after the holiday.

b. Paid Holidays: C & D, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll the week in which the holiday falls.

c. Paid Holidays: B, C and D, provided the employee has been on the payroll the week before the holiday and works the day following the holiday.

d. Paid Holidays: A through F, provided the employee has works the working day before the working day after the holiday.

e. Paid Holidays: A through F and Washington's Birthday, Good Friday, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

f. Paid Holidays: B, C, D and F, provided the employee works the last working day prior to and the first working day following the holiday.

g. Paid Holidays: A through F, provided the employee has worked five consecutive working days before and the working day after the holiday.

h. Paid Holidays: A through F, provided the employee has worked any of the 5 working days immediately preceeding or any of the 5 workings days immediately following the holiday.

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AREA DESCRIPTIONS

BRICKLAYERS; STONE MASONS; CEMENT MASONS; PLASTERERS; POINTERS, CAULKERS & CLEANERS; MARBLE, TILE & TERRAZZO WORKERS:
Area 1: ST. LAWRENCE.
Area 2: LEWIS (Osceola, Lewis, West Turin, Leyden and Turin).
Area 3: JEFFERSON; LEWIS (Remainder of County).

CARPENTERS:
Area 1: ST. LAWRENCE; JEFFERSON; LEWIS.
Area 2: LEWIS.

CEMENT MASONS (HEAVY & HIGHWAY):
See "BRICKLAYERS," etc.

GLAZIERS:
See "PAINTERS & GLAZIERS."

IRONWORKERS:
Area 1: ST. LAWRENCE; LEWIS (North of a line drawn from the southern portion of the Jefferson County line east to the City of Ticonderoga); JEFFERSON (Antwerp, Philadelphia, Leroy, Wilna and Champion).
Area 2: LEWIS (Remainder of County).
Area 3: JEFFERSON (Remainder of County).

PAINTERS:
Area 1: ST. LAWRENCE (Brasher, Lawrence, Hopkintown, Clifton and Pierceville).
Area 2: ST. LAWRENCE (Remainder of County); JEFFERSON; LEWIS (Diana, Croghan, New Bremen, Watson, Greig, Martinsburg, Iowville, Denmark Harrisburg, Montague and Pinkney).
Area 3: LEWIS (Osceola, High Market, Lewis, Turin, West Turin, Leyden and Lyonsville).

PLUMBERS & STEAMFITTERS:
Area 1: LEWIS (Lewis, West Turin, Leyden and Lyonsdale).
Area 2: ST. LAWRENCE; JEFFERSON; LEWIS (Remainder of County).

TRUCK DRIVERS:

Area 1: LEWIS (Pickney, Harrisburg, Montague and Osceola).
Area 2: ST. LAWRENCE; JEFFERSON; LEWIS (Lewis, High Market, Martinsburg, Lowville, Watson, Greig, Turin, West Turin, Lyonsdale and Leyden).

CLASSIFICATION DESCRIPTIONS

IRONWORKERS

Class 1: Structural, Reinforcing, Ornamental, Machinery Movers & Riggers, Rodmen, Fence Erectors and Stone Derrickmen.
Class 2: Sheeter, Bucker-up.
Class 3: Sheeter.

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LABORERS (BUILDING CONSTRUCTION)

Class 1: General laborerers; Tending of masons, plasterers and cement finishers.
Class 2: Chain saw operators; Payment breakers; Scaffold builders; Mortar mixers, Pipelayers, Gas buggy, Vibrator; Air or electric tool operators; Sandblaster on construction clean-up; Potliners; Acetylene torch operator on demolition work.
Class 3: Rock Drilling.
Class 4: Blasters.

LABORERS (HEAVY & HIGHWAY CONSTRUCTION)

Class 1: Laborers, drill helpers, outboard and hand boats.
Class 2: Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw operator on asphalt paver, water pump operator (1 1/2 inch and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.
Class 3: All rock or drill machine operators (except quarry master and similar type, acetylene torch operators, asphalt raker, powderman.
Class 4: Blasters, form setters, stone or granite curb setters.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and Blaw Knox); Blacktop Plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all scraper (self-loading); Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane, Crusher-rock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled or towed); Elevator hoist - two cage; Excavator - all purpose hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over) Gradall; Grader (power); Head tower (Saurman or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stablization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, lumber carrier); Tractor drum belt type loader (Euclid loader); Trenching machine (Digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator).

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POWER EQUIPMENT OPERATORS (CONTINUED)

Class 2: "A" Frame truck; Black top plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (500 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stablized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widener (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist; Vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driver); Winch cat; Winch truck.

Class 3: Compressor (under 500 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreader and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Grout pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); Power heaterman (hay drier), Pump (under 4"); Revinius widner (road widener); Steam cleaner of Jenny; Tractor with or without towed accessories, post driver (truck or tractor mounted).

Class 4: Quad 9 Bulldozer or multibowl scraper.

Class 5: Crane or Derrick with a boom length over 300 ft. including jib.

Class 6: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length over 100 ft.

Class 7: Master mechanic.

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DECISION NO. NY84-3044

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION)

Class 1: Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derrick (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal), hoist (2 or 3 drum), Holland loader mine hoist, mucking machine or mole, over headcrane (gantry or straddle type), piledriver, power grader, quad 9, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt-type loader, truck crane, truck or trailer mounted log chipper (self feeder), tug operator (except manned rented equipment); tunnel shovel.

Class 2: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum); Kolman plant loader and similar type loaders, L.C.M. work boat operator, locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilazation), road widener, roller (all above subgrade), sea mule tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Class 3: A-frame truck, ballast regulator (ride-on), compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), dust collectors, generator, pumps, welding machines, light plants (4 of any type of combination), concrete payment spreader and finishers, conveyor, drill-core, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), grout pump gunite machine, hammers (hydraulic-self-propelled), hydra-spiker (ride-on), hydro-blaster water, post hole digger and post driver, power sweeper, roller (grade and fill), scarifier (ride-on spansaw (ride-on), submersible electric pump (when used in lieu of well point system), tamper (ride-on), tie extractor (ride-on), tie handler, tie inserter (ride-on), tie spacer (ride-on), track liner, tractor with towed accessories vibratory compactor, vibro tamp, well point.

DECISION NO. NY84-3044

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY (CONTINUED)

Class 4: Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), dust collectors, generators, pumps, welding machines, light plants (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet concrete or pavement grinder, power broom (towed), power heaterman, Revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS (BUILDING (Except Ready-mix)

Class 1: Truck drivers, parts chasers.

Class 2: Tractor trailer drivers, farm tractor and fuel truck drivers.

Class 3: Material check and receiver.

Class 4: Euclid driver.

TRUCK DRIVER (Ready-mix)

Class 1: Ready-mix driver.

Class 2: Truck driver.

TRUCK DRIVERS (HEAVY & HIGHWAY) (Except Ready-mix in Area 2)

Class 1: Warehouseman, yardmen, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greases, truck tiremen and parts chaser

Class 2: Tandems, batch trucks, mechanics and dispatcher.

Class 3: Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

Class 4: Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self-loaded, and straddle (ross) carrier.

Class 5: Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self-loaded.

federal register

Friday
December 7, 1984

Part III

Department of Energy

Office of Civilian Radioactive Waste Management

Fees for Federal Interim Storage, Calendar Year 1985; Notices

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management

Fees for Federal Interim Storage, Calendar Year 1985

AGENCY: Department of Energy.

ACTION: Notice of Fees for Federal Interim Storage of Spent Nuclear Fuel from Civilian Nuclear Power Plants in the United States for Calendar Year 1985. The Fees established for Calendar Year 1984 are hereby rescinded on the effective date of this notice.

SUMMARY: This notice updates the fees to be levied against users of Federal Interim Storage (FIS) services for spent nuclear fuel as required by section 136(a)(2) of the Nuclear Waste Policy Act of 1982, Pub. L. 97–425, 42 U.S.C. 10101 et seq. (Act). The fees, shown in Table 1, have been updated to ensure full recovery of all costs incurred by the Department of Energy (Department) in providing these services. These fees are for calendar year 1985 and replace those in effect for calendar year 1984.

TABLE 1.—Fees for FIS Services Furnished by the Department of Energy, Dollars Per KGU[1] [2]

Capacity of FIS facility (MTU)	Initial fee	Final fee	Total fee
100	310	380	690
300	110	195	305
800	45	150	195
1,500	25	140	165
1,900	20	140	160

[1] The cost of transportation of spent fuel is not included in the above fees. Each user's actual transportation costs will be billed directly after delivery of the fuel is completed.
[2] KGU—the weight of uranium contained in fresh fuel assemblies at the time of insertion into the reactor.

EFFECTIVE DATE. The updated fees will be effective on January 1, 1985, and will remain effective for a period of twelve months from the effective date.

FOR FURTHER INFORMATION CONTACT: J. Roger Hilley, Associate Director, Office of Storage and Transportation Systems (RW–30), Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9433.

SUPPLEMENTARY INFORMATION: The updated fees shown above in Table 1 were developed by the Department to comply with the requirement of section 136 of the Act which requires each user to pay its pro rata share of costs in order to ensure complete recovery of costs incurred by the Department in supplying FIS services. The Department re-examined alternative methods for structuring fees for FIS services, as reported in 1984 Federal Interim Storage Fee Study: A Technical and Economic Analysis, (PNL–5231) July, 1984 (FIS Fee Study). Based on this reexamination, the Department again concluded that the combined interests of the Department and the users would be best served, and costs would be most appropriately recovered, by a two-part fee payment consisting of an Initial Payment upon execution of a contract for FIS services followed by a Final Payment upon delivery of the spent fuel to the Department. In addition, each user will be invoiced by the Department for the actual costs of transportation of its spent fuel from the reactor site to the FIS facility.

The Initial Payment shall be made within 30 days after execution of the contract for FIS service; it is an advance payment covering the pro rata share of the preoperational costs including:

(1) The capital construction costs of the transfer facilities and storage area required to accommodate the initial storage service commitments, including design and construction costs;

(2) Development costs;

(3) Government administrative costs, including storage fund management;

(4) Impact aid payments made in accordance with section 136(e) of the Act; and

(5) Interest paid on any funds borrowed from the Treasury Department to conduct preliminary work.

The effective Initial Fee will be determined by the quantity of spent fuel committed to FIS by the first contract or contracts entered into by the Department in accordance with the provisions of section 135(b) of the Act. Table 1 exhibits the appropriate fees for discrete quantities of contracted fuel, from 100 MTU to 1900 MTU. If the quantity of fuel covered by the first contracts is less than 100 MTU, the Initial Payment will be the product of the quantity of fuel to be stored and the Initial Fee shown in Table 1 for 100 MTU storage capacity. If the quantity of fuel covered by the first contracts exceeds 100 MTU and is not one of the discrete quantities shown, the Initial Fee will be recalcualted by the Department for the exact quantity of spent fuel committed to storage under these first contracts. The Initial Fee so determined by the first contracts will then be charged to all subsequent contractors of FIS services until the Fee Schedule is next revised.

To ensure that the payments are equitable among the users of FIS services, the Department will annually update both the Initial and Final Fees to reflect changes in the costs for providing FIS Services as the amount of fuel under contract increases or as additional FIS facilities are activated. After all preoperational activities have been completed, the Department will determine the total costs incurred in connection with the preoperational activities (i.e., design, safety reviews, construction, and associated activities) and will determine the difference between the Initial Payments made by each user and the subsequently revised Initial Payments that take into account the increased quantities of spent fuel being committed to FIS. The Department will then credit or debit the Final Payment of each user with the difference between the amounts paid as Initial Payments and its then pro rata share of the revised total preoperational costs (net of its pro rata share of interest earned on advance payments made).

The Final Payment shall be billed to the user within 60 days after delivery of the spent fuel to the Department and shall be payable within 60 days thereafter. It will be calculated to cover the sum of the following:

(1) Any under- or over-estimation in the costs used to calculate the initial Payment of the fee, as described above;

(2) Module costs (i.e., storage casks, drywells, or silos) which will have been accurately determined by that time; and

(3) The total estimated cost of operation and decommissioning of the FIS facilities (including Government administrative costs, storage fund management and impact aid).

In addition, the Department will bill each individual user for the actual costs the Department incurs in the transportation of that user's spent fuel to the FIS facilities including, but not limited to, cask lease, freight charges, and security. Billing and payment will be on the same schedule as the Final Payment.

In addition to the Initial Payment and the Final Payment described above, the Department will make a final adjustment for each user after the decommissioning of the FIS facilities, or December 31, 2001, whichever is earlier. This adjustment will be based on a determination of the total costs incurred in design, construction, operation and decommissioning of the FIS system through December 31, 2001. The Department will make final adjustments to the extent that there is a difference between the total amounts paid by each user in Initial and Final Payments and the user's pro rata share of these total costs (net of its pro rata share of interest earned on advanced payments made). This adjustment may be either a payment to the Department of a refund to the user.

Any payments not made on a timely basis will be subject to interest charged at the quarterly Treasury rate plus 6%.

In order to factor the time value of money into the fee update calculation, the revenue/expenditure projections are based on the following assumptions concerning the schedule of constructing and operating FIS facilities. These assumptions reflect the changes in spent fuel storage requirements which occurred during 1984:

Assumption 1: Design and construction of FIS facilities would commence in 1985 and be completed so that storage operations could commence in mid 1988;

Assumption 2: The FIS facility would receive spent fuel during the three-year period between mid-1988 and mid-1991. It would ship spent fuel to a Monitored Retrievable Storage facility or waste repository during the three-year period commencing at the beginning of 1998 and terminating at the end of 2000. One-third of the storage capacity of the FIS facility would be received each year during the receiving period, and one-third would be shipped each year during the shipping period;

Assumption 3: Decontamination and decommissioning of FIS facilities would be conducted in the year 2001.

In accordance with the constraints imposed by the Act, the Department plans to expend no funds in connection with the FIS program other than the minimal expenses for planning until clear evidence of a need exists. At that time, the Department will commence the design of the FIS facilities on the basis of the contractual commitments that then exist for FIS services. These facilities will have the capacity for only that amount of spent fuel which is committed to storage under the then-existing contracts.

The Department has again assumed that canistered consolidated spent fuel rods would be acceptable for storage at the FIS facilities. However, consolidation would not be a criterion for acceptance, nor would the disassembly and consolidation of spent fuel be included in the capabilities of the FIS facilities. Until the cost effects of storing consolidated fuel has been accurately determined, the Department will collect the same fee for storage of canistered consolidated spent fuel rods as for intact fuel assemblies. At that time, any savings in operational costs which may result from receipt and handling of consolidated fuel rods will be factored into the annual recalculation of the fee, and a separate fee for consolidated fuel will be published.

If the revised initial fees are lower than any previously collected for consolidated fuel, a credit will be assigned to the Final Payment for that consolidated fuel. Any savings in transportation costs that result from shipping consolidated rods would be realized immediately.

Further information as to the Department's FIS services and charges is available in the cited report, PNL-5231.

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

Robert H. Bauer,

Associate Director, for Resource Management, Office of Civilian Radioactive Waste Management.

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federal register

Friday
December 7, 1984

Part IV

Department of Energy

Western Area Power Administration

Order Confirming, Approving, and Placing in Effect the Rate Adjustment, on an Interim Basis, for the Pick-Sloan Missouri Basin Program; Notice

DEPARTMENT OF ENERGY

Western Area Power Administration

Order Confirming, Approving, and Placing in Effect the Rate Adjustment, on an Interim Basis, for the Pick-Sloan Missouri Basin Program

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate adjustment for the Pick-Sloan Missouri Basin Program (P–SMBP).

SUMMARY: Notice is given of Rate Order No. WAPA–24 of the Deputy Secretary placing the rate adjustment for the P–SMBP into effect on the first day of the first full billing period after January 1, 1985, on an interim basis, for power marketed by the Western Area Power Administration (Western).

The FY 1982 P–SMBP power repayment study indicated that the existing rate schedules do not yield sufficient revenue to satisfy the cost recovery criteria through the study period. The revised rate schedules will yield adequate revenue to satisfy these criteria.

FOR FURTHER INFORMATION CONTACT:

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, to the Deputy Secretary the authority to confirm, approve, and place such rates in effect on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove, rates developed by the Administrator under the delegation.

The rate adjustment for the P–SMBP has been conducted in accordance with the procedural rules applicable to Western.

Proceedings were initiated on June 29, 1984, with publication of a **Federal Register** notice (49 FR 26797) which officially announced the proposed rate adjustment and procedures for public participation. A series of public information forums were held on July 16 through July 19, 1984, in Thornton, Colorado; Sioux Falls, South Dakota; Fargo, North Dakota; and Billings, Montana. A series of comment forums were held August 20 through August 23, 1984, at the same locations. The consultation and comment period extended through September 29, 1984. During this period, interested parties made comments to Western concerning the proposed rate adjustment.

Various comments were received at the meetings and during the consultation and comment period. Several issues were raised. After reviewing and considering the comments received, and the records of the meetings, this rate order was assembled to respond to the comments offered during the public rate adjustment process. Western has concluded that the P–SMBP rate adjustment is needed to meet cost recovery criteria.

Therefore, Rate Order No. WAPA–24 confirming and approving the P–SMBP 1982 rate adjustment on an interim basis is hereby issued, and the new rate schedules will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued in Washington, D.C. November 28, 1984.

Danny J. Boggs,

Deputy Secretary.

DEPARTMENT OF ENERGY

Deputy Secretary

[Rate Order No. WAPA–24]

Order Confirming, Approving, and Placing in Effect a Rate Adjustment for the Pick-Sloan Missouri Basin Program

November 28, 1984.

In the matter of: Western Area Power Administration—Rate Adjustment for the Pick-Sloan Missouri Basin Program (P–SMBP).

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372 et seq., as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation (USBR), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), the Secretary of Energy delegated: (1) To the Administrator of the Western Area Power Administration (Western) the authority to develop power and transmission rates; (2) to the Deputy Secretary the authority to confirm, approve, and place such rates in effect on an interim basis; and (3) to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis, to remand, or disapprove rates developed by the Administrator under the delegation.

This rate order is issued pursuant to the delegation to the Deputy Secretary and the rate adjustment procedures at 10 CFR Part 903 (45 FR 86975, December 31, 1980, as corrected at 46 FR 6864, January 22, 1981).

Effective Date

The new rates would become effective on the first day of the first full billing period beginning after January 1, 1985, and would remain in effect until superseded.

Description of Rates

The proposed composite Eastern and Western Division wholesale firm power rate for the Pick-Sloan Missouri Basin Program (P–SMBP) will yield 7.44 mills/kWh versus the current 6.10 mills/kWh, which constitutes a 1.34 mill/kWh increase over the current wholesale firm power rate. P–SMBP power is sold in two marketing areas known as the Eastern Division and the Western Division.

When considering the Eastern Division of the P–SMBP alone, the proposed firm rate yields 7.14 mills/kWh versus the current 5.80 mills/kWh yield.

Presently, the Western Division of the P–SMBP by itself has a wholesale firm power rate which yields 7.20 mills/kWh. Under the proposed rate, the Western Division's wholesale firm power yield will increase to 8.54 mills/kWh.

The present and proposed wholesale power rates for the Eastern Division have been structured as follows:

Class of power	Present	Proposed
Firm Capacity (kW).	$1.35/kW-month	$1.65/kW-month.
Firm Energy (kWh) up to and including 60 percent monthly load factor.	3.62 mills/kWh	4.41 mills/kWh.
Above 60 percent monthly load factor.	7.00 mills/kWh	7.79 mills/kWh.
Peaking Capacity (kW).	$1.35/kW-month	$1.65/kW-month.
Peaking Capacity (kWh).	3.62/mills/kWh	4.41 mills/kWh.

The present and proposed wholesale power rates for the Western Division have been structured as follows:

Class of power	Present	Proposed
Firm Capacity (kW).	$1.43/kW-month	$1.65/kW-month.
Firm Energy (kWh).	4.3 mills/kWh	5.1 mills/kWh.
Peaking Capacity (kW).	$1.43/kW-month	$1.65/kW-month.
Transmission Service.	1.1/mills/kWh or $9.60/kW-year.	1.3 mills/kWh or $11.40/kW-year.

Description of Changes in Rate Structure and Level

As shown above, the structure of the proposed rate schedules has not changed from that of the present rate schedules. However, the level of rates has changed for all of the above classes of power.

In the Eastern Division of P–SMBP, the firm capacity charge has increased under the proposed schedule $0.30/kW-month from $1.35 to $1.65/kW-month. The firm energy charge for energy up to and including 60-percent monthly load factor has increased from 3.62 to 4.41 mills/kWh or .79 mills/kWh. For energy above 60-percent monthly load factor, the energy charge has also increased 0.79 mills/kWh, from 7.00 to 7.79 mills/kWh.

The proposed capacity is $1.65/kW-month versus the current charge of $1.35/kW-month, an increase of $0.30/kW-month. Peaking energy under the proposed rate schedule has increased 0.79 mills/kWh from 3.62 to 4.41 mills/kWh.

In the Western Division of P-SMBP, the firm capacity charge has increased under the proposed rate schedule $0.22/kW-month, from $1.43 to $1.65/kW-month. The firm energy charge has increased from 4.3 mills to 5.1 mills/kWh, or .80 mills/kWh.

The proposed peaking capacity charge is $1.65/kW-month versus the current charge of $1.43/kW-month, an increase of $0.22/kW-month.

Transmission service for the Western Division will increase 0.2 mills/kWh under the proposed rate schedule, raising the current rate of 1.1 mills/kWh to 1.3 mills/kWh.

Expected Changes in Annual Revenue

The rate adjustment would increase average annual firm revenues about $12.7 million, which is necessary to satisfy the cost recovery criteria as set forth in DOE Order No. RA 6120.2.

Statement of Revenue and Related Costs

A breakdown of costs by class of service is not available. The following table provides revenue data for firm power and peaking sales through the proposed rate period. The Western Division is currently finalizing a marketing plan. That plan provides for Western Division peaking sales; however, it is not expected to be implemented until after 1989; thus there is no Western Division peaking revenue shown in the table below.

Year	Eastern division peaking winter	Eastern division peaking summer	Eastern division firm	Western division firm
1985	$3,564,000	$3,604,500	$56,827,260	$16,159,140
1986	3,564,000	3,604,500	56,827,260	16,159,140
1987	3,564,000	3,604,500	56,827,260	16,159,140
1988	3,564,000	3,604,500	56,827,260	16,159,140
1989	3,564,000	3,604,500	56,827,260	16,159,140

The data shown above reflect estimates used in the 1982 Power Repayment Study (PRS) for the proposed rate approval period. It should be noted that the PRS contains only one variable—the composite rate for future firm power (capacity and energy combined) sales on a per kWh basis. Revenues from othe sources are estimated and entered into the study. The study adjusts this composite rate until sufficient revenues are generated to meet cost recovery criteria. The actual rates designed to yield these revenues are determined after the PRS is completed by adjusting both capacity and energy rates, and not just energy rates. Actual revenues collected for each class of service will vary from those estimated in the published 1982 PRS.

Revenues from the Western Division's transmission service rate are not shown separately in the published 1982 PRS, but are included in the "Total Revenue" column of that study. The data shown above for Eastern Division Firm and Western Division Firm are summed on the 1982 PRS and shown as "Firm Commercial."

Explanation of Rate Development Process and Supporting Documents Chronological Discussion

Proceedings on the proposed rate adjustment were initiated on March 19, 1984, when a letter announcing the informal customer meetings was mailed to all firm power customers and other interested persons. The informal customer meetings were also advertised with a March 30, 1984, press release. These meetings were conducted at four different locations from April 16 through April 19, 1984. At these preliminary meetings, Western representatives explained the need for the increase and answered questions from interested persons.

On June 29, 1984, a formal 90-day customer consultation and comment period was initiated with an announcement of the proposed rate adjustment published in the **Federal Register** at 49 FR 26797. This notice also announced four public information forums conducted July 16 through July 19, 1984, and four public comment forums conducted August 20 through August 23, 1984. The information forums were further advertised with a June 29, 1984, press release. On June 27, 1984, a mailing of a final customer brochure was made to all customers and other interested parties. This mailing also included a letter anouncing the public information and comment forums. At the information forums, Western representatives again explained the need for the rate increase and answered questions from interested persons. The comment forums were conducted to give the public an opportunity to comment for the record. Other public comments were received through September 29, 1984, and have been considered in the preparation of this rate order.

Project History

The Missouri River Basin Project was authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 877, Pub. L. 534, 78th Congress, 2nd session), which approved the general comprehensive plan set forth in Senate Document 191 and House Document 475, as revised and coordinated by Senate Document 247, 78th Congress, 2nd session. The comprehensive plan has been funded through numerous appropriaton acts with the intention of development of the water resources in the Missouri River Basin.

The Missouri River Basin Project, later renamed the Pick-Sloan Missouri Basin Program to honor its two principal authors, has been under construction since 1944. The project encompasses a comprehensive program of flood control, navigation improvement, irrigation, municipal and industrial water development, and hydroelectric production for the entire Missouri River Basin. Multipurpose projects have been developed on the Missouri River and its tributaries in Montana, North Dakota, South Dakota, Wyoming, and Colorado. Electric transmission facilities have also been constructed in those States, as well as in Minnesota, Nebraska, Iowa, and

Missouri. The P–SMBP is divided into an Eastern Division and a Western Division. The two Divisions cannot, at this time, be operated fully integrated because of differing electric characteristics. In addition to the multipurpose water development projects which were authorized by section 9 of the Flood Control Act of 1944, certain older existing projects have been integrated with the P–SMBP for power marketing and operational purposes. Four projects, Colorado-Big Thompson, Kendrick, Shoshone and Riverton were combined with P–SMBP in 1954 for marketing, operation, and repayment purposes and the fifth, North Platte, was combined in 1959. These projects are known as the "Integrated Projects" of the P–SMBP, Western Division. The Riverton Project was reauthorized as a unit of the P–SMBP by Pub. L. 91–409 on September 25, 1970. The Flood Control Act of 1944 also authorized integration of the Fort Peck Project with the P–SMBP for operations and repayment purposes. Largely as a result of these projects, which pre-dated the P–SMBP, the Eastern Division and Western Division have different power rates.

The P–SMBP has been heralded since its authorization as a pioneer in comprehensive basinwide multipurpose development. All functions of the project were maximized within the water resource with some functions assisting others in repayment beyond the ability of the beneficiary. An innovative feature of the program was its basinwide, rather than individual project, financial management mandate which extended the scope of financial assistance to irrigation and established that repayment of all features be based on ultimate development of the program.

Power, flood control, and navigation are the most advanced features and have been providing benefits to the Basin States for many years. Upper basin States have received hydropower since 1943 and downstream States have received flood control and navigation benefits. Yet to be advanced to a comparable status of development are the Federal irrigation projects which were included in the comprehensive plan to replace land lost to project reservoirs in the upper basin States.

The planning, development, and operation of the P–SMBP have been successfully carried out for close to 40 years by the Departments of the Interior and Army, and most recently, the DOE. The success of the program can be attributed to sound financial management, wherein power rates and revenues have been carefully scheduled to meet program and repayment obligations.

Western was established on December 21, 1977, pursuant to section 302 of Pub. L. 95–91, DOE Energy Organizational Act, dated August 4, 1977. Western is responsible for the Federal electric power marketing and transmission functions in 15 Central and Western States encompassing a 1.3-million-square-mile geographic area, which includes the P–SMBP marketing area.

Power Repayment Studies

General History

The PRS's for the P–SMBP are prepared by Western with the cooperation of the USBR and the Corps of Engineers. Basic river basin hydrology, water depletions, power generation, and project development data are among the many items USBR and the Corps of Engineers contribute to the studies.

The PRS's are prepared in accordance with P–SMBP authorizing legislation and with DOE Order No. RA 6120.2 on Power Marketing Administration (PMA) financial reporting. The studies array historic income, expense, and investment to be repaid from power revenues, along with estimates for future years. They also portray the annual repayment of production and transmission costs of the power system, as well as nonpower costs assigned to power for repayment, through the application of revenues over the repayment period of the project. The studies show, among other items, estimated revenues and expenses, the estimated amount of unpaid Federal investment which will be repaid, and the total estimated amount of Federal investment year-by-year over a 100-year period. The studies do not deal with rate design.

Special Study B–5, documented in the "Report on Financial Position MRBP, December 1963," was submitted to Congress and set forth a broad statement of repayment principles. Basic guides and criteria established therein have been incorporated in the annual PRS's. Payout criteria and interest rates beginning in FY 1966 have been endorsed by the Garrison Diversion Unit Act of August 5, 1965. Our current studies reflect resources, marketing, operation and maintenance (O&M) expenses, replacements, payments to the integrated projects, investment, and irrigation development date available as of 1982.

General Description of Power Repayment Study Components

The repayment study consists of four main parts: (1) Annual revenues; (2) annual revenue deductions; (3) repayment of replacement; and (4) repayment of investments.

Capacity and energy are based on the latest hydrology, depletions, and marketing projections for the P–SMBP. They are converted to annual power revenues by the application of appropriate rates. These power revenues are first applied to repayment of annual revenue deductions which are composed of O&M costs, wheeling expense, payments to integrated projects, purchased energy, and interest expense.

Any remaining power revenues are then applied to the repayment of interest-bearing commercial power investment. The study is designed to repay the investment carrying the highest-interest-rate first. However, each power investment is required to be repaid within 50 years of the date on which it was placed in service.

Interest rates of 2½ and 3 percent are used on existing transmission facilities and power generating facilities in accordance with provisions of the Garrison Diversion Unit Act of August 5, 1965 (Pub. L. 89–108, 89th Congress HR 237). New investments beyond the scope of that act will be subject to the current interest rates pursuant to DOE Order No. RA 6120.2

Replacements are investments required to replace original investments as their economic or physical usefulness declines. In the FY 1982 PRS, replacements are subject to the same interest rates as the original investments. In future studies, replacements made after 1981 will be subject to current interest rates.

The FY 1972 PRS and previous studies forecast future replacement costs based on the original installed cost of the facility. Starting with the FY 1973 PRS, estimated future replacement costs have been indexed to current levels, and are treated as capital investments which are repaid over their service lives.

Besides repayment of power investments, revenues must repay a portion of the irrigation investments, including part of the investment for multipurpose reservoirs.

The legislative history of the P–SMBP, principally Senate Document No. 191, recognized that portions of the power-producing capacity of the project would be used for Federal project irrigation and drainage pumping service. It also established that the cost of that portion

of the power system reserved for irrigation pumping would be interest-free. Accordingly, all analyses of the program have assumed that a percentage of the power investment would be reserved for irrigation pumping, and as such, the same percentage of the power investment would be suballocated as interest-free irrigation pumping cost. The percentage for suballocation of the costs have been determined by the relationship of total ultimate project pumping peakload demand at the generators to power system generating capacity (538,622 kW of ultimate pumping requirements divided by 2,522,600 kW of total system capacity). The application of this ratio in the present study results in 21.4 percent of the costs allocated to power being suballocated to pumping purposes. These suballocated costs are scheduled for repayment with the associated irrigated projects.

Pursuant to the Garrison Diversion Unit Act, costs relating to specific irrigation units (including main stem and other reservoir storage and irrigation pumping power cost assignments, if appropriate) constructed or under construction on June 30, 1964, are to be repaid within the earliest practicable time period after completion of repayment of interest-bearing commercial power investment, but prior to irrigation units constructed after that date. Costs relating to new (after June 30, 1964) and future irrigation units, divisions, or irrigation blocks (including main stem and other reservoir storage and irrigation pumping power cost assignments if appropriate) are to be repaid within 50 years following the allowable development period (usually 10 years) after the individual unit, division, or irrigation block becomes benefit-producing.

Costs of the multiple-purpose investments have been allocated by the agency having construction jurisdiction. The "Separable Costs-Remaining Benefits" method of allocation has been used on main stem reservoirs and multipurpose reservoirs. Federally financed alternative costs have been used for determining the annual cost of the single-purpose power alternative in the cost allocation procedures. This is consistent with the statement of "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," approved by the President on May 15, 1962, and printed as Senate Document No. 97, 87th Congress, 2nd Session.

Study Inputs

The following items are entered into the repayment study as historical data and/or as short-term future budget estimates. These data are then used in the study to make long-term projections of revenues and expenses. The inputs are generally classified as revenues, expenses, and project investments.

Revenues

The historical power and energy sales are based on accounting records through September 30, 1982. The FY 1983 sales were based on the best estimates available using the most current system hydrology. Thereafter, total annual energy and capacity sales are based on average and adverse water conditions, respectively. Basic data for determining power generated at USBR tributary powerplants and the Corps of Engineers main stem powerplants were obtained from latest available reservior operational studies. The generation data were then reduced to reflect future irrigation depletions.

The "gross revenue data" for this study include revenues from sales of long-term firm commercial power, sales of peaking power, sales of irrigation energy, and other revenues. These other revenues come from sources such as: replacement service, summer firm, maintenance service, wheeling income, joint transmission system charges, the Southwestern Power Administration's share of intertie costs, Canyon Ferry headwater benefits, and a conservative estimate of revenue from above adverse water year peaking capability.

Expenses

O&M Expenses

O&M expenses shown in the PRS reflect the costs associated with the operation of powerplants, substations, and dispatch offices; the maintenance of powerplants, substations, and transmission lines; supplies associated with maintenance; any nonrecurring maintenance; administrative overhead; and wheeling payments for use of transmission capacity in other systems.

Historical O&M expenses are based on accounting records through September 30, 1982. Projected O&M expenses are based on the program documents contained in the FY 1984 budget dated December 1982. Nonrecurring O&M is included as a part of the O&M expense through the budget period, but has been removed from the cost estimate beyond that point. No attempt has been made to forecast changes in the operation or maintenance costs beyond the budget period; therefore, the variance observed in the future data is due solely to declining future wheeling expenses. Wheeling expenses decline proportionately as firm power sales decline.

Purchased Power

Historical purchased power costs are based on accounting records through September 30, 1982. The FY 1983 purchased power cost is based on the FY 1984 budget justification program documents dated December 1982. No future purchased power costs are projected beyond 1983, because the PRS is based on average water year data for the period 1984 through 2082.

Integrated Projects

Four projects, Colorado-Big Thompson, Kendrick, Riverton, and Shoshone, were combined with the P-SMBP in 1954 for power marketing, operation, and repayment purposes and the fifth, North Platte, was combined in 1959. These projects are known as the "Integrated Projects" of the P-SMBP, Western Division. The Riverton Project was reauthorized as a unit of P-SMBP on September 25, 1970, by Pub. L. 91-409. Basically, the integration combined the projects' powerplants and transmission systems for operational, power marketing, and repayment purposes. Irrigation development of the Integrated Projects was completed in accordance with plans contemplated in the authorizing legislation. Long-term contracts established the share of the costs allocated to irrigation that the irrigation districts would repay. The remaining irrigation development costs were assigned to be repaid from power revenues. An annual transfer of funds from the P-SMBP to the Integrated Projects is made in an amount sufficient to cover O&M expenses, repayment of the interest-bearing power investment, and replacements. In addition to these annual costs, payments are made periodically to repay the portion of the irrigation investment assigned to power.

The historical integrated project expenses are based on accounting records through September 30, 1982. Future expenses are based on studies which are conducted jointly by the Lower Missouri Region of the USBR and Western's Loveland-Fort Collins Area Office.

Interest

Rates of interest applicable to the interest-bearing commercial power investments (including interest during construction) were established in accordance with the Garrison Diversion Unit Act, Pub. L. 89-108, 89th Congress, August 5, 1965.

All investments in existing power generation facilities constructed by the Corps of Engineers and USBR were charged 3-percent interest from the date of investment to June 30, 1965. Thereafter, the interest rate on the unpaid balance of the investment allocated to commercial power is 2½ percent per annum for Corps of Engineers related investments and 3 percent per annum for USBR related investments. The commercial power investment in the transmission and operating facilities for the P–SMBP is divided between the 2½- and 3-percent interest rates. This division is made in the same ratio as that of the power generating capacity installed by the Corps of Engineers compared to the power generating capacity installed by the USBR.

Future power system investments beyond the scope of the Garrison Diversion Act of 1965 are subject to the current interest rate. That interest rate was 9½ percent at the time of the FY 1982 study.

Project Investment

Power Investments

The cumulative power investment and the allowable unpaid balance are increased by the cost of an investment in the year a facility is placed in service, and the allowable unpaid balance is correspondingly reduced by the amount of this investment 50 years later.

The interest-bearing power investments represented in the repayment studies are the total specific power costs plus a share of the multipurpose functions allocated to power, less the suballocation to interest-free irrigation. The historical data are based on accounting records through September 30, 1982. Future investments are projected through the budget period only and are based on cost estimates for FY 1984 budget justification.

Power Replacements

Beginning in FY 1973, future replacement costs were treated as capital investments and identified in repayment studies. Repayment periods associated with replacements are based on the estimated service life of each unit of property included in the total electric plant investment, but do not exceed 50 years. The units of property and service life factors used in this study to estimate future replacements beyond the budget period are based on an August 1981 publication entitled "Replacements-Units, Service Lives, Factors" published by the USBR and Western. The estimated service lives of the units of property reflect the retirements that have been experienced over the years with various facilities. The total P–SMBP electric plant investment (including that suballocated to irrigation for repayment purposes) is used in computing replacement costs.

The FY 1982 study and previous studies forecast future replacement costs based on the original installed cost of the facility. Beginning in FY 1973, the original installed costs are indexed to current cost levels for estimating replacement costs. The costs are not indexed beyond current levels, and do not reflect possible continued escalation of costs or expenses.

Historical replacement costs are based on accounting records through September 30, 1982. Estimated replacement costs for the immediate future are based on the program documents included with the FY 1984 budget justification dated December 1982. The estimated replacement costs beyond the budget period in the program documents are indexed to 1982 cost levels.

Irrigation

Required aid to irrigation reflects the cumulative P–SMBP irrigation investment to be repaid from power revenues after crediting revenues anticipated from irrigation and existing municipal and industrial water agreements. Repayment periods, except for existing units, reflect a development period after the unit becomes benefit-producing plus a 50-year repayment period.

Irrigation investment is comprised of three separate categories of units. The first category, "Existing Units," includes all units that have been constructed and are now in operation. All of the existing units were either constructed or under construction on June 30, 1964. The second category, called "Projects in Construction Phase," consists of individually itemized units which are under construction or for which construction is expected to be completed, all of which would require irrigation aid during the PRS or by the year 2082. The third category, "Other Units" includes those for which future development is anticipated. "Other Units," developed through the year 2022 would requie irrigation aid during the life of the study.

Future irrigation investments are based on 1982 cost levels. Assistance from power revenues is required by law to repay irrigation investment beyond the irrigators' ability to repay.

Order of Repayment

In accordance with repayment criteria, the repayment study first applies all revenues to payment of annual O&M and interest costs. An annual transfer of funds from P–SMBP is made to the Western Division Integrated Projects which is sufficient to cover the operation, maintenance and replacement (OM&R) expenses, repay the interest-bearing power investment, and make the aid to irrigation payments within their established repayment periods. These annual payments are treated as an operating expense by P–SMBP. Remaining revenues are applied to repayment of investment. Costs of each unit, division, or separable feature allocated to commercial power are repaid with interest on the unpaid balance. In no case does the repayment exceed 50 years from the date when the unit, division, or separable feature became revenue-producing. After repayment of these commercial power investments, revenues are utilized to provide aid to irrigation.

Basis for Rate Development

For the Eastern Division, the monthly demand charge was proportioned in accordance with the overall ratio of increase and rounded to an even $1.65/kW. The energy component was assigned the balance of the required increase. This structure yields a desirable split, approximately 50/50 between the demand and energy components of the rate schedule. The wide deversity of types of load in the service area results in customers with widely divergent load factors. An approximate 50/50 split between demand and energy components does not give unfair advantage or penalty to any one customer group.

Based upon the load characteristics of the Western Division's firm power obligation, a monthly capacity charge of $1.65 per kW (the same as the Eastern Division) together with an energy charge of 5.1 mills per kWh, will yield the required 8.54 mills per kWh average return. The proposed rate for peaking power is the same as the proposed firm power rate. The proposed transmission service rate was obtained by increasing the current transmission service rate by the ratio of the proposed firm power rate to the present firm power rate, and is expressed to the nearest one tenth of a mill.

The proposed effective date of the new rate schedules is the first day of the first full billing period beginning after January 1, 1985. This supersedes the language in 49 FR 26798, June 29, 1984, which states "The proposed rates are expected to go into effect on an interim basis with the beginning of the January 1985 billing period."

Discussion of Issues—Public Comments

Questions Regarding P-SMBP O&M Cost

Western received several requests from customers and other interested parties to show in greater detail the components making up O&M cost in the 1982 PRS. There was a mistaken perception by some who read the preliminary Draft Customer Rate Brochure that projected O&M costs had risen 36 percent between 1980 and 1982. Western's preliminary Draft Customer Rate Brochure actually showed an increase of 18 percent between the 100-year projections of O&M in the 1980 PRS versus the 100-year projections in the 1982 PRS. Also, some customers mistakenly assumed that Western had built a 9-percent-per-year inflation factor into its projected O&M expenses. Western responded that the increase in projected O&M costs between the two PRS's was 18 percent in the Draft Customer Rate Brochure, not 36 percent. In addition, Western reexamined some O&M data and assumptions related to O&M which resulted in reductions in projected O&M in the final 1982 PRS. In the final rate analysis, the 100-year projection of O&M expense was 13 percent higher than the 100-year projection of O&M expense in the 1980 PRS. Western also responded that a 9-percent inflation rate was not factored into projected O&M costs. Western's O&M expenses for the first 6 years of the study period are taken directly from budget documents. The O&M estimates for this "budget period" include any expected increases in the cost of materials and supplies, or additional work due to new facilities. Western does index costs and prices for materials and supplies during the budget period based on a targeted level provided by the Office of Management and Budget. Salary increases for General Schedule employees are not projected and union agreements for Wage Board employees are assumed to remain constant. All nonrecurring and extraordinary maintenance is removed from the estimate for the last year of the budget period, and the resulting "routine O&M expense" is held constant from the last budgeted year through the remainder of the 100-year projection period except for some slight variance in wheeling expense. Wheeling expense is adjusted annually up or down in proportion to firm power sales. In addition to these responses, Western sent to two parties a breakdown of O&M expense by major category; i.e., the Corps of Engineers, Western's Billings Area Office, Western's Loveland-Fort Collins Area Office, USBR's Lower Missouri and Upper Missouri Offices, and a breakdown of wheeling expenses. A further breakdown of O&M expense to identify funds spent on transmission lines, substations, communications, power marketing and other expenses was shown for Western's Billings and Loveland-Fort Collins Area Offices.

Questions Regarding Irrigation Aid

Several questions and comments were received concerning the amount of irrigation aid shown in the 1982 PRS and its effect on power rates. One commentor expressed full support for the ultimate development concept, but also expressed the thought that the increase in irrigation aid from $2.2 billion to $3.2 billion betwen the 1980 and 1982 PRS was not justified. Also questioned was the inflation rate used to estimate future irrigation aid. Another interested party also asked for the specific reasons why irrigation aid repaid increased $1 billion between the 1980 and 1982 PRS. In addition, they commented that presently authorized irrigation projects would be constructed by the year 2000 and were curious as to why irrigation aid continued to increase after that date. They also commented that the unpaid balance of irrigation aid continually increased throughout the 1982 PRS even as payments were being made toward that unpaid balance. They asked why this unpaid balance remained at the end of the study. In addition to these comments and questions on total irrigation aid, there were numerous inquiries regarding specific projects and data relating to total irrigation aid.

One party was specifically interested in obtaining information concerning the Norden Dam-O'Neill irrigation project. Their questions concerned the present cost of the project, its portion of irrigation aid, its effect on Western's power rates, the likelihood of increases in its cost estimate in future years, and the effect on power rates of cost overruns and inflation related to irrigation units. Another interested party asked what the effect would be on rural electric customers of any large irrigation project being constructed. Another inquiry was concerned about the content of the rule relating to the irrigators' "ability to pay" for irrigation projects and who determines these rules.

Western responded to these questions by saying that the increase from $2.2 to $3.2 billion in total irrigation aid repayment since the 1980 PRS is due both to an indexing of unit costs to October 1982 levels, and to the rescheduling of units. Approximately 75 percent of the $1 billion increase results from rescheduling of units. The remaining 25 percent results from cost indexing to October 1982; there is no inflation factor (beyond 1982) in this item. Formerly, the USBR scheduled units of the P–SMBP individually. Yearly updates saw many changes in near-term projects, while long-term projects went essentially unreviewed. Over the years, these changes resulted in a discrepancy between scheduled acres and the P–SMBP "Ultimate Development" acreage total.

"Ultimate Development," for purposes of financial management of the P–SMBP, is defined in terms of the total acreage (3,768,000 acres) incorporated in the 1958 study, "Economic Analysis: Missouri River Basin Project." That acreage was validated by congressional review, and corresponds to the Corps of Engineers main stem cost allocations of the same year. Beginning with the 1981 PRS, the USBR changed their unit scheduling approach. Proposed units of the P–SMBP are now individually scheduled only if the unit has been reauthorized, and the USBR is actively seeking construction funds from Congress. Remaining acres of the P–SMBP are scheduled over the remainder of a 100-year development period based on an equal annual schedule resulting in a composite investment over the period.

The reason there is an unpaid balance at the end of the study is that after 1995, irrigation construction continues at about $67.5 million per year through 2082. Through 2082, slightly less than $67.5 million is being paid off per year; thus a net increase in the balance to be repaid results. Each $67.5 million increment of construction has a 60-year repayment period (50-year repayment plus 10-year development).

Therefore, to actually pay the last increment of construction, the study would have to be run to approximately the year 2142 (2082 + 60 years). Since the study is only run to 2082, a 100-year period, an "unpaid" balance is observed.

In regard to the questions concerning the Norden Dam-O'Neill Unit, Western responded that financial aid to irrigation for the O'Neill Project, estimated at approximately $304 million, is included in the base for the current proposed rate increase. This estimate is an increase of approximately $31 million over the estimate used in the FY 1980 PRS. Of the total increase to irrigation aid, 1.6 percent is attributable to the O'Neill Project. (The total increase is from $5.3 billion to $7.2 billion, or $1.9 billion.) The total estimated cost of the O'Neill Project, as of September 1981, is

approximately $368.7 million. Of this amount, approximately $304 million would be repaid by power. As current information becomes available, all project costs are increased (or decreased) to reflect the latest data.

Therefore, the construction cost estimate for the O'Neill Project will be adjusted as the USBR's most current estimates dictate. As the USBR estimates change, whether they increase or decrease, the changes will be reflected in the PRS.

Inflation or deflation has an effect on the rate at such time as one or the other is reflected in the data elements that go into the PRS. Inflationary trends would eventually show up as increased estimated costs and have an upward effect on rates. Deflation would cause decreases in estimated costs and would have a downward effect. Cost overruns will show up as increases in actual costs, and have the effect of raising rates; if projects come in under estimated costs, the effect is to suppress rates. Western runs a PRS every year. These costs, actual or estimated, increasing or decreasing, will impact the study when they are entered into the data base from which the PRS is run.

In answer to the question of the effect on power rates caused by the construction of a large irrigation project, Western responded that repayment of irrigation features of the P–SMBP is conducted under the ultimate development concept. Although the acreage and pumping power requirements are fixed under this concept, the scheduling of the construction of the individual projects in not. PRS's conducted annually by Western utilize the latest construction schedules available from the USBR. If a large irrigation project were constructed according to previously anticipated schedules, and at previously estimated costs, there would be no impact on the PRS's nor on the firm power rates of our customers. Because of the 100-year scope of the PRS's, there is the possibility that an acceleration in scheduling and subsequent project construction could require that a project be repaid within the current PRS's 100-year term, where previously that had not been the case. That increase in payments would be reflected in the firm power rate. The reverse of the above situation could also occur. Scheduling could be delayed to the extent that a project previously requiring repayment within a current PRS could fall outside the scope of a subsequent PRS. This would tend to delay the need for a rate increase. Consideration is given to the ultimate development irrigation pumping requirements during any marketing study. As scheduled irrigation projects come into existence, there are three impacts on the firm power customers: (1) Water is depleted from the hydrosystem so there is less Federal generation available to sell as firm power; (2) more of the available hydrogeneration must be used in the form of pumping power, again, less of the resource is available for firm power users; and (3) there is less revenue available for repayment because more of the resource is being sold at the 2½-mill/kWh pumping rate which is lower than the firm power rate. Any loss in revenue is reflected in higher firm power rates.

Rate Level and Structure

Several comments contained suggestions that the irrigation pumping rate be changed from 2.5 mills to a level that would reflect increasing OM&R power costs. Another suggestion concerning rate structure was that the increase in firm power rates be implemented in two equal annual increases instead of a single application.

Western responded that the project pumping rate of 2.5 mills/kWh was initially recommended in Senate Document 191. The project pumping rate is a responsibility of the USBR, and efforts are underway by the USBR to determine if this rate is still adequate. There is a possibility that a change may require congressional notification. Until such time as the existing rate is changed, Western feels compelled to use it in the PRS's.

The absolute magnitude of the impact on the ultimate consumer caused by this proposed rate increase does not appear to justify a two-step implementation. An increase of 1.34 mills/kWh on only that portion of the energy purchased by the ultimate consumer is very small when compared to the current retail rate, which is estimated to be in excess of $0.05 per kWh.

Replacements

One comment was concerned with how replacement costs were estimated and what rate of inflation was used in making these estimates. In addition, the commentors asked if these replacement facilities were included in the Joint Transmission System (JTS) and were being paid for in the JTS rate. Another questioner asked why projected replacements vary so dramatically from year to year, instead of being paid in equal annual installments.

Western responded that costs for future replacements are indexed to the study year (in this instance 1982 dollars) and the frequency of replacement is projected on the basis of the expected service lives of categories of facilities that make up the total power system investment, except costs of nonreplaceable items (such as lands, dams, and reservoirs) which are allocated to power. The replacement projections are accomplished through the use of a computer program which estimates future annual replacements based on replaceable investment by plant account for the study rather than showing the replacement of individual pieces of equipment.

Replacements are repaid with interest over their useful lives. However, they are not repaid in equal annual installments. Repayment of replacements is done in the same manner as repayment of investments; i.e., they have a specific length of time within which they must be fully repaid, and highest interest-bearing groups are repaid first within those specific periods. All, or only a fraction, of a replacement cost may be paid in the first year of its repayment period, the last year of its repayment period, or any year in between. The only requirement is that the total replacement cost (plus interest) be recovered within the allotted repayment period.

Western's replacements occur in a cyclical manner, with different equipment having different useful lives. The study projects high replacement costs in some years and low replacement costs in others, based on an analysis of historic replaceable investment by plant accounts as published in the August 1981 booklet entitled "Replacements—Units, Service Lives, Factors" published jointly by the USBR and Western.

The cost of the P–SMBP transmission system which serves as Western's share of the JTS is included in PRS. However, this inclusion of costs is negated because Western also includes the revenue received from JTS payments to reduce commensurately the revenue which the firm power rate must yield.

Miscellaneous Issues

An inquiry was made as to Western's method of choosing a test year or critical year for revenue requirements. Western does not target a specific test year. Western is required to generate revenues sufficient to cover annual expenses as well as any required payments during the 100-year study period.

In each year, the study repays costs in the following priority:

(1) Annual expenses (O&M, interest, integrated projects, and purchased power);

(2) Power replacements and investments;

(3) Irrigation aid.

Power investment must be repaid within 50 years from an inservice date, while irrigation aid has 50 years plus a development period, usually totaling 60 years, before required payment. Replacements have various repayment periods ranging from 10 years to 50 years. A rate adjustment is triggered if, for any year of the 100-year projection period of the RPS, there is an amount of required payments combined with annual expenses such that revenues will not offset all of the costs. Whatever year within the 100-year study period that this occurs is, in effect, Western's "test year."

Several parties wanted assurance that the procedures used to conduct the 1982 PRS were not altered from those historically used. Western responded that the procedures used in the 1982 PRS, based upon a cost-based approach, have not deviated from those used in past studies.

These procedures will continue to be used in future power repayment studies, barring congressional or other actions which might alter the overall repayment methodology.

FERC Comments

In its "Order Confirming and Approving Rate Schedules Noting Interventions and Denying Requests for Hearing" issued February 17, 1984, FERC raised two issues that they felt should not continue unchecked indefinitely. The first of these involves the length of time Western allows certain irrigation projects to be repaid. According to FERC.

. . . an examination of WAPA's PRS indicates that investments made during the years 1950–1980 improperly reflect repayment periods ranging from 61 to 83 years for irrigation projects. The repayment criteria recommended in the December 1963 Special Study B–5 report (which recommendations were considered and endorsed by Congress with the passage of section 4(b) of the Garrison Diversion Act), provide that irrigation projects should be repaid within 50 years plus a maximum permissible development period of 10 years. There is no indication that the Administrator has intentionally deviated from this recommendation here, and WAPA's next PRS should be adjusted accordingly or provide a justification for the deviation.

Western responds that the December 1963 Special Study B–5 report also states on page 42 that:

Costs relating to specific irrigation units (this includes mainstem reservior storage and irrigation pumping power cost assignments if appropriate) contructed or under construction on June 30, 1964, would be returned within the earliest practicable time period after completion of repayment of interest-bearing commercial power investment. These costs would be fully repaid with net power revenues before any such revenues would be made available for return of costs relating to irrigation units to be placed under construction subsequent to June 30, 1964.

In both the 1980 and the 1982 PRS's, all irrigation projects constructed or under contruction on June 30, 1964, are repaid after completion of repayment of interest-bearing commercial power investment and before repayment from power revenues begins for irrigation units placed under construction subsequent to June 30, 1964. Thus, Western has confirmed that the irrigation repayment criteria set down by Special Study B–5 are being adhered to correctly.

The second issue raised by FERC relates to the application of current interest rates to project additions and replacements. FERC's comments in this regard are as follows:

. . . we note that WAPA's does not reflect current interest rate on project additions and replacements as indicated in the February 1982 Customer Brochure on the P–SMBP (P.V–3). Instead, WAPA computes interest expenses on project additions and replacements utilizing 2.5% and 3% interest rates for certain facilities. WAPA defends this practice in a letter dated January 13, 1983, stating that 2.5% and 3% interest rates are authorized in section 9(c) of the 1939 Reclamation Act and section 4(b) of the Garrison Diversion Act. However, while those statutes do permit the use of the specified interest rates on existing and authorized facilities, we are unable to find statutory authority for using those interest rates on project additions and replacements. Accordingly, WAPA should compute interest expenses on project additions and replacements utilizing a current interest expense as specifically required by DOE Order No. RA 6121.2.[14]

It therefore appears that the Assistant Secretary has *not* waived this provision under RA 6120.2, and indeed, intends that the current interest rate be applied to project additions and replacements.

Western responds that section 4(d) of the Garrison Diversion Act states that:

From and after July 1, 1965, the interest rate on the unamortized balance of the investment allocated to commercial power in facilities constructed or under construction on June 30, 1965, by the Department of the Army in the Missouri River Basin, the commercial power from which is marketed by the Department of the Interior, and in transmission and marketing facilities associated therewith, shall be 2½ per centum per annum.

Until 1982, the position of Western, and of the USBR prior to Western, was that a portion of all additions to and replacements of transmission and marketing facilities was associated with the Department of the Army facilities constructed or under construction on June 30, 1965. The remaining portion of additions to and replacements of transmission and marketing facilities was associated with USBR investments bearing interest at 3 percent per year. In 1982, Western reappraised this position was concluded that all the transmission and marketing facilities associated with the Department of the Army facilities constructed or under construction on June 30, 1965, have been constructed, and that beginning with 1982 all additions and replacements would be subject to current interest rates pursuant to DOE Order No. RA 6120.2.

However, an exception was provided for the P–SMBP to allow updating of automatic data processing programs to accommodate these interest rate changes. This updating has been completed, and Western's new additions and replacements in the P–SMBP will be subject to current interest rates beginning with the FY 1983 PRS.

Other Considerations

Environmental Analysis

In accordance with DOE Guidelines for Compliance with the National Environmental Policy Act of 1969 (NEPA) published in the **Federal Register** (45 FR 20694–20701, 48 FR 685–686), Western determined that under section D of these guidelines an environmental assessment (EA) was required for compliance with NEPA. Section D states that for rate adjustments for PMAs, the need for an EA is dependent on the magnitude of the proposed rate adjustment in comparison to the rate of overall inflation over the same time period. In this case, the rate of inflation was exceeded by the proposed rate adjustment, and an EA was prepared.

Other DOE guidelines (Memorandum to the Director, Office of Power Marketing Coordination, April 13, 1979) stipulate other aspects that need to be addressed in the EA. These include:

[14] We (FERC continued) note in this regard that the order signed by the AS/CE states: Interest rates of 2½ and 3 percent are used on *existing and authorized transmission facilities* and on *existing generating facilities* in accordance with provisions of the Garrison Diversion Act of August 5, 1965. *New investments* beyond the scope of that act are *subject to the current interest* rate . . . (emphasis added)

1. The percentage of total power requirements in the service area supplied by the PMA.

2. The relative prices of PMA supplied power and other sources.

3. The level of induced fuel switching that might occur as a result of the proposed rate increase.

4. The socioeconomic impact to the consumer.

The EA prepared by Western addressed the potential impact of the proposed rate adjustment on both the physical/natural environment and on socioeconomics. As the adjustment would not involve any new construction, or result in a change from the present pattern of operations, the physical and natural environment will not be impacted by the action. Furthermore, as Federal hydropower will remain far less expensive than alternative sources, no secondary environmental effects resulting from, for example, increased thermal generation or fuel switching will occur.

Socioeconomic effects were measurable. Though the percent increase of Federal hydropower was rather large at the wholesale level, at the consumer level rate blending had reduced the increase to a modest 2.1- to 2.4-percent increase to consumers purchasing their power from municipal utilities, and 0.7- to 0.9-percent increase to consumers purchasing from cooperatives.

The conclusions of the final EA were that no significant impact would occur to the human environment as a result of the proposed action. Consequently, Western has requested that a Finding of No Significant Impact determination be made for this action.

Submission to FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve, and place in effect on an interim basis, effective the first day of the first full billing period after January 1, 1985, Rate Schedules P-SED-F2, P-SED-FP2, P-SWD-F2, P-SWD-FP2, P-SWD-T3, and P-SWD-T4. These rate schedules shall shall remain in effect on an interim basis until the FERC confirms and approves them or substitute rates, on a final basis.

Issued in Washington, D.C., November 28, 1984.

Danny J. Boggs,

Deputy Secretary.

DEPARTMENT OF ENERGY

Western Area Power Administration, Billings Area Office

[Schedule P-SED-F2 (Supersedes Schedule P-SED-F1)]

Pick-Sloan Missouri Basin Program, Eastern Division, Schedule of Rates for Wholesale Firm Power Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

In the area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable

To wholesale power customers for general power service normally supplied through one meter at one point of delivery, or at the voltage and delivery points designated in the power sales contract.

Character and Conditions of Service

Alternating current, 60 hertz, three-phase, delivered and metered at the voltage and points established by contract.

Monthly Rate

Capacity Charge

$1.65 per kilowatt of billing demand.

Energy Charge

4.41 mills per kilowatthour for all energy use up to and including that associated with a 60 percent load factor.

7.79 mills per kilowatthour for all additional energy use up to, but not in excess of, the delivery obligations under the power sales contract; provided that any contract provisions regarding minimum energy purchase requirements will be modified at the customer's request to reduce said minimum to an amount associated with a 60 percent load factor.

Billing Demand

The billing demand will be the highest 30-minutes integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Minimum Bill

$1.65 per month per kilowatt of the effective contract rate of delivery.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overruns shall be billed at ten (10) times the above rate.

Adjustments

For Character and Conditions of Service. Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5 percent discount on capacity and energy charges when facilities are provided by the customer which result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

For Transformer Losses. If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased 2 percent to compensate for transformer losses, unless the power customer, the transmission agent (if any), and the auxiliary supplier agree to use calculated or measured transformer losses.

For Power Factor. None. The customer will normally be required to maintain a power factor at the point of delivery between 95 percent lagging and 95 percent leading.

DEPARTMENT OF ENERGY

Western Area Power Administration, Billings Area Office

[Schedule P-SED-FP2 (Supersedes Schedule P-SED-FP1)]

Pick-Sloan Missouri Basin Program, Eastern Division, Schedule of Rates for Wholesale Peaking Power Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

Within and adjacent to the marketing area of the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable

To customers with generating resources enabling them to utilize it.

Character and Conditions of Service

As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltages, and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate

Capacity Charge

$1.65 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy Charge

4.41 mills per kilowatthour for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For Power Factor

None. The customer will normally be required to maintain a power factor at the point of delivery between 95 percent lagging and 95 percent leading.

DEPARTMENT OF ENERGY

Western Area Power Administration, Loveland-Fort Collins Area Office

[Schedule P-SWD-F2 (Supersedes Schedule P-SWD-F1)

Pick-Sloan Missouri Basin Program, Western Division, Schedule of Rates for Wholesale Firm Power Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

In the area served by the Western Division of the Pick-Sloan Missouri Basin Program.

Applicable

To wholesale power customers for general power service normally supplied through one meter at one point of delivery, or at the voltage and delivery points designated in the power sales contracts.

Character and Conditions of Service

Alternating current, 60 hertz, three-phase, delivered and metered at the voltage and points established by contract.

Monthly Rate

Capacity Charge

$1.65 per kilowatt of billing demand.

Energy Charge

5.1 mills per kilowatt hour for all energy use up to, but not in excess of, the delivery obligation under the power sales contract.

Billing Demand

The billing demand will be the highest 30-minute integrated demand established during the billing period up to, but not in excess of, the delivery obligation under the power sales contract.

Minimum Bill

$1.65 per month per kilowatt of the effective contract rate of delivery.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overruns shall be billed at ten (10) times the above rate.

Adjustments

For Character and Conditions of Service

Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5 percent discount on capacity and energy charges when facilities are provided by the customer which result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

For Transformer Losses

If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor

None. The customer will normally be required to maintain a power factor at the point of delievery of between 95 percent lagging and 95 percent leading.

DEPARTMENT OF ENERGY

Western Area Power Administration Loveland-Fort Collins Area Office

[Schedule P-SWD-FP2 (Supersedes Schedule P-SWD-FP1)]

Pick-Sloan Missouri Basin Program, Western Division; Schedule of Rates for Wholesale Peaking Power Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

In the area served by the Western Division of the Pick-Sloan Missouri Basin Program.

Applicable

To wholesale power customers purchasing such service under long-term contracts. Because of the nature of this class of service, it is applicable only to customers with other resources enabling them to utilize it.

Character and Condition of Service

As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltage and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate

Capacity Charge

$1.65 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy Charge

5.1 mills per kilowatthour for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overruns shall be billed at ten (10) times the above rate.

Adjustments

For Power Factor

None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

DEPARTMENT OF ENERGY

Western Area Power Administration Loveland-Fort Collins Area Office

[Schedule P-SWD-T3 (Supersedes Schedule P-SWD-T1)]

Pick-Sloan Missouri Basin Program, Western Division Schedule of Rates for Firm Transmission Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

In the area served by the Western Division of the Pick-Sloan Missouri Basin Program.

Applicable

To firm transmission service customers where power and energy are supplied to the Western Division system

at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the Western Division system specified in the service contract.

Character and Conditions of Service

Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate

Transmission Service Charge

1.3 mills per kilowatthour delivered at the point of delivery or $11.40 per year for each kilowatt contracted for at the point of delivery, as specified in the contract; payable monthly at the rate of 1.3 mills per kilowatthour or $0.95 per kilowatt of effective contract rate of delivery.

Adjustments

For Reactive Power

None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by Contractor and Contracting Officer or their Authorized Representatives.

For Losses

Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

DEPARTMENT OF ENERGY

Western Area Power Administration, Loveland-Fort Collins Area Office

[Schedule P-SWD-T4 (Supersedes Schedule P-SWD-T2)]

Pick-Sloan Missouri Basin Program, Western Division, Schedule of Rates for Nonfirm Transmission Service

Effective

The first day of the first full billing period beginning after January 1, 1985.

Available

In the area served by Pick-Sloan Missouri Basin Program, Western Division.

Applicable

To nonfirm transmission service customers where power and energy are supplied to the Western Division systems at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity, less losses, to points of delivery on the Western Division systems specified in the service contract.

Character and Conditions of Service

Transmission service on an intermittent basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate

Transmission Service Charge

1.3 mills per kilowatthour delivered at the point of delivery for each kilowatthour schedule; payable monthly.

Adjustments

For Reactive Power

None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by Contractor and Contracting Officer or their Authorized Representatives.

For Losses

Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

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federal register

Friday
December 7, 1984

Part V

Department of the Treasury

Customs Service

19 CFR Part 10

Caribbean Basin Initiative and Generalized System of Preferences; Final and Proposed Rules

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 84-237]

Customs Regulations Amendments Relating to Caribbean Basin Initiative and Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the provisions of the Caribbean Basin Economic Recovery Act which created an economic recovery program for nations of the Caribbean and Central America and provided for the waiver of duties until September 1995 on most products imported from any of the designated beneficiary countries. On January 5, 1984, the interim Customs Regulations were published as T.D. 84-14 in the **Federal Register** (49 FR 852). This present document, in part, sets forth the final regulations on the Caribbean Basin Initiative and, consistent with statutory differences, modifies the "imported directly" provisions of the Generalized System of Preferences to conform them to the definition of "imported directly" used in the Caribbean Basin Initiative.

DATE: This rule is effective on January 7, 1985.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: William L. Marchi, Duty Assessment Division (202-566-2957); Legal Aspects: Francis W. Foote, Esq., Classification and Value Division (202-566-2938);

U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Subtitle A, Title II, Pub. L. 96-67, the Caribbean Basin Economic Recovery Act (the "Act"), commonly referred to as the Caribbean Basin Initiative (CBI), implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 30, 1995, on most products imported from any of the Caribbean and Central American countries designated as beneficiary countries. Beneficiary countries must meet several criteria before the President is authorized to designate them as eligible under the CBI. Further, certain products cannot be declared duty-free. Under other provisions of law, duty-free treatment can be withdrawn for articles imported in such quantities as to cause injury to a competing U.S. industry. A rule of origin specifies under what conditions articles will be considered products of a beneficiary country, and, therefore, entitled to duty-free entry.

Pursuant to Presidential Proclamation 5133 dated November 30, 1983 (48 FR 54453), the President designated the countries and territories or successor political entities set forth in the Annex to the Proclamation as "beneficiary countries", thus conferring duty-free treatment for all eligible articles from those beneficiary countries. This action was effective with respect to all articles that were entered, or withdrawn from warehouse for consumption, on or after January 1, 1984, and on or before September 30, 1995. Presidential Proclamation 5142 of December 29, 1983 (49 FR 341), amended Presidential Proclamation 5133 and the Annex to that document to extend the benefits of the Act to additional Caribbean and Central American countries.

To implement the duty-free aspects of the CBI, Customs published interim regulations as T.D. 84-14 in the **Federal Register** on January 5, 1984 (49 FR 852). The interim regulations provided for a 60-day public comment period which was subsequently extended by a notice published in the **Federal Register** on March 8, 1984 (49 FR 8600), to May 4, 1984.

Numerous comments were received in response to the interim regulations. A particularly large number of comments were received on § 10.198 of the interim regulations which concerns the documentary evidence of country of origin and requires the submission of a declaration of the manufacturer or exporter together with an endorsement thereof by the importer or consignee. In light of the comments received and the changes Customs deemed necessary, it was decided to modify the provisions of § 10.198 and republish them as an interim regulation for further public comment. The document containing the modified § 10.198 is set forth elsewhere in this issue of the **Federal Register**. A complete discussion of the comments received and the analysis of those comments is contained in that document. The discussion of comments received on all other aspects of the interim regulations is set forth below:

Discussion of Comments

A. Foreign Trade Zones

Four comments were received concerning the manner in which foreign trade zones (FTZs) can be used for the purpose of adding value in the U.S. or Puerto Rico. These commenters were of the opinion that the interim regulations prevent or discourage the use of FTZs as production locations in contravention of the aim of the CBI which was both to create jobs in the U.S. and in the Caribbean Basin and to integrate the Caribbean Basin into the U.S. economic framework. One commenter suggested that, in order to embody the basic understanding and intent behind the CBI legislation, the following principles should be accepted by Customs in interpreting the statute: (1) Products which are considered to have originated in a beneficiary country and which meet the value-content requirement at the time of entry will not be disqualified from duty-free treatment under the direct importation rule merely because they pass through an FTZ prior to entry, and (2) subject to the 15 percent maximum limitation, the cost or value of any materials produced in a U.S. FTZ and included in an article may be counted toward the value-added requirement. Two commenters specifically recommended that § 10.195 be amended to provide (1) that U.S. FTZs be considered U.S. customs territory, (2) that temporary residency, handling, or processing of otherwise qualified merchandise in an FTZ not disqualify previously added value or origin attributed to a beneficiary country, and (3) that value added in an FTZ may, to the allowable limit, be included for purposes of determining the total value added in beneficiary countries. One of these commenters further suggested that these stipulations should be subject to appropriate documentary and procedural controls to be established by Customs.

As concerns the direct importation issue, a review has been made of prior rulings issued both under the GSP and in other contexts. The GSP rulings have concluded that merchandise which passes through an FTZ after exportation from a beneficiary developing country, but prior to entry, is considered to have been imported directly for purposes of the GSP. In addition, in another ruling it was held that the 5-year limitation for merchandise to remain in a Customs bonded warehouse commenced not on the date when the merchandise was transferred from an FTZ to the warehouse, but rather on the date when the merchandise originally entered the FTZ, which was the date of importation for Customs purposes. This latter ruling specifically revoked that portion of an earlier ruling which stated that "merchandise is deemed to have been imported into the Customs territory at the time of its constructive transfer from

the zone" to the bonded warehouse. Since the clear implication arising from these rulings is that merchandise does not lose its status of having been imported into the customs territory merely from the fact that it subsequently passed through an FTZ prior to entry, Customs agrees that such merchandise would not be disqualified from CBI duty-free treatment by application of the direct importation requirement so long as the merchandise had been imported directly from a beneficiary country prior to its entry into the FTZ. Customs believes that it is not necessary or appropriate to amend § 10.193 of the interim regulations to clarify this point because it was never considered necessary to amend the corresponding GSP regulation in this respect, and an otherwise direct importation involving subsequent use of an FTZ prior to entry is covered by § 10.193(a) of the CBI regulations.

With regard to the other comments and proposals made on the FTZ issue, Customs notes the following:

Section 213(a)(1) of the CBI statute refers to the cost or value of materials "produced in the customs territory of the United States" as being includable in an article (up to 15 percent of the appraised value) for purposes of the value-added requirement. In light of this statutory language, and in consideration of the fact that under the Foreign-Trade Zones Act (19 U.S.C. 81a–81u), and the regulations issued thereunder (19 CFR Part 146), FTZs are treated as being outside the customs territory, Customs is of the opinion that there is no latitude to provide that the cost or value of materials produced in a U.S. FTZ may be counted toward the value-added requirement.

As to FTZs located in Puerto Rico, § 213(a)(1) of the CBI statute defines "beneficiary country" as including "the Commonwealth of Puerto Rico" for purposes of the value-content requirement but without any reference to the customs territory. Thus, the cost or value of a material produced in (and the direct costs of processing operations incurred in) an FTZ located in Puerto Rico may be counted toward that requirement. While this could result in unequal treatment as between U.S. and Puerto Rican FTZs, this appears to be unavoidable based on the special status of Puerto Rico under the statute.

Finally, it would be inappropriate to provide in these regulations that FTZs are to be considered as part of the customs territory since this would create a direct conflict with the FTZ Act and the regulations issued thereunder. Nor can these regulations permit unrestricted processing in an FTZ since a substantial transformation of an article in an FTZ located in the U.S. or Puerto Rico immediately prior to entry would cause the article to lose its status as a product of a beneficiary country.

Therefore, in addition to allowing merchandise entered into an FTZ to be considered directly imported, the only points set forth in the comments to which Customs agrees are (1) that temporary residency, handling, or processing (short of a substantial transformation) of an article would be permissible and would not disqualify previously added value, and (2) that value added to an article in an FTZ, subject to the statutory limitation as concerns U.S materials, may be counted toward the value-added requirement. Because the CBI regulations do not mention FTZs and thus do not on their face preclude these conclusions, there does not appear to be any necessity to amend those regulations to further clarify these points. Finally, it should be noted that the movement of merchandise into and out of FTZs under these circumstances would be subject to the documentary and procedural controls established under the FTZ Act and under § 10.198(c)(3) of the CBI interim regulations. (As discussed earlier, the document containing the modified § 10.198(c)(3) is set forth elsewhere in this issue of the **Federal Register**).

B. Addition of Value in Puerto Rico

Four comments were received concerning the role of Puerto Rico under the CBI, specifically as regards the addition of value to a partially manufactured article in Puerto Rico at the end of the manufacturing process (the "twin-plant" concept). These commenters stated either that the regulations do not address the question of the circumstances under which goods may enter Puerto Rico for the purpose of adding value, or that the regulations do not provide any guidelines concerning what types of controls will be exercised over the goods once they have entered Puerto Rico. The following specific proposals were made:

1. The scope of activities in Puerto Rico should not be limited to the use of foreign trade zones or Customs bonded warehouse facilities. The regulations should provide for the provisional duty-free entry of merchandise for the purpose of adding value anywhere in Puerto Rico either under a bonding procedure (whereby a bond would be taken in an amount to cover the potential duty, with cancellation of the bond upon presentation of documentary evidence to show that the merchandise after processing qualifies for CBI duty-free treatment) or for a period of up to 120 days pending the filing of a CBI entry for the finished goods.

2. Customs should develop guidelines concerning (a) the type of supervision to be exercised over the Puerto Rican operations, (b) whether the article must remain in Customs custody, (c) how long the article may remain in Puerto Rico prior to formal entry, and (d) how Customs will verify that the processing in Puerto Rico has been accomplished as claimed.

3. The regulations should clarify the following points: (a) That the entire 35 percent value requirement need not be satisfied when the article enters Puerto Rico from a beneficiary country in order to meet the imported directly requirement; (b) that value added in Puerto Rico and value added subsequently in a beneficiary country may both be taken into account when the article reenters Puerto Rico for further processing in order to meet the value-content requirement (this commenter also wants Puerto Rico to be specifically mentioned in one of the examples in § 10.196(a) and on the declaration of the manufacturer or exporter); and, (c) that the portion of a process started in Puerto Rico and the portion executed in a beneficiary country may be taken into account together to meet the substantial transformation test.

Under General Headnote 2, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), the customs territory includes the Commonwealth of Puerto Rico. Therefore, the procedures governing the importation and entry of merchandise into the U.S. are also applicable to Puerto Rico. Under present law, merchandise may be imported into the customs territory and may remain there without the filing of a consumption entry (at which time the dutiable status of the merchandise is normally determined) only under the following circumstances:

1. Under 19 U.S.C. 1557 and 1562 and Part 144, Customs Regulations (19 CFR Part 144), merchandise may be sent to a Customs bonded warehouse for storage, cleaning, sorting, or repacking (*i.e.*, for manipulation but not for manufacture). Such merchandise may be subsequently withdrawn from warehouse for consumption and, under 19 U.S.C. 1315, the dutiable status of the merchandise is determined at the time of withdrawal. Inasmuch as no manufacturing operation may be performed in these warehouses, there is a practical limit as to the amount of Puerto Rican value which may be added to the merchandise while in the warehouse.

2. Under 19 U.S.C. 1311 and Part 19, Customs Regulations (19 CFR Part 19), merchandise may be sent to a Customs bonded manufacturing warehouse. Under the statute and § 19.15, Customs Regulations (19 CFR 19.15), imported merchandise subjected to a manufacturing process in such a warehouse may not be withdrawn for consumption but rather must be exported.

3. Under item 864.05, TSUS, and § 10.31, Customs Regulations (19 CFR 10.31), merchandise may be imported under a temporary importation bond (TIB) for repair, alteration, or processing (including manufacture). Although merchandise imported under a TIB does not remain in Customs custody (*e.g.* in a Customs bonded warehouse), the statute and regulations require that the imported merchandise be exported or destroyed under Customs supervision within 1 year (or within up to 3 years if extensions are granted) from the date of importation. Failure to export or destroy the merchandise within the required time period will subject the importer to the payment of liquidated damages. This provision effectively bars the addition of value in Puerto Rico at the tail end of the manufacturing process.

Following passage of the CBI statute, section 213(a) thereof was amended by Pub. L. 98–573 which was signed by the President on October 30, 1984, to provide that, notwithstanding 19 U.S.C. 1311, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered into a bonded manufacturing warehouse in Puerto Rico. The Public Law also provides that the finished product may be withdrawn from warehouse for consumption and no duty will be imposed on the withdrawal of the product of such processing or manufacturing so long as the product meets the 35 percent value-content requirement at the time of withdrawal. Customs believes that this amendment was specifically intended to allow processing or manufacturing in Puerto Rico at the tail end of the manufacturing process so as to enable a product to meet the 35 percent value-content requirement. Moreover, since the amending language refers specifically to 19 U.S.C. 1311, it appears that the intent was to allow the addition of such value in a Customs bonded manufacturing warehouse without the requirement for exportation; Customs does not believe that this amendment constitutes authority to establish new bonding procedures in addition to those established under 19 U.S.C. 1311. However, this amendment results in a significant change in the CBI rules of origin since a product could be substantially transformed in the warehouse so as to lose its status as a product of a beneficiary country but would still be entitled to duty-free treatment upon withdrawal provided that (1) the article entered in the warehouse was a product of, and was imported directly from, a beneficiary country, and (2) the article withdrawn from the warehouse meets the 35 percent value-content requirement.

As concerns the proposal to amend the CBI regulations to provide for the provisional duty-free entry of merchandise for the purpose of adding value in Puerto Rico, Customs is of the opinion that there is no statutory authority which would permit such an amendment. Moreover, the need for such provisional duty-free entry would appear to be obviated by the CBI statutory amendment discussed above which was passed after receipt of the comments. Nor does Customs believe that it is necessary to develop new guidelines, in these regulations or otherwise, concerning procedural controls to cover the addition of value in Puerto Rico; the existing statutory and regulatory procedures, *e.g.*, as concerns the entry of merchandise in a Customs bonded warehouse and the withdrawal of merchandise therefrom, will control in these cases. The requirements concerning the documentary evidence of country of origin under the CBI, as set forth elsewhere in this issue of the **Federal Register**, specifically cover a case involving the addition of value in Puerto Rico after final exportation from a beneficiary country.

As concerns the suggestion that the regulations should clarify three specific points, Customs is of the opinion that those points are covered by the basic CBI statutory and regulatory provisions and need not be further addressed. However, the following should serve to clarify those points:

1. The entire 35 percent value requirement does not have to be satisfied when the article enters Puerto Rico from a beneficiary country in order to meet the direct importation requirement. The value requirement and the direct importation requirement are separate, and each must be satisfied for the imported article to receive CBI duty-free treatment. Therefore, netiher requirement directly affects the other even though both requirements affect duty-free eligibility.

2. Value added in Puerto Rico and value added subsequently in a beneficiary country may both be taken into account when the article reenters Puerto Rico for further processing in order to meet the value-content requirement. Neither the CBI statute nor the CBI regulations place any limitations on the extent to which, or the sequence in which, value may be added in different beneficiary countries (including Puerto Rico and the U.S. Virgin Islands). Customs does not agree with the suggestion to amend the regulations by mentioning Puerto Rico in one of the examples under § 10.196(a) and on the declaration. The mention of the Virgin Islands in the fourth example should be sufficient to cover Puerto Rico since both are mentioned together in the statute and regulations in the context of the value-content requirement, and Puerto Rico is clearly covered by the reference to "beneficiary country" on the declaration.

3. As concerns the third contention, *i.e.*, that the portion of a process started in Puerto Rico and the portion executed in a beneficiary country may be taken into account together to meet the substantial transformation test, this is clearly incorrect as concerns the origin of an imported article. Whereas the value of materials which are the product of beneficiary countries may be cumulated between two or more beneficiary countries (for purposes of the value-content requirement), the origin of an imported article can only be attributed to one country. Therefore, an article which originates in Puerto Rico and is subsequently processed in a beneficiary country will be entitled to CBI duty-free treatment only if it is substantially transformed by the processing in the latter country so as to become a product thereof.

C. Direct Importation from the U.S. Virgin Islands

Four comments were received on the question of direct importation from the Virgin Islands which concerns the statement at the end of § 10.195(b) that any value added in the Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the U.S. Each commenter opposed this limitation and made the following specific points:

—The Virgin Islands will be prevented from engaging in tail-end processing operations, and this is contrary to the intent behind the inclusion of Virgin Islands value which was to allow the Virgin Islands to participate fully in the CBI;

—Additional time and expense will be involved if an article must be returned to a beneficiary country from the Virgin Islands for exportation to the U.S.;

—The Virgin Islands will be prevented from establishing a transshipment industry;
—The treatment of the Virgin Islands and Puerto Rico (the latter not being subject to this limitation) should be the same in the regulations since they are treated the same in the statute;
—Section 212(d) of the CBI statute was intended to allow insular possessions of the U.S. to obtain full benefits of the CBI, and this limitation nullifies that effect;
—The Caribbean neighbors of the Virgin Islands have trade advantages under non-U.S. programs which are not available to the Virgin Islands; and
—No witness testifying in respect of the proposed CBI legislation indicated that such a limitation would apply to the Virgin Islands.

One commenter proposed that § 10.195 be amended to state that for purposes of CBI duty-free treatment the Virgin Islands shall be considered to be "U.S. Customs Territory", that temporary residency, handling, or processing of an article shall not disqualify previously added values or origin attributed to a beneficiary country, and that value added in the Virgin Islands may be included for purposes of determining the total value added in beneficiary countries.

This issue arises because section 213(a)(1) of the CBI statute defines the term "beneficiary country" as including the Virgin Islands for purposes of the value-content requirement, and section 213(a)(1)(A) requires that the article be "imported directly from a beneficiary country" but does not make any reference to the Virgin Islands in this context. The statement at the end of § 10.195(b) of the interim regulation was inserted specifically to clarify the legal effect of these provisions as they apply to the Virgin Islands. As concerns the specific points made by the commenters, Customs notes the following:

1. Under the CBI statute the Virgin Islands is not treated as a beneficiary country for the purpose of the direct importation requirement. Consequently, the Virgin Islands will be prevented from engaging in tail-end processing operations unless the article is returned to a beneficiary country prior to final exportation to the U.S. The clear statutory language is the best proof of legislative intent and militates against the argument that the intent was otherwise in this context.

2. The Virgin Islands will not be prevented from establishing a transshipment industry, provided that it is a mere transshipment situation within the meaning of § 10.193 which concerns the direct importation requirement.

3. Customs does not agree that the treatment of the Virgin Islands and Puerto Rico can be the same in all aspects of the regulations because they are treated the same for a particular purpose, that of the value-content requirement. Because Puerto Rico is part of the customs territory and the Virgin Islands are not, each has a different status under the customs laws.

4. Customs is of the opinion that section 212(d) of the CBI statute (which amended General Headnote 3(a), TSUS, to provide that importations from insular possessions under that headnote will not receive duty treatment less favorable than that accorded to CBI importations) is not inconsistent with the treatment of the insular possessions in the interim regulations. Application of the more liberal value requirement under General Headnote 3(a) (whereby items such as profit and indirect processing costs may be counted and which requires only 30 present of the eligible value content to be of insular possessions origins) have been provided by Congress to ensure that this is the case.

The argument that section 212(d) makes all insular possessions of the U.S., in effect, full CBI beneficiary countries does not appear to be correct. If this were true, (a) it would not have been necessary to refer separately to the Virgin Islands as being a beneficiary country in the specific and limited context of the value-content requirement, and (b) this would mean that materials or direct processing costs attributable to Guam, American Samoa, and other entities entitled to General Headnote 3(a) benefits could be counted toward the CBI 35 percent value-content requirement. There is nothing in the CBI legislative history which indicates that Congress intended such a result.

5. The fact that some Caribbean neighbors of the Virgin Islands have trade advantages under non-U.S. programs (*e.g.*, under the ACP–EEC Lomé Convention) is not relevant to the question of the proper interpretation of the CBI statutory provisions. This argument ignores the separate duty-free benefits accorded to the Virgin Islands under General Headnote 3(a), TSUS, which are not available to other Caribbean entities.

6. Customs does not agree with the assertion that no witness testifying on the CBI legislation indicated that the limitation in question would apply to the Virgin Islands. To the contrary, the printed record of the hearings before the Subcommittee on Trade of the House Committee on Ways and Means, Serial 97–52, p. 69, reflects that there was specific testimony on this point on March 23, 1982. Although it was requested at that time that the bill be amended to avoid the limitation, the provisions of the CBI statute reflect that this proposal was not adopted.

For the above reasons, Customs is of the opinion that the limitation at the end of § 10.195(b) is entirely consistent with the CBI statute and therefore must be retained. As concerns the specific proposals to amend § 10.195, Customs believes for the following reasons that such amendments are inappropriate or unnecessary: (a) The regulation cannot be amended to provide that the Virgin Islands shall be considered to be "U.S. Customs Territory" because this could be inconsistent with the terms of the CBI statute and General Headnote 2, TSUS, (b) the regulation cannot authorize unlimited processing in the Virgin Islands because a substantial transformation of the article in the Virgin Islands would cause the article to lose its status as a product of a beneficiary country, and (c) although it is correct that temporary residency, handling, or processing (short of a substantial transformation) of an article in the Virgin Islands will not disqualify value previously added in a beneficiary country and that value added in the Virgin Islands may be included for purposes of determining the total value added in beneficiary countries, it is believed that the regulations are sufficiently clear on these points.

Customs recognizes that § 10.193(a) of the interim regulations could be misinterpreted to appear to allow a direct importation from the Virgin Islands, since this provision refers to direct shipment from any beneficiary country to the U.S. without passing through the "territory of any other country. The word "other" could be taken to refer to the U.S., and because the Virgin Islands are territory of the U.S., a direct importation from the Virgin Islands could be taken to fall within this language. As such an interpretation would conflict with the CBI statutory provisions as discussed above, § 10.193(a) has been amended to refer to the "territory of any non-beneficiary country." Thus, the words "non-beneficiary country" in the amended text would cover the Virgin Islands because, as already pointed out, the Virgin Islands are not a beneficiary country in the context of the imported directly requirement.

D. Assembly Operations

Six comments were received on the issue of assembly operations which concerns both the scope of the term "simple combining" operations and the

fact that, although § 10.195(a) of the interim regulations refers to an article which is wholly the growth, product, or manufacture of a beneficiary country or which has been grown, produced, or manufactured in a beneficiary country, there is no reference to goods "assembled" in a beneficiary country. The specific comments were as follows:

1. Several commenters were under the impression that the interim regulations excluded all assembly operations as permissible activities resulting in a product of a beneficiary country. Two commenters alleged that this result was contrary to the CBI statute because (a) the legislative history clearly showed that meaningful assembly operations were to be permitted, (b) the CBI statute and regulations indicated that assembly costs may be counted as direct costs of processing operations, thus showing that assembly operations were allowed, and (c) assembly operations are permitted under the GSP, and as the CBI was modeled on the GSP, it should be administered in the same way. These commenters took the position that "meaningful" or "substantial" assembly operations or assembly operations "using substantial labor and skills" should be allowed.

2. One commenter stated that the language in the interim regulations was confusing, particularly as concerns the meaning of "simple combining" operations.

The following specific proposals to amend the regulations were made:

1. Insert the word "assembly" in § 10.195(a) (presumably after the words "wholly the growth, product, or manufacture" in the first part of the first sentence) so that not all assembly operations would preclude duty-free treatment.

2. Insert the word "assembled" after the words "grown, produced, or manufactured" in the second part of the first sentence of § 10.195(a) so that all doubt is removed concerning permissible assembly operations.

3. Provide a technical yardstick setting forth the departure point from which a processing (*e.g.*, assembly) operation is no longer considered to be a simple combining operation.

4. Clarify whether a product resulting from a simple combining operation would be excluded from duty-free treatment even if it meets the 35 percent value requirement.

It was never assumed in drafting the interim regulations that no assembly operations could result in an article which is a product of a beneficiary country. Because the statute referred to "simple" (rather than "mere") combining operations, anything that was beyond a simple assembly operation would qualify (this interpretation is clearly supported by the legislative history). However, as sections 213(a)(1) and (2) of the CBI statute do not contain the word "assembly" or "assembled" (presumably for the reason that the Congress decided not to use the language found in the GSP regulations so as to avoid a conflict between a positive mention of "assembly" and a negative mention of "simple combining"), it was deemed preferable to use the precise statutory language in the regulation and to merely interpret "product or manufacture" and "produced or manufactured" to include assembly operations which are more than "simple."

Based on the comments received, it appears that there is a considerable amount of confusion of this matter. Therefore, Customs agrees that changes must be made to clarify the points raised. However, before discussing the specific changes which have been made, Customs has the following comments concerning certain specific proposals made by the commenters for regulatory amendments:

1. Insertion of the word "assembly", as proposed, would be inappropriate because the word "wholly" modifies the words which follow. A product created merely by an assembly operation could not be considered to be "wholly" of a beneficiary country as that term is defined in § 10.191(b)(3).

2. Insertion of the word "assembled", as proposed, would be inappropriate because this would make this term coequal with "grown," "produced," and "manufactured," in clear contravention of the statutory limitation concerning simple combining operations. The fact that assembly costs may be counted toward the 35 percent value requirement is irrelevant. The statutory and regulatory provisions in question are entirely separate and thus involve different contexts.

3. It is not beneficial to provide a technical yardstick setting forth a specific departure point from which a processing operation is no longer considered to be a simple combining operation because of the numerous processing and combining possibilities which do not lend themselves to a regulatory yardstick. Such an approach would have a very limited application, would provide minimal guidance, and could be misleading as to certain operations.

Customs is of the opinion that the best approach would be to amend § 10.195(a) in the following manner: (a) By modifying the words "simple combining or packaging operations" in the second sentence to read "simple (as opposed to complex or meaningful) combining or packaging operations" and (b) by adding at the end thereof a new subsection setting forth specific examples of operations which fall both within and outside the limiting statutory language.

As concerns the first amendment, the following points should be noted: (a) Use of the word "assembly" or "assembled" in this context would not be appropriate because "combining" covers other processes such as mixing, (b) consistent with the statutory language and legislative intent, the parenthetical expression would apply equally to packaging operations, (c) the word "complex" is useful because it is the opposite of "simple", and (d) the word "meaningful" was used at page 13 of House Report 98–266 to clarify the intended scope of the statutory language.

With regard to the second amendment, the following should be noted: (a) The first sentence has been inserted in response to one of the comments to clarify that, consistent with the statutory language, an article resulting from a simple combining or packaging operation or from mere dilution would not be entitled to duty-free treatment even though the 35 percent value-content requirement is met, (b) the examples of operations covered by the statutory language are taken from House Report 98–266, (c) the examples of operations which fall outside the statutory language are based on individual cases which have come to the attention of Customs, and (d) the last sentence has been included to clarify that the negative simple combining, etc. language does not necessarily establish the limits concerning application of the substantial transformation rule for purposes of the CBI.

E. Sections 10.193 and 10.194

One commenter stated that the Customs officer is not the appropriate person to determine either compliance with the direct importation requirement or the sufficiency of the documentary evidence to demonstrate compliance because his subjective decision and incomplete knowledge could lead to delays. It was therefore recommended that responsibility for certifying the evidence of direct shipment be delegated to a competent authority in a beneficiary country. This commenter also requested confirmation that only retail sales are excluded as a permissible activity by § 10.193(c)(3) and that a sale by a middleman from a beneficiary country other than the beneficiary country of manufacture would be permissible. Further, the

commenter was of the opinion that § 10.194 should clearly state what is implicit therein, *i.e.*, that the district director has the discretion to renounce his right to ask for the documentation immediately upon receipt of the shipment.

Customs does not agree that these amendments are necessary. As concerns the first point, only the Customs officer can make these decisions. Certification by a beneficiary country authority would not be acceptable and might even be impossible for various reasons, *e.g.*, the facts concerning the actual manner of shipment to the U.S. are not ascertainable at the time of exportation. In regard to the second point, the regulation applies only to sales "other than at retail" and thus would apply to sales by such middlemen except for the fact that subsection (c) contemplates only non-retail sales in a non-beneficiary country. As concerns the third point, what this commenter thinks is implicit in the regulation is, in fact, explicit. The regulation specifies a period of 60 days to submit the evidence if required by the district director.

One commenter stated that it is necessary to clarify whether a direct importation within the meaning of § 10.193 includes a product which enters a duty-free area of a non-beneficiary country but which is intended for export to the U.S.

Customs does not agree. It is clear that such a case would be considered to constitute a direct importation provided that the specific terms of subsection (b) or (c) are met.

F. Sections 10.195 and 10.196

One commenter was of the opinion that it is necessary to amend the second sentence of § 10.195(b), to clarify whether an article must be returned to a specific beneficiary country if value is added to the article in the Virgin Islands after exportation from the beneficiary country of production.

No amendment is necessary. It is clear that the article could be sent to any beneficiary country because § 10.193(a) refers to direct shipment from "any" beneficiary country. The significance of the use of the word "any" was fully explained in the section-by-section analysis relating to interim § 10.193(a) in the January 5, 1984, **Federal Register** document (49 FR 853).

Three commenters believe the regulations do not adequately deal with the concept of substantial transformation. One commenter suggested that an example of a substantial transformation be included in § 10.195 and that the best example would be that of integrated circuits or other semiconductor devices produced in a beneficiary country from the assembly (*i.e.*, manufacture) of imported components. Another commenter suggested that the substantial transformation rule which has been used under the GSP should be replaced, for purposes of the CBI, by the Japanese and EEC rule whereby a sufficient transformation is deemed to have taken place when a change in tariff heading results from the processing.

Customs does not agree. The concept of substantial transformation is sufficiently well known or ascertainable through the ruling process under Part 177, Customs Regulations (19 CFR Part 177), and the inclusion of a specific example of a substantial transformation would hardly be illuminating in other cases involving different facts. In addition, given the longstanding administrative and judicial precedent, it would not be possible to adopt the Japanese and EEC rule. Under those rules a change in tariff heading is only one of a number of factors to be considered in determining whether a substantial transformation has taken place.

One commenter suggested that the words "of commerce" be deleted from the double substantial transformation test discussion in §10.196(a) because the intermediate substantially transformed article need not be an article of commerce (*i.e.*, it is sufficient that it be a new or different material). Another commenter was of the opinion that the distinction between a "material" and an "article" should be eliminated and that recognition should be given to the fact that an article may be both an article and a material and vice versa.

Customs does not agree. As concerns deletion of the words "of commerce", this should not be done because the question of whether a particular process results in an ariticle or material which is commercially different is an objective, and thus useful, test, and the words "of commerce" are used in section 213(a)(2) of the CBI statute. The regulations cannot totally eliminate the distinction between an ariticle and a material because section 213(a)(2) of the CBI statute makes this distinction which is essential in order to apply the value-content requirement. While all products imported under the CBI, including raw materials, are "articles" for purposes of duty-free treatment, the value-content requirement mandates that a distinction be made between the imported article and the separately identifiable materials which are incorporated in that article.

G. Section 10.197

One commenter suggested that the word "assists" be added to the list of items includable as direct costs of processing operations.

This proposal should not be adopted because assists are not always included in the appraised value and thus are not always countable as direct costs of processing operations, and an assist would fall within § 10.197(a) only to the extent that in each individual case the assist is, in fact, incurred as a recognized direct processing cost.

Another commenter proposed that the direct costs of processing operations include marketing costs.

This proposal cannot be adopted. Whereas marketing costs are costs of doing business, such costs are incurred separately from the actual production process. Therefore, they are not costs of manufacturing the product but, rather, are in the nature of general expenses of doing business which, under section 213(a)(3) of the CBI statute, are specifically not covered by the phrase "direct costs of processing operations".

H. Other Comments

One commenter noted that, in order to take account of the import sensitivity of the U.S. citrus industry, Customs and the Department of Agriculture must collect and maintain statistics on CBI citrus imports. The commenter suggested that a section be added to the regulations to provide for an exchange of this information between those agencies.

Customs believes it would be inappropriate to include a provision directed to the interests of one segment of U.S. industry. Moreover, such a provision in the Customs Regulations could not be considered binding on the Department of Agriculture. Customs understands that the Department of Agriculture is collecting and maintaining statistics on the importation of all agricultural products in order to monitor such imports for purposes of carrying out the "fast track" procedures for import relief under section 213(f) of the CBI statute.

A commenter stated that the regulations should cite the country of origin marking statute and regulations in order to clarify that those provisions apply to products imported under the CBI.

In view of recent questions raised by segments of the importing community and some foreign manufacturers, we agree. Section 10.195(e) mentions that country of origin marking requirements apply to articles entered under the CBI regulations.

Finally, one commenter stated that clarification is necessary as concerns the continuing status of the GSP and of TSUS items 806.20, 806.30, and 807.00 which appear to be replaced by the CBI.

The GSP and TSUS items 806.20, 806.30, and 807.00 are entirely separate statutory provisions which are neither mentioned in, nor directly affected by, the CBI. Inasmuch as those programs will continue in operation totally independent of the CBI, there does not appear to be any reason to mention them in the CBI regulations.

I. Issues Not Raised in the Comments

In addition to the changes made in response to the comments, Customs is of the opinion that, based on further consideration of the interim text, some additional changes should be incorporated in the final text. These involve the following:

1. The standards to be applied for determining the origin of materials for purposes of the value-content requirement should be consistent under the CBI. Therefore, the following sentence has been added at the end of § 10.195(c) (dealing with the inclusion of material produced in the U.S.): "In the case of materials produced in the customs territory of the U.S., the provisions of § 10.196 shall apply." Thus, for example, the "simple combining" etc. limitation and the substantial transformation test would apply in this case. It should also be noted that it is not necessary to have a similar provision in § 10.195(b) (dealing with value added in Puerto Rico and the Virgin Islands). They are covered by the term "beneficiary country" in § 10.196.

2. Example 2 under § 10.196(a) may be misleading because the second sentence refers to the cost or value of the "tanned skin" as not being countable toward the value-added requirement. Because only one substantial transformation takes place under this example, and because the costs of the tanning operation are clearly countable, the example has been revised to more properly refer to the cost or value of the "raw skin". In addition, to aid the reader's comprehension, the following sentence has been added at the end of this example: "Thus, the tanned skin would be eligible for duty-free treatment only if the direct costs attributable to the tanning operation represent at least 35 percent of the appraised value of the imported article."

3. Paragraph (c) of § 10.193, which concerns the "imported directly" requirement, allows the shipment from any beneficiary country to the U.S. through the territory of any non-beneficiary country under certain circumstances. One circumstance is that the articles must be wholly the growth, product, or manufacture of a beneficiary country. Within the regulatory framework of the GSP, § 10.175(d) contains a similar limitation. Customs sees no justifiable basis for continuing this limitation in either the CBI or GSP context, if the article otherwise meets the country of origin criteria, and accordingly has modified §§ 10.175(d) and 10.193(c) to eliminate the limitation. This change will allow a producer to more liberally use a customs bonded warehouse in an intermediate country as a distribution center for certain sales at wholesale.

Both §§ 10.175(d) and 10.193(c) also contain a reference to the basic rules of origin. Because the origin requirements are contained elsewhere in both the CBI and GSP regulations, Customs can see no reason to restate them in the "imported directly" provisions. Accordingly, these references have also been removed from §§ 10.175(d) and 10.193(c). Further, non substantive changes have been made to the provisions of §§ 10.175(b) and 10.193(b) to remove the need for cross-references in those paragraphs.

Executive Order 12291

These amendments do not constitute a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. With respect to the CBI amendments, any economic impact flows directly from the Caribbean Basin Economic Recovery Act and not from the implementing regulations.

Accordingly, it is hereby certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)), that the regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, applicable sections of the regulation have been cleared by the Office of Management and Budget and assigned control number 1515-0112.

Drafting Information

The principal author of this document was John Elkins, Esq., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Office of the United States Trade Representatives participated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin Initiative, Customs duties and inspection, Generalized System of Preferences, Imports.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: November 29, 1984.

John M. Walker, Jr.

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. Section 10.175(b) is amended by revising it to read as follows:

§ 10.175 Imported directly defined.

* * * * *

(b) If the shipment is from a beneficiary developing country to the U.S. through the territory of any other country, the merchandise in the shipment does not enter into the commerce of any other country while en route to the U.S., and the invoice, bills of lading, and other shipping documents show the U.S. as the final destination; or

* * * * *

2. Section 10.175(d) is amended by revising it to read as follows:

§ 10.175 Imported directly defined.

* * * * *

(d) If the shipment is from any beneficiary developing country to the U.S through the territory of any other country and the invoices and other documents do not show the U.S as the final destination, the articles in the shipment upon arrival in the U.S. are imported directly only if they:

(1) Remained under the control of the customs authority of the intermediate country;

(2) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the district director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

(3) Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

3. Interim §§ 10.191 through 10.197 and the centerheading, as added by T.D. 84–14, are revised to read as follows:

Caribbean Basin Initiative

Sec.

10.191 General.
10.192 Claims for exemption from duty under the CBI.
10.193 Imported directly.
10.194 Evidence of direct shipment.
10.195 Country of origin criteria.
10.196 Cost or value of materials produced in a beneficiary country or countries.
10.197 Direct cost of processing operations performed in a beneficiary country or countries.

Caribbean Basin Initiative

§ 10.191 General.

(a) *Statutory authority.* Subtitle A, Title II, Pub. L. 98–67, entitled the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2706) and referred to as the Caribbean Basin Initiative (CBI), authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country.

(b) *Definitions.—(1) Beneficiary country.* For purposes of § 10.191 through § 10.198 and except as otherwise provided in § 10.195(b), the term "beneficiary country" means any country or territory or successor political entity with respect to which there is in effect a proclamation by the President designating such country, territory or successor political entity as a beneficiary country in accordance with section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) *Eligible articles.* Except as provided herein, for purposes of § 10.191(a), the term "eligible articles" means any merchandise which is imported directly from a beneficiary country as provided in § 10.193 and which meets the country of origin criteria set forth in § 10.195. The following merchandise shall not be considered eligible articles entitled to duty-free treatment under the CBI.

(i) Textile and apparel articles which are subject to textile agreements.

(ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461–2465).

(iii) Tuna, prepared or preserved in any manner, in airtight containers.

(iv) Petroleum, or any product derived from petroleum, provided for in Part 10, Schedule 4, Tariff Schedules of the United States (TSUS).

(v) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which TSUS column 2 rates of duty apply.

(vi) Sugars, sirups, and molasses, provided for in item 155.20 or item 155.30, TSUS, to the extent that importation and duty-free treatment of such articles are limited by Headnote 4, Schedule A, Part 10, Schedule 1, TSUS.

(vii) Articles subject to the provisions of Subpart A, Part 2, Appendix, TSUS, to the extent that such provisions have not been modified or terminated by the President pursuant to section 213(e)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(e)(5)).

(viii) Merchandise for which duty-free treatment under the CBI is suspended or withdrawn by the President pursuant to sections 213 (c)(2), (e)(1), or (f)(3) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 (c)(2), (e)(1), or (f)(3)).

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* For purposes of § 10.191 through § 10.198, the expression "wholly the growth, product, or manufacture of a beneficiary country" refers both to any article which has been entirely grown, produced, or manufactured in a beneficiary country or two or more beneficiary countries and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in any beneficiary country or two or more beneficary countries, as distinguished from articles or materials imported into a beneficiary country from a non-beneficiary country whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the beneficiary country.

(4) *Entered.* For purposes of § 10.191 through § 10.198, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the U.S.

§ 10.192 Claim for exemption from duty under the CBI.

A claim for an exemption from duty on the ground that the CBI applies shall be allowed by the appropriate district director only if he is satisfied that the requirements set forth in this section and § 10.193 through § 10.198 have been met. Duty-free treatment may be claimed at the time of filing the entry summary by placing the symbol "C" as a prefix to the TSUS item number for each article for which such treatment is claimed on that document. If duty-free treatment is claimed subsequent to the time of filing the entry summary but before liquidation becomes final, the filing of the Certificate of Origin or declaration as required in § 10.198 shall constitute the written claim.

§ 10.193 Imported directly.

To qualify for treatment under the CBI, an article shall be imported directly from a beneficiary country into the customs territory of the U.S. For purposes of § 10.191 through § 10.198 the words "imported directly" mean:

(a) Direct shipment from any beneficiary country to the U.S. without passing through the territory of any non-beneficiary country; or

(b) If the shipment is from any beneficiary country to the U.S. through the territory of any non-beneficiary country, the articles in the shipment do not enter into the commerce of any non-beneficiary country, while en route to the U.S. and the invoices, bills of lading, and other shipping documents show the U.S. as the final destination; or

(c) If the shipment is from any beneficiary country to the U.S. through the territory of any non-beneficiary country, and the invoices and other documents do not show the U.S. as the final destination, the articles in the shipment upon arrival in the U.S. are imported directly only if they:

(1) Remained under the control of the customs authority of the intermediate country;

(2) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the district director is satisfied that the importation results from the original commericial transaction between the importer and the producer or the latter's sales agent; and

(3) Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

§ 10.194 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The district director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in § 10.193. Any evidence of direct shipment required shall be subject

to such verification as deemed necessary by the district director.

(b) *Waiver of evidence of direct shipment.* The district director may waive the submission of evidence of direct shipment when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise was, in fact, imported directly and that it otherwise clearly qualifies for treatment under the CBI.

§ 10.195 Country of origin criteria.

(a) *Articles produced in a beneficiary country.*— (1) *General.* Except as provided herein, any article which is either wholly the growth, product, or manufacture of a beneficiary country or a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country, may qualify for duty-free entry under the CBI. No article or material shall be considered to have been grown, produced, or manufactured in a beneficiary country by virtue of having merely undergone simple (as opposed to complex or meaningful) combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. Duty-free entry under the CBI may be accorded to an article only if the sum of the cost or value of the material produced in a beneficiary country or countries, plus the direct costs of processing operations performed in a beneficiary country or countries, is not less than 35 percent of the appraised value of the article at the time it is entered.

(2) *Combining, packaging, and diluting operations.* No article which has undergone only a simple combining or packaging operation or a mere dilution in a beneficiary country within the meaning of paragraph (a)(1) of this section shall be entitled to duty-free treatment even though the processing operation causes the article to meet the value requirement set forth in that paragraph.

(i) For purposes of this section, simple combining or packaging operations and mere dilution include, but are not limited to, the following processes:

(A) The addition of batteries to devices;

(B) Fitting together a small number of components by bolting, glueing, soldering etc.;

(C) Blending foreign and beneficiary country tobacco;

(D) The addition of substances such as anticaking agents, preservatives, wetting agents, etc.;

(E) Repacking or packaging components together;

(F) Reconstituting orange juice by adding water to orange juice concentrate; and

(G) Diluting chemicals with inert ingredients to bring them to standard degrees of strength.

(ii) For purposes of this section, simple combining or packaging operations and mere dilution shall not be taken to include processes such as the following:

(A) The assembly of a large number of discrete components onto a printed circuit board;

(B) The mixing together of two bulk medicinal substances followed by the packaging of the mixed product into individual doses for retail sale;

(C) The addition of water or another substance to a chemical compound under pressure which results in a reaction creating a new chemical compound; and

(D) A simple combining or packaging operation or mere dilution coupled with any other type of processing such as testing or fabrication (*e.g.*, a simple assembly of a small number of components, one of which was fabricated in the beneficiary country where the assembly took place). The fact that an article or material has undergone more than a simple combining or packaging operation or mere dilution is not necessarily dispositive of the question of whether that processing constitutes a substantial transformation for purposes of determining the country or origin of the article or material.

(b) *Commonwealth of Puerto Rico and U.S. Virgin Islands.* For purposes of determining the percentage referred to in paragraph (a) of this section, the term "beneficiary country" includes the Commonwealth of Puerto Rico and the U.S. Virgin Islands. Any cost or value of materials or direct costs of processing operations attributable to the Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the U.S.

(c) *Materials produced in the U.S.* For purposes of determining the percentage referred to in paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the U.S. (other than the Commonwealth of Puerto Rico). In the case of materials produced in the customs territory of the U.S., the provisions of § 10.196 shall apply.

(d) *Articles wholly grown, produced, or manufactured in a beneficiary country.* Any article which is wholly the growth, product, or manufacture of a beneficiary country, including articles produced or manufactured in a beneficiary country exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirements set forth in paragraph (a) of this section.

(e) *Country of origin marking.* The general country of origin marking requirements that apply to all importations are also applicable to articles imported under the CBI.

§ 10.196 Cost or value of materials produced in a beneficiary country or countries.

(a) *"Materials produced in a beneficiary country or countries" defined.* For purposes of § 10.195, the words "materials produced in a beneficiary country or countries" refer to those materials incorporated in an article which are either:

(1) Wholly the growth, product, or manufacture of a beneficiary country or two or more beneficiary countries; or

(2) Subject to the limitations set forth in § 10.195(a), substantially transformed in any beneficiary country or two or more beneficiary countries into a new or different article of commerce which is then used in any beneficiary country in the production or manufacture of a new or different article which is imported directly into the U.S.

Example 1. A raw, perishable skin of an animal grown in one beneficiary country is sent to another beneficiary country where it is tanned to create nonperishable "crust leather". The tanned product is then imported directly into the U.S. Because the material of which the imported article is composed is wholly the growth, product, or manufacture of one of more beneficiary countries, the entire cost or value of that material may be counted toward the 35 percent value requirement set forth in § 10.195.

Example 2. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to a beneficiary country where it is tanned to create nonperishable "crust leather". The tanned skin is then imported directly into the U.S. Although the tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), the cost or value of the raw skin may not be counted toward the 35 percent value requirement because (1) the tanned material of which the imported article is composed is not wholly the growth, product, or manufacture of a beneficiary country and (2) the tanning operation creates the imported article itself rather than intermediate article which is then used in the beneficiary country in the production or manufacture of an article imported into the U.S. The tanned skin would be eligible for duty-free treatment only if the direct costs attributable to the tanning operation represent at least 35 percent of the appraised value of the imported article.

Example 3. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to a beneficiary country where it is tanned to create nonperishable "crust leather". The tanned material is then cut, sewn and assembled with a metal buckle imported from a non-beneficiary country to create a finished belt which is imported directly into the U.S. Because the operations performed in the beneficiary country involved both the substantial transformation of the raw skin into a new or different article and the use of that intermediate article in the production or manufacture of a new or different article imported into the U.S., the cost or value of the tanned material used to make the imported article may be counted toward the 35 percent value requirement. The cost or value of the metal buckle imported into the beneficiary country may not be counted toward the 35 percent value requirement because the buckle was not substantially transformed in the beneficiary country into a new or different article prior to its incorporation in the finished belt.

Example 4. A raw, perishable skin of an animal grown in U.S. Virgin Islands is sent to a beneficiary country where it is tanned to create nonperishable "crust leather", which is then imported directly into the U.S. The tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), and under § 10.195(b), the raw skin from which the tanned product was made is considered to have been grown in a beneficiary country for the purpose of applying the 35 percent value requirement. The tanned material of which the imported article is composed is considered to be wholly the growth, product, or manufacture of one or more beneficiary countries with the result that the entire cost or value of that material may be counted toward the 35 percent value requirement.

(b) *Questionable origin.* When the origin of a material either is not ascertainable or is not satisfactorily demonstrated to the appropriate district director, the material shall not be considered to have been grown, produced, or manufactured in a beneficiary country.

(c) *Determination of cost or value of materials produced in a beneficiary country.* (1) The cost or value of materials produced in a beneficiary country or countries includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by any beneficiary country, provided they are not remitted upon exportation.

(2) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

§ 10.197 Direct costs of processing operations performed ir a beneficiary country or countries.

(a) *Items included in the direct costs of processing operations.* As used in § 10.195 and § 10.198, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported merchandise:

(1) All actual labor costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise and;

(4) Costs of inspecting and testing the specific merchandise.

(b) *Items not included in the direct costs of processing operations.* Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, 211 *et seq.*, Gen. Hdnt. 11, sec. 101, 76 Stat. 72 *et seq.*, sec. 503(b), 88 Stat. 2069, 97 Stat. 384 *et seq.* (19 U.S.C. 66, 1202, 1623, 1624, 2463(b), 2701 *et seq.*))

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19 CFR Part 10

[T.D. 84-238]

Customs Regulations Amendments Relating to Caribbean Basin Initiative and Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations, solicitation of comments.

SUMMARY: The Caribbean Basin Economic Recovery Act implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 1995 on most products imported from Caribbean and Central American countries designated as beneficiary countries.

On January 5, 1984, interim Customs Regulations were published as T.D. 84-14 in the Federal Register (49 FR 852). Based upon public comments received in response to the solicitation of comments provision of that document, it has been decided to modify the documentation requirements of the interim regulations. In addition, to ensure that the documentary requirements of the Caribbean Basin Initiative (CBI) and the Generalized System of Preferences (GSP) do not detract from one another and to avoid unnecessary confusion among parties using these programs, the GSP documentary requirements are modified by this document to conform them to the CBI documentary requirements except for the requirement of foreign government certification of the GSP Certification of Origin Form A. A notice of proposed rulemaking is published elsewhere in this issue of the Federal Register, which proposes to modify the requirement of foreign government certification.

EFFECTIVE DATE: These interim regulations are effective on January 7, 1985.

Comments: Written comments received on or before February 5, 1985 will be considered in determining whether any further changes to the interim regulations are required before a final rule is published.

ADDRESS: Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: William L. Marchi, Duty Assessment Division (202–566–2957);

Legal Aspects: Francis W. Foote, Esq., Classification and Value Division (202–566–2938);

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Subtitle A, Title II, Pub. L. 96–67, the Caribbean Basin Economic Recovery Act (the "Act"), commonly referred to as the Caribbean Basin Initiative (CBI), implements an economic recovery program for nations of the Caribbean and Central America announced by the President on February 24, 1982, in an address to the Organization of American States.

The Act provides for the waiver of duties until September 30, 1985, on most products imported from Caribbean and Central American countries designated as beneficiary countries. Beneficiary countries must meet several criteria before the President is authorized to designate them as eligible under the CBI. Further, certain products cannot be declared duty-free. Under other provisions of law, duty-free treatment can be withdrawn for articles imported in such quantities as to cause injury to a competing U.S. industry. A rule of origin specifies under what conditions articles will be considered products of a beneficiary country, and, therefore, entitled to duty-free entry.

Pursuant to Presidential Proclamation 5133 dated November 30, 1983 (48 FR 54453), the President designated the countries and territories or successor political entitles set forth in the Annex to the Proclamation as "beneficiary countries", thus conferring duty-free treatment for all eligible articles from those beneficiary countries. This action, was effective with respect to all articles that were entered, or withdrawn from warehouse, for consumption, on or after January 1, 1984, and on or before September 30, 1995. Presidential Proclamation 5142 of December 29, 1983 (49 FR 341), amended Presidential Proclamation 5133 and the Annex to the Proclamation to extend the benefits of the Act to certain additional Caribbean and Central American nations.

To implement the duty-free aspects of the CBI, Customs published interim regulations as T.D. 84–14 in the **Federal Register** on January 5, 1984 (49 FR 852). The interim regulations provided for a 60-day public comment period which was subsequently extended by a notice published in the **Federal Register** on March 8, 1984 (49 FR 8600), to May 4, 1984.

Numerous commenters submitted observations and proposals for amendments to the interim CBI regulations. A particularly large number of comments were received on § 10.198 of the interim Customs Regulations amendments (19 CFR 10.198), which concerns the documentary evidence of country of origin and requires the submission of a declaration of the manufacturer or exporter together with an endorsement thereof by the importer or consignee. In light of the comments received, as discussed below, it is apparent that some changes should be made in this regard. However, after consideration of the comments and proposals submitted, Customs is of the opinion that none of the commenters has presented a proposal which would represent a proper solution to the documentary evidence issue. Accordingly, it has been decided to modify the interim regulations and submit the modification, which differs from both the initial interim regulatory provision and the various proposals put forth by the commenters, for further public comment. This document discusses only the comments received on the documentary aspect of the CBI interim regulation and the corresponding changes made to the GSP regulations except for changes to the requirement for foreign government certification of the GSP Certificate of Origin Form A. A notice of proposed rulemaking is published elsewhere in this issue of the **Federal Register** relating to foreign government certification. The changes to the GSP provisions were made to ensure that the documentary requirements of the CBI and the GSP do not detract from one another and to avoid unnecessary confusion among parties using these programs. All other comments received in response to the interim regulations are discussed in the CBI final rule document published elsewhere in this issue of the **Federal Register.**

Summary of Comments Received

Fifteen comments were received on the documentary evidence of country of origin requirements set forth in § 10.198. These comments were largely negative and ranged from total rejection of the declaration/endorsement approach to specific complaints concerning certain aspects of one or both of these documents.

As concerns the declaration, 11 commenters complained that the declaration requires the disclosure of confidential business information concerning costs, profit, and production processes which, if revealed to the importer, could compromise the manufacturer's bargaining position vis-a-vis the importer. Several of these commenters also argued that a manufacturer could similarly lose his competitive position vis-a-vis other competitors exporting the same product under the GSP or other manufacturers in any beneficiary country who further process the article prior to exportation to the U.S. Four commenters further argued that the declaration vests too much discretion in the Customs officer to evaluate compliance with the value-added requirement, including the power to request further documentary or other proof to show compliance. These commenters referred specifically to the Customs officer's lack of knowledge of manufacturing processes and markets, to the possibility that different criteria will be used, and to the fact that the subjective view of the Customs officer will make it impossible to determine the amount of information which must be put on the declaration. Five commenters stated that the format of the declaration is overly detailed. One commenter complained that the inclusion of costs of processing operations and materials will require the exporter or manufacturer to undertake a detailed study which is difficult because these costs either are not normally determined in detail or can vary from shipment to shipment depending on the quantity of the merchandise. Finally, one commenter observed that operational difficulties could arise where costs of processing operations are incurred in a second beneficiary country because it is not clear as to who would be responsible for computing and including those costs on the declaration.

A number of comments also were received in opposition to use of the endorsement by the importer or consignee. Two commenters argued that the endorsement violates the normal commercial relationship between the exporter and the importer. Six commenters alleged that the endorsement imposes an unnecessary and unreasonable burden on the importer because in most cases the importer will not be privy to the facts necessary to verify the information on the declaration. Three commenters were of the opinion that the endorsement is intimidating to the importer, particularly

in a case where retroactive penalties could be imposed if the claim for duty-free treatment is found to be invalid. Three commenters argued against using the procedure under item 807.00, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), for purposes of the CBI since, whereas under item 807.00 the importer has knowledge of the facts which he endorses, this would not always be the case in a CBI transaction. Finally, one commenter argued that the need for an enforcement mechanism, as provided by the endorsement, must be weighed against the foreign policy implications in the event that the CBI should fail due to reluctance on the part of an importer to vouch for the statements made on the declaration.

The following comments were made on the overall declaration/endorsement approach: (1) This approach will complicate and delay the entry process and thus will discourage use of the CBI, (2) the CBI was intended to involve minimal paperwork and the required documentation runs counter to this aim and conflicts with the Regulatory Flexibility Act and the Paperwork Reduction Act of 1980, and (3) the legislative history relating to the CBI indicates that less burdensome documentation paralleling that used for the GSP would be required.

Based on these objections, the following proposals were made by various commenters to modify the documentary requirements:

(1) The declaration/endorsement approach should be abandoned in favor of the GSP Certificate of Origin Form A approach which involves a declaration signed by the exporter (stating that the details set forth on the Form A are correct, that the goods described on the Form A were produced in the GSP country, and that the goods comply with the origin requirements under the GSP) which is then certified as being correct by the appropriate governmental certifying authority of the exporting country. Several commenters specifically endorsed the GSP use of percentages on the Form A to demonstrate compliance with the value-added requirement. One commenter further suggested that product information developed under the GSP could serve as a basis for the CBI since many products eligible for CBI duty-free treatment are also covered by the GSP. The commenter stated that, as concerns products covered by the CBI but not by the GSP, the competent authority in the beneficiary country should send a report to the competent U.S. authority setting forth the existence of producers of the new product category in question, the sources of supply of the raw material, and a statement as to why the product is considered to have been grown, produced, or manufactured in the beneficiary country. This commenter further suggested (a) that the competent beneficiary country authority should prepare an evaluation as to whether each shipment satisfies the CBI country of origin criteria, (b) that the beneficiary country authority should be capable of making the pertinent verifications either on its own initiative or as requested by U.S. authorities, and (c) that Customs should periodically review both the preparation of the proposed preliminary report and the mechanisms for certification by the beneficiary country authority. Another commenter suggested that the beneficiary country certifying authority should be allowed to make an initial certification for a given product and thereafter only periodically, unless the cost data changes either more than 5 percent or in such a way as to affect the qualifying status of the product.

(2) The documentary requirements should be relaxed to avoid the problems set forth above, and the format of the declaration should be modified to protect the manufacturer's interests and avoid discouraging use of the CBI.

(3) A blanket approval of a declaration should be allowed, *e.g.*, on a 6-month or yearly basis, rather than requiring a separate declaration for each shipment.

(4) The endorsement should be replaced by a certification of the declaration signed by a beneficiary country governmental authority.

Finally, one commenter preferring the GSP Form A approach suggested that the following points be clarified: (a) Whether indirect labor and indirect costs of fabrication may be aggregated or whether they must be listed separately for each individual processing operation performed on the article, (b) whether the inclusion of the cost or value of materials produced in the U.S. has the effect of reducing the appraised value of the article or lowering the required beneficiary country input to 20 percent, and (c) in a case where an article is processed in two beneficiary countries, the manner in which the processing costs should be computed if an unexpected failure occurs in the cost structure in the second beneficiary country. Another commenter similarly requested clarification as to the extent to which details must be included on the declaration to show compliance with the value-added requirement.

Analysis of Comments

Based on the large number of negative comments received, particularly as concerns the confidentiality issue and the negative implications believed to arise from the endorsement of the importer, Customs agrees that a solution must be found which would better ensure effective use of the CBI while still ensuring proper administration of this important program. However, before outlining the modification to the interim regulations to handle the documentary evidence of country of origin, the following is noted as concerns those comments with which Customs disagrees:

(1) Whereas Customs is in agreement that any unnecessary disclosure of confidential business information to the importer should be avoided, there does not appear to be any effective means of avoiding the disclosure of details concerning the costs of materials or processing operations as between manufacturers in different beneficiary countries. Given the fact that the CBI statute allows for unlimited cumulation of value among multiple beneficiary countries, in a case involving such cumulation the detailed cost information must be passed forward from one country to another so that the documentary evidence of country of origin may be accurately prepared prior to exportation. Moreover, it is equally clear that disclosure of such information by a manufacturer to a different party (*e.g.*, a subsequent manufacturer or the exporter) in the same beneficiary country would also be unavoidable for essentially the same reason. Furthermore, given the statutory country of origin limitations concerning simple combining or packaging operations and mere dilution with water or other substances, which apply both to the final article and the materials incorporated therein, the disclosure of confidential information concerning production processes similarly cannot be avoided in these cases.

(2) Customs does not agree with the argument against the declaration that it vests too much discretion in the Customs officer, that Customs officers lack the necessary knowledge of manufacturing processes and markets, that different criteria will be used, and that the subjective view of the Customs officer will lead to uncertainty as to the details to be inserted thereon. While the statutory function of Customs in handling import transactions, including CBI transactions, by definition requires the exercise of a certain amount of discretion, there is no basis for assuming

that this discretion will be abused. Customs officers, by virtue of their experience and based on existing administrative procedures, have sufficient means to ensure the proper, uniform application of the CBI provisions.

(3) There does not appear to be any justifiable basis for the complaints that the declaration is overly detailed and that the declaration requires the exporter or manufacturer, to undertake a detailed study which would not normally be performed. In a case involving a statutory value-added requirement it will be necessary to compile very specific information in order to ensure compliance with that requirement. This is true also in the case of the GSP since the percentage placed on the Form A can only be derived from specific, detailed information concerning the cost or value of materials and the direct costs of processing operations. Customs cannot accept the implication from these comments that such cost details or the details concerning manufacturing processes can be ignored. The fact that Congress inserted very specific requirements in the CBI statute clearly indicates that such is not the case.

(4) Customs does not agree with the suggestions that the CBI was intended to involve no more or different documentation from that required under current GSP procedures, nor does Customs agree that the documentary requirements set forth in the interim regulations conflict with the Regulatory Flexibility Act and the Paperwork Reduction Act of 1980. As concerns the first point, in testimony before the Subcommittee on Trade of the House Committee on Ways and Means on March 17, 1982, Customs stated that consideration would be given to both the GSP Form A approach and the more detailed item 807.00, TSUS, approach. No Congressional committee or subcommittee subsequently demonstrated a clear, affirmative preference for the GSP approach. As concerns the second point, the document published in the **Federal Register** setting forth the interim regulations has already addressed this issue.

(5) The proposal of one of the commenters in favor of the GSP Form A approach should not be adopted for the following reasons: (a) The proposed reports to be sent to the U.S. authority by the beneficiary country authority concerning new product categories would be complex and unworkable since there are too many possible variables (*e.g.*, changes in material sources, the possibility of using different ports of entry) which would complicate the work of Customs, (b) the proposal places an undue burden and reliance on beneficiary country authorities, and (c) although the proposed procedures meet the approval of one commenter, because of the complexity, it is doubtful that the proposal would have general acceptance.

(6) The two proposals for a periodic or blanket approval of the country of origin documentation cannot be adopted. Customs is of the opinion that the required documentation should accompany each shipment because each entry, as a legal matter, must stand on its own and because operational problems could arise in the event that the same merchandise is sent to a different port. It also should be noted in this regard that on February 15, 1984, Customs sent an instruction to all ports stating that a blanket waiver of the GSP Form A should not be granted.

Discussion of Amendments to the CBI Regulations

To ensure that confidential information will not be given to the importer and to remove the objections lodged against the endorsement, Customs has, by this document, amended § 10.198(a) of the interim regulations to provide for submission of a GSP Certificate of Origin Form A in place of the declaration and endorsement. Inasmuch as each designated CBI beneficiary country also has been designated as a beneficiary developing country for purposes of the GSP, the GSP Form A should be available for use in CBI transactions. The words "Generalized System of Preferences" appearing in two places on the front of the Form A would simply be deleted and replaced by the words "Caribbean Basin Initiative". The Form A would be completed in the same manner as in the case of the GSP, including the insertion of the letter "P", or the letter "Y, followed by a percentage, or the letter "Z" followed by a percentage, in Box 8. It should be noted that the "Z" designation would be used in all cases of cumulation of value and thus would cover both cases involving multiple beneficiary countries (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) and cases involving the inclusion of a material produced in the customs territory of the United States.

The new text of § 10.198(a) set forth below is based on § 10.173(a) of the GSP regulations (19 CFR 10.173(a)), subject to minor editorial amendments which were already included in the interim text of § 10.198(a) and are still appropriate under the new text. Thus, the new text involves the following principal amendments to the interim text: (1) A redraft of subsection (a)(1) to provide for submission of the Certificate of Origin Form A, (2) deletion of subsection (a)(2) which concerns the endorsement by the importer or consignee, and (3) deletion of subsection (a)(3) concerning value added to the article in Puerto Rico after final exportation from a beneficiary country. The latter amendment is deemed necessary because an article sent to Puerto Rico for the addition of value in order to meet the 35 percent value-content requirement cannot be covered by a Certificate of Origin Form A which assumes compliance with the country of origin criteria at the time of exportation from the beneficiary country. Based on these changes, subsections (a) (4) to (7) have been renumbered as (2) to (5), and these subsections, as well as subsection (b), have been amended where appropriate to refer to the Certificate of Origin. It should be noted that the Certificate of Origin may be, but need not be, certified by the designated governmental authority. To ensure that the documentary requirements of the CBI and the GSP do not detract from one another and to avoid unnecessary confusion among parties using these programs, the documentary requirements have been conformed.

Customs remains of the opinion, that under certain circumstances it will be necessary to have more specific information than that provided on the Certificate of Origin Form A in order for Customs to carry out its statutory mandate to ensure that there is compliance with the CBI requirements. The legislative history relating to the CBI clearly indicates that Congress was concerned about pass-through operations, and this concern was reflected in section 213(a)(2) of the statute (19 U.S.C. 2703(a)(2)) by the words "new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country" and by the limiting references to "simple combining or packaging operations" and "mere dilution" with water or another substance. Thus, in a case where the article is not wholly the growth, product, or manufacture of a beneficiary country, particular attention must be paid to the nature of the processing operations performed in a beneficiary country, with regard to both the imported article and the material incorporated therein, in order to verify compliance with the origin criteria.

Customs experience under the GSP has shown that the Certificate of Origin

Form A is often not sufficient to demonstrate compliance with the GSP country of origin requirements because the Form A does not provide for the inclusion of details concerning the foreign manufacturing operation. Inasmuch as Customs has ultimate responsibility to determine duty-free eligibility, it has in some cases been necessary for the district director to verify the information on the Form A pursuant to § 10.173(a)(4) of the GSP regulations. Such verification has involved both requests for further documentary evidence and the performance of investigations in the GSP exporting country. These efforts at verification have met with limited success in some cases because exporters were not fully aware of the need for maintaining information to support the Form A, nor were they aware of the type of information needed.

In order to clarify and to make explicit the need for documentary evidence to support the Form A, Customs has further amended § 10.198 of the interim CBI regulations by adding a new subsection (c) to require that the exporter be prepared to submit a declaration similar to the declaration set forth in the interim CBI regulations. Under the text of new subsection (c) as set forth below, (1) this declaration would only be required to be prepared when the exported article is not wholly the growth, product, or manufacture of a beneficiary country, (2) the information necessary to complete the declaration would be retained by the exporter in his files, and (3) the declaration would be required to be prepared and submitted directly to U.S Customs within 60 days of the date of the request or such additional period as the district director may allow for good cause shown, but only if a request for the declaration is made. Failure to submit the declaration to Customs within the required time period or authorized extensions would result in a denial of CBI duty-free treatment. Furthermore, as modified, the interim regulation provides for the mandatory submission of the declaration to Customs in lieu of the Form A in a case involving the addition of necessary value in a bonded warehouse or a foreign trade zone in either Puerto Rico or the U.S. after final exportation of the article from a beneficiary country since, as pointed out above, the Form A could not be prepared in a beneficiary country in such a situation. In addition, the modified interim regulation provides both for further verification of the information set forth on the declaration and for denial of duty-free treatment in the discretion of the district director if Customs is prevented from obtaining the necessary verification.

As the declaration would be given directly to Customs rather than to the importer and would, in most cases, be exempt from disclosure to any private party under the Freedom of Information Act (5 U.S.C. 552), Customs believes that this proposal would best ensure confidentiality while at the same time ensuring the proper administration of the CBI. Finally, it should be noted that (1) only the final exporter would be in a position to complete the declaration because he signs the declaration portion of the Form A and thus must have the details required to be included on this separate declaration, (2) both Customs and the exporter will be able to associate the specific Form A with the corresponding declaration because both documents provide for inclusion of the number and date of the invoice covering the shipment, and (3) the district director's decision to request the declaration will be made on a case-by-case basis.

Finally, the following should be noted concerning those points on which various commenters requested clarification:

(1) Under the modified interim regulation set forth in this document, it will be the responsibility of the exporter to prepare both the Form A and the separate declaration when required, except in the case of value added after final exportation where the responsibility for preparing the declaration will lie with the party who carries out the addition of such value in Puerto Rico or the U.S. It will be the responsibility of the party preparing either of these documents to obtain the necessary information from antecedent processors or material suppliers in a case involving cumulation of value.

(2) Indirect labor costs and other indirect costs of fabrication may not be included in determining the value added in a beneficiary country because they are not "direct" costs. Thus they cannot be listed on the declaration. As concerns direct costs of processing operations performed on an article, which are includable, it is permissible to aggregate such costs so long as the processing operations applied to the article are also listed on the declaration. For example, it would be sufficient to include a description of processing operations such as "sawing, shaping, grooving, sanding, painting" and to include one figure covering the total cost incurred in those processing operations. It is not necessary to describe the separate elements (labor, depreciation, testing, etc.) of such processing costs on the declaration, although such details may have to be made available to Customs if further verification is deemed necessary. It also should be noted that the method of production of a constituent material also must be included on the declaration. The declaration has therefore been modified to clarify this point.

(3) The inclusion of the cost or value of materials produced in the customs territory of the United States does not reduce the appraised value of the article but rather has the effect of reducing the required amount of beneficiary country input. Thus, for example, if U.S. materials are included up to the maximum 15 percent, only 20 percent of the required 35 percent must be added in a beneficiary country.

(4) In a case where an article is processed in two beneficiary countries and an unexpected failure occur in the cost structure in the second beneficiary country, the processing costs should be computed in the same manner as in any other case. It is the responsibility of the processor in the second country to ensure that enough value has been added, and the same is true in a case where a failure occurs in the cost structure in the first country.

(5) As concerns the question of the extent to which details must be included on the declaration to show compliance with the value-added requirement, this has been answered in part under point (2). In this regard it also should be noted that although consideration was given to the possibility of providing that the cost information would be required only to the extent necessary to show minimum (*i.e.*, 35 percent) compliance, this was rejected for the reason that any failure in the submitted cost structure could result in the denial of duty-free treatment even though, had other includable costs been listed, compliance with the value requirement would have been clearly demonstrated. Thus, the total value added must be reflected on the Form A and declaration even if it greatly exceeds the 35 percent minimum.

Discussion of Amendment to the GSP Regulations

Based on Customs experience in administering the GSP, there is a need to improve the regulations to clarify the obligation of the exporter to maintain information required to support the Form A and to ensure that pass-through operations will not occur under that program. In this regard, it is noted that although the GSP statute does not contain the limitations concerning simple combining or packaging operations or mere dilution, it is still

necessary under the GSP to determine whether a substantial transformation of an article or material has taken place in a case where the imported article is not wholly the growth, product, or manufacture of a beneficiary developing country. Moreover, Customs believes that the documentary requirements under the CBI and the GSP should be essentially the same so that one program does not materially detract from the other except as a result of statutory differences. Accordingly, § 10.173 of the GSP regulations is amended by this document by adding a new subsection (c) to provide for a declaration to be prepared and submitted by the exporter under the same circumstances as provided in the modified CBI provisions. The text of the GSP declaration and the other portions of this new subsection (c), as set forth in this document are identical to the corresponding CBI provision except for (1) amendments to conform to a GSP context and (2) deletion of the provision concerning value added after exportation since this provision does not apply in the case of the GSP.

A separate notice of proposed rulemaking is published elsewhere in this issue of the **Federal Register** which proposes to modify the requirement of foreign government certification of the GSP Certificate of Origin Form A.

Comments

Before adopting the interim regulations as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice Requirement

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this regulation because it is within the foreign affairs function of the U.S. Further, because these interim regulations liberalize the declaration procedures set forth in the initial interim regulation, thus benefitting the public, it is believed good cause exists for dispensing with the normal procedures.

Executive Order 12291

This interim regulation is not a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the regulation will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Caribbean Basin Economic Recovery Act and not from the implementing regulations.

Accordingly, it is hereby certified under the provisions of § 3, Regulations Flexibility Act (5 U.S.C. 605(b)), that the interim regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The interim regulations are subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Accordingly, applicable sections of the interim regulations have been cleared by the Office of Management and Budget and assigned control number 1515–0112.

Drafting Information

The principal author of this document was John Elkins, Esq., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Office of the U.S. Trade Representatives particpated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin Initiative, Customs duties and inspection, Generalized System of Preferences, Imports.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

George C. Corcoran, Jr.,
Acting Commissioner of Customs.

Approved: November 29, 1984.

John M. Walker, Jr.;
Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. Section 10.173 is amended by adding a new paragraph (c) to read as follows:

§ 10.173 Evidence of the country of origin.

* * * * *

(c) *Merchandise not wholly the growth, product, or manufacture of a beneficiary developing country*—(1) *Declaration of the exporter.* In a case involving merchandise valued in excess of $250 which is not wholly the growth, product, or manufacture of a single beneficiary developing country, the exporter in the country from which the merchandise is directly imported shall be prepared to submit directly to the district director, upon request, a declaration setting forth all pertinent detailed information, concerning the production or manufacture of the merchandise, which was relied upon in the preparation of the Certificate of Origin. When requested by the district director, the declaration shall be prepared in substantially the following form:

Number and date of invoices	Description of articles and quantity	Porcessing operations performed on articles		Materials produced in a beneficiary developing country or members of the same association	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material, production process, and country of production	Cost or value of material

Declaration of Exporter

I, _____ (name), hereby declare that the articles described below (a) were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other country or countries which are members of the same association of countries as set forth below and (b) incorporate materials produced in the country named above or in any other country or countries which are members of the same association of countries as set forth below:

Date _____
Address _____
Signature _____
Title _____

(2) *Retention of records and submission of declaration.* The information necessary for preparation of the declaration shall be retained in the exporter's files for a period of 5 years. In the event that the district director requests submission of the declaration during the 5-year period, it shall be submitted by the exporter directly to the district director within 60 days of the date of the request or such additional period as the district director may allow for good cause shown. Failure to submit the declaration in a timely fashion will result in a denial of duty-free treatment.

(3) *Verification of documentation.* The evidence of country of origin submitted under this section shall be subject to such verification as the district director deems necessary. In the event that the district director is prevented from obtaining the necessary verification, he may treat the entry as dutiable.

2. Section 10.198 is amended by revising it to read as follows:

§ 10.198 Evidence of country of origin.

(a) *Shipments covered by a formal entry*—(1) *Certificate of Origin.* Except as provided in paragraphs (a)(4) and (c)(3) of this section, the importer or consignee of a shipment of merchandise covered by a formal entry for which treatment under the CBI is claimed, shall file with the district director with the entry summary, as evidence of the country of origin, the Certificate of Origin Form A adopted for use under the Generalized System of Preferences, as provided for in § 10.173 of this chapter. The references to "Generalized System of Preferences" appearing on the front of the Form A shall be replaced by the reference "Caribbean Basin Initiative", and the Form A shall be properly completed and signed by the exporter of the merchandise in the beneficiary country where the merchandise was produced or last processed. The Form A may be, but need not be, certified by the designated governmental authority in that country.

(2) *Release under bond.* If the required Certificate of Origin properly completed, is not filed with the entry summary, the entry summary shall be accepted, subject to compliance with the requirements set forth in §§ 10.192 through 10.197, only if the importer or consignee gives a bond in such amount as is required by the district director for the production of the Certificate of Origin. Within 60 days after filing the entry summary, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the Certificate of Origin. If the Certificate of Origin is not delivered to the district director within 60 days of the date of filing the entry summary, or such additional period as the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter.

(3) *Duplicate Certificate of Origin.* In the event of the loss, theft, or destruction of a Certificate of Origin, the district director shall accept a duplicate Certificate of Origin endorsed with the word "duplicate" in box 4. The duplicate shall bear the date of issue of the original Certificate of Origin and will be effective from that date.

(4) *Waiver of Certificate of Origin.* The district director may waive production of a Certificate of Origin when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the CBI.

(b) *Shipments covered by an informal entry.* Although the filing of a Certificate of Origin is not required for shipments covered by an informal entry, the district director may require such other evidence of the country of origin as deemed necessary. The filing of a Certificate of Origin may be required in a case involving consolidation of individual shipments under § 143.22 of this chapter.

(c) *Articles not wholly the growth, product, or manufacture of a beneficiary country*—(1) *Declaration of the exporter.* In a case involving an article covered by a formal entry which is not wholly the growth, product, or manufacture of a single beneficiary country, the exporter in the beneficiary country where the article was produced or last processed shall be prepared to submit directly to the district director, upon request, a declaration setting forth all pertinent detailed information, concerning the production or manufacture of the article, which was relied upon in the preparation of the Certificate of Origin. When requested by the district director, the declaration shall be prepared in substantially the following form:

Declaration of Exporter

I, _____ (name), hereby declare that the articles described below (a) were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) or in the customs territory of the United States (other than the Commonwealth of Puerto Rico) as set forth below:

Declaration of Exporter

I, _____ (name), hereby declare that the articles described below (a) were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) or in the customs territory of the United States (other than the Commonwealth of Puerto Rico) as set forth below:

Number and date of invoices	Description of article and quantity	Processing operations performed on article		Material produced in a beneficiary country or in the U.S.	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material, production process, and country of production	Cost or value of material

Date _____
Address _____
Signature _____
Title _____

(2) *Retention of records and submission of declaration.* The information necessary for the preparation of the declaration shall be retained in the exporter's files for a period of 5 years. In the event that the district director requests submission of the declaration during the 5-year period, it shall be submitted by the exporter directly to the district director within 60 days of the date of the request or such additional period as the district director may allow for good cause shown. Failure to submit the declaration in a timely fashion will result in a denial of duty-free treatment.

(3) *Value added after final exportation.* In a case in which value is added to an article in a bonded warehouse or a foreign-trade zone in the Commonwealth of Puerto Rico or in the U.S after final exportation of the article from a beneficiary country, in order to ensure compliance with the value requirement under § 10.195(a), the declaration provided for in paragraph (c)(1) shall be filed by the importer or consignee in lieu of the Certificate of Origin, with the entry summary, as evidence of the country of origin. The declaration shall be properly completed by the party responsible for the addition of such value.

(d) *Verification of documentation.* The evidence of country of origin submitted under this section shall be subject to such verification as the district director deems necessary. In the event that the district director is prevented from obtaining the necessary verification, the district director may treat the entry as dutiable.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, 211 *et seq.*, Gen. Hdnt. 11. sec. 101, 76 Stat. 72 *et seq.*, 97 Stat. 384 *et seq.* (19 U.S.C. 66, 1202, 1623, 1624, 2701 *et seq.*))

[FR Doc. 84-31864 Filed 12-6-84; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

Proposed Customs Regulations Amendments Relating to Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: Title V of the Trade Act of 1974 authorized the President to establish a Generalized System of Preferences (GSP) which permits the duty-free entry of eligible merchandise arriving directly from designated "beneficiary developing countries".

The Caribbean Basin Economic Recovery Act implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 1995 on most products imported from Caribbean and Central American countries designated as beneficiary countries.

To ensure that the documentary requirements of the Caribbean Basin Initiative (CBI) and the GSP do not detract from one another and to avoid unnecessary confusion among parties using these programs, the GSP documentary requirements, other than as set forth in this notice, are modified by an interim regulation published elsewhere in this issue of the Federal Register, to conform them to the CBI documentary requirements. This document proposes to modify the GSP documentary requirements to remove the requirement of foreign government certification of the GSP Certificate of Origin Form A.

DATES: Written comments must be received on or before February 5, 1985.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Wiliam L. Marchi, Duty Assessment Division (202–566–2957);

Legal Aspects: Francis W. Foote, Esq., Classification and Value Division (202–566–2938);

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade Act of 1974 authorized the President to establish a Generalized System of Preferences (GSP) which permits the duty-free entry of eligible merchandise arriving directly from designated "beneficiary developing countries".

Subtitle A, Title II, Pub. L. 96–67, the Caribbean Basin Economic Recovery Act, commonly referred to as the Caribbean Basin Initiative (CBI), implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 30, 1995, on most products imported from Caribbean and Central American countries designated by the President as beneficiary countries.

To implement the provisions of the GSP, on December 31, 1975, Customs published regulations in the **Federal Register** (40 FR 60047) as T.D. 76–2.

To implement the duty-free aspects of the CBI, Customs published interim regulations as T.D. 84–14 in the **Federal Register** on January 5, 1984 (49 FR 852). The interim CBI regulations provided for a 60-day public comment period which was subsequently extended by a notice published in the **Federal Register** on March 8, 1984 (49 FR 8600), to May 4, 1984.

Numerous commenters submitted observations and proposals for amendments to the interim CBI regulations. A particularly large number of comments were received on § 10.198 of the interim CBI Customs Regulations amendments (19 CFR 10.198), which concerns the documentary evidence of country of origin and requires the submission of a declaration of the manufacturer or exporter together with an endorsement thereof by the importer or consignee. Both the GSP regulations and the CBI interim regulations contain documentary requirements which assist in the determination of eligibility of merchandise for the two programs. In light of the comments received, it was decided to modify the documentary requirements of the interim CBI regulations and submit the modification, which differs from both the initial interim CBI regulatory provision and the various proposals put forth by the commenters, for further public comment. That document, which is published elsewhere in this issue of the **Federal Register** also contains modifications to the GSP documentary provisions to require, upon request by the district director, the submission of a declaration setting forth pertinent information concerning production or manufacture of the merchandise. This document contains only a proposal to eliminate the requirement of foreign government certification of the GSP Certificate of Origin Form A. The changes to the GSP provisions are proposed to ensure that the documentary requirements of the CBI and the GSP do not detract from one another and to avoid unneccessary confusion among parties using these programs.

Discussion of Proposed Amendments to the GSP Regulations

Customs believes that the documentary requirements under the CBI and the GSP should be essentially the same so that one program does not materially detract from the other except as a result of statutory differences. Accordingly, it is proposed to amend § 10.173 of the GSP Customs Regulations (19 CFR 10.173), to eliminate the requirement for certification of the Form A by the designated governmental authority.

In addition to the documentary and certification requirements contained in § 10.173, there are documentary and certification requirements found in § 10.175, Customs Regulations (19 CFR 10.175), relating to articles shipped from a beneficiary developing country to the U.S. through a free trade zone in a beneficiary developing country. To conform them it is proposed to revise paragraphs (c)(3) and (c)(4) of § 10.175. Paragraph (c)(3) refers to the Certificate of Origin issued by the designated beneficiary developing country and certain information which must be entered on the form. In light of the proposed amendments to § 10.173, it is proposed to remove the words "issued by" from paragraph (c)(3) and substitute appropriate language indicating that the Certificate of Origin must be prepared and signed by the exporter of the merchandise. Further, it is proposed to modify paragraph (c)(4) by removing the reference to a certifying authority and deleting the requirement that the original Certificate of Origin be retained by the designated authority in the country maintaining the free trade zone. As proposed by this document, paragraph (c)(4) will require the person responsible for the articles in the free trade zone, or any other person having knowledge of the facts, to prepare and sign an additional Certificate of Origin which declares what operations, if any, were performed on the articles in the free trade zone. The modified paragraph would further require that this additional Certificate of Origin be provided to the U.S. importer or consignee who will present it to the district director along with the

Certificate of Origin required by § 10.173(a)(1). Finally, the modified paragraph indicates that the provisions of § 10.173 relating to a duplicate Certificate of Origin, release of merchandise under bond when the Certificate is missing, verification of evidence and waiver of the Certificate of Origin, are applicable to this paragraph.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C 552), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This document is issued under the authority of R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, 211 *et seq.*, Gen. Hdnt. 11, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1202, 1623, 1624, 2461 *et seq.*).

Executive Order 12291

This proposed regulation will not result in a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly, a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the regulation will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is hereby certified under the provision of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The proposed regulations is subject to the Paperwork Reduction Act. Accordingly, the document has been submitted to the Office of Management and Budget for review and comment pursuant to 44 U.S. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C. 20503. A copy of the comments to the Office of Management and Budget should also be sent to the Customs Service at the address set forth in the **ADDRESS** portion of this document.

Drafting Information

The principal author of this document was John Elkins, Esq., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Office of the U.S. Trade Representative participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Generalized System of Preferences, Imports.

Proposed Amendments to the Regulations

It is proposed to amend Part 10, Customs Regulations (19 CFR Part 10), as set forth below.

George C. Corcoran, Jr.,
Acting Commissioner of Customs.

Approved: November 29, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend § 10.173(a)(1) by revising the last sentence to read as follows:

§ 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of $250*—(1) *Certificate of Origin.*

* * * The Form A shall be properly completed and signed by the exporter of the merchandise in the country from which it is directly imported. The Form A may be, but need not be, certified by the designated governmental authority in that country.

* * * * *

2. It is proposed to amend § 10.175(c)(3) by removing the words "issued by" in the first sentence and inserting, in their place, the words "prepared and signed by the exporter of the merchandise in".

3. It is proposed to amend § 10.175(c)(4) by revising it to read as follows:

§ 10.175 Imported directly defined.

* * * * *

(c) * * *

(4) The person responsible for the articles in the free trade zone, or any other person having knowledge of the facts, shall prepare and sign an additional Certificate of Origin, Form A, declaring what operations, if any, were performed on the articles within the free trade zone. The additional Certificate of Origin shall be provided to the U.S. importer or consignee who shall present it to the district director along with the Certificate of Origin required by § 10.173(a)(1). The provisions of §10.173 (a)(2), (a)(3), (a)(4) and (a)(5) are applicable to this paragraph.

[FR Doc. 84-31865 Filed 12-6-84; 8:45 am]
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federal register

Friday
December 7, 1984

Part VI

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 813, 880, 881, 882, 913, and 960

Shared Housing and Revised Occupancy Policies in the Section 8 and Public Housing Programs; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 813, 880, 881, 882, 913, and 960

[Docket No. R-84-1205; FR-1829]

Shared Housing and Revised Occupancy Policies in the Section 8 and Public Housing Programs

AGENCY: Offices of the Assistant Secretary of Housing—Federal Housing Commissioner and the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would provide for full utilization of housing resources by permitting families to live in shared housing arrangements in four components of the Section 8 Housing Payments Program: Existing Housing, Moderate Rehabilitation, New Construction and Substantial Rehabilitation as well as confirming the authority of Public Housing Agencies to permit shared housing arrangements in the Public Housing Program. Standards are included in the rule to require that each family have private space as well as shared common space. The rule would permit each sharing family to have a separate lease with the owner or PHA and to have its rent based on its own income.

The rule would also encourage fuller utilization of space and attempt to remedy existing inequities in projects containing both one-bedroom units and efficiency (usually projects for the elderly) by providing a preference for two-person households over one-person families for occupancy of the one-bedroom units. In addition, this rule would clarify the Department's treatment in the Section 8 and Public Housing programs of the income of a live-in aide when that aide's presence is determined necessary to the care or well-being of an elderly, disabled or handicapped person.

DATE: Comments must be received by February 5, 1985.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: For the Section 8 Existing Housing and Moderate Rehabilitation Programs—Madeline Hastings, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6887; for the Section 8 New Construction and Substantial Rehabilitation Programs—James J. Tahash, Program Planning Division, Office of Multifamily Management, Department of Housing and Urban Development, (202) 426-3944; for Public Housing—Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, (202) 426-0744. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION

I. Shared Housing

The major component of this rulemaking is amendments to existing regulations to authorize separate families to combine to share a unit of appropriate size in any of several Federally assisted housing programs.

A. Background

With the growth of single-parent and non-traditional housholds and the expanding population of elderly or hanidcapped people, a corresponding growth of interest in shared housing has occurred in the private housing market. In the past two years, there have been a significant number of inquiries about the possibility of making rental assistance available for eligible families who choose to share a unit. The Department believes shared housing could provide numerous benefits to assisted tenants in the Section 8 Existing Housing Program. Shared housing could help to provide affordable housing, since the shared use of existing homes is a highly cost-effective way to use existing housing stock. It could provide a wider choice of housing types by enabling families who would otherwise be in apartments to share single family homes. By pooling resources, families may be able to upgrade both their choice of home and neighborhood.

In any program, the opportunity for security, companionship, and sharing of household tasks afforded in a shared housing arrangement also could be a significant benefit, as could the opportunity to enjoy savings in shared household expenses other than rent. In addition, for those impaired by health or mobility limitations, shared housing may be necessary in order to live outside an institution.

Section 211 of the Housing and Urban-Rural Recovery Act of 1983 (the 1983 Act), Pub. L. 98-181, approved November 30, 1983, directed HUD to permit assistance in shared housing in the Section 8 Existing and Moderate Rehabilitation Programs by adding a new subsection (p) to Section 8 of the United States Housing Act of 1937 (the 1937 Act), to provide as follows:

> (p) In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meet [sic] their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

This proposed rule not only would carry out the Congressional mandate to permit shared housing in the Section 8 Existing Housing and Moderate Rehabilitation Programs but also would expand the policy to the section 8 New Construction and Substantial Rehabilitation Programs and provide regulatory recognition of a policy permitted since 1978 in the Public Housing Program, as stated in HUD Handbook 7465.1 REV. In addition, the class of persons eligible to participate has been expanded from the elderly and handicapped, as required by the statute, to all program participants.

This decision to extend the availability of assistance for shared housing arrangements is founded on a belief that the concept is equally workable in these two additional Section 8 programs and that more HUD assisted tenants would then have the option of shared housing. The statutory authority for assisting shared housing arrangements in additional programs and for families not mentioned in section 211 of the 1983 Act lies in the absence of any restriction against shared housing in the basic statutory authority for these programs, the 1937 Act. As noted above, shared housing has been permitted in the Public Housing Program since 1978.

Since the rule would provide that shared housing is strictly a voluntary arrangement, the rule would not infringe on a tenant's rights or an owner or PHA's rights in those programs. No project owner or PHA would be forced to accept a shared housing arrangement. The broadened class of persons eligible to share housing would enable a single head of household with children, for

example, to receive assistance under the Section 8 Existing Housing Program when sharing a single family home owned and occupied by a single elderly person, provided that the family is unrelated to the homeowner. We believe the intergenerational living arrangements possible under this policy would be beneficial to all.

It is the Department's intent to provide for shared housing in the Voucher Program authorized by section 8(o) of the 1937 Act and administered under a Notice of Funding Availability published in the Federal Register on Thursday, July 12, 1984 (49 FR 28458). When a final rule is developed as a result of this rulemaking, a corresponding revision to that Notice will be published.

The Department may also consider the extension of the shared housing concept to the Rent Supplement, section 236 and section 221(d)(3) BMIR Programs, as well as to housing for the elderly with mortgage insurance under section 231 of the National Housing Act.

B. Major Features

The major features of this proposal to implement shared housing are as follows:

—It is a voluntary arrangement.
—The entire unit including the private space must meet certain standards.
—Income, tenant payment toward rent (based on income), and the total rent (if different) are determined separately for each family sharing a unit and each family has a separate lease with the owner of PHA.
—As in established program procedures, the Fair Market Rent and, where applicable, rent reasonableness limits set the maximum total rent that can be paid for the unit. The amount attributable to a Family cannot exceed its prorata share of the total rent or the Fair Market Rent for the size unit for which it qualifies.
—The departure of one family affects the tenancy of the remaining family, but with some protections for all.
—In initial occupancy of a unit, no preference may be accorded to families interested in shared housing (except with respect to certain one-bedroom units). In the assignment of large units, large families will be given preference over smaller families wishing to share.

1. Voluntary Arrangements

Shared housing is an arrangement that places the sharing families in close proximity to one another and that has the potential for affecting an owner or PHA's management practices (see section I B 5, below) as well as the tenants' home environment. Therefore, it is necessary that it be entered into on a voluntary basis by all parties.

This rule provides that families enter into a shared housing arrangement voluntarily. See §§ 882.114, 882.517(a), 880.603b(a), 881.613(a) and 960.205a(a). In the case of the Section 8 Existing Housing (Finders–Keepers) Program (hereafter Certificate Program), one or more of the sharing families may be unassisted, such as the owner of a single-family home. Under this rule, no family would be required to share a unit, and no owner or PHA would be required to permit families to share units.

The PHA or owner's role in facilitating shared housing arrangements is detailed in §§ 882.209(c)(9), 882.514(d)(3), 880.603(b)(2), 881.603(b)(2) and 960.205(a). In the Certificate Program and the Moderate Rehabilitation Program, the Public Housing Agency (PHA) that administers the program would be required to inform program participants of the policy permitting shared housing. In these programs and in Public Housing, if a family seeks assistance from the PHA in locating either an appropriate unit for shared housing or a family with whom to share a unit, the PHA may—but is not required to—furnish such assistance. Similarly, in the New Construction and Substantial Rehabilitation Programs, the owner would be permitted, but not required, to assist those who wish to share a unit to find others with whom they might share.

2. Housing Standards

As required by the 1983 Act, standards for shared housing are specified in a new § 882.109(p) for the Certificate Program, and these standards are adopted in the new § 882.517 for the Moderate Rehabilitation Program by cross-reference. Since the sharing of a unit by more than one family could lead to overcrowding or insufficient privacy for separate family units and, in the case of HUD subsidized housing, Federal money being spent for housing that is consequently less than the statutorily required "decent, safe and sanitary" housing, general occupancy standards also have been specified for the New Construction Program (§ 880.613(b)) as well as for the Substantial Rehabilitation Program (§ 881.613(b)) and the Public Housing Program (§ 960.205a(b)). Bedrooms may not be shared by members of different families, except in the case of two single-person Families sharing a one bedroom unit. In the Section 8 Programs, HUD subsidies and tenant utility allowances are based on the number of bedrooms occupied by the family, so sharing bedrooms in units larger than one-bedroom units would create technical difficulties. Another concern is that each family have sufficient privacy. In the case of owner-occupied units in the Certificate Program, there is also a desire to assure that HUD does not subsidize the owner's living space.

3. Separate Rent Determinations and Separate Leases

The sections governing determination of rental payments in the section 8 and Public Housing Programs (§§ 813.106(b) and 913.106(b)) would be revised so that the definition of "Total Tenant Payment" would state that each family sharing a unit has its payment calculated separately, based on its own income. This policy results from the statutory mandate in these programs found in Section 3(a) of the 1937 Act, to charge each "family" a specified percentage of its adjusted income for rent. HUD does not view the decision to share a unit with another family as the creation of a new and larger family. Consequently, in shared housing, each family still would be charged a rent based on its own income.

The decision to have separate leases (expressed in §§ 882.114(a), 882.517(a), 880.606(c), 881.606(c) and 960.205a(d)) derives from the same assumption as the separate rental determination, *i.e.*, that each family unit retains autonomy and should not be held accountable for the other. For example, a joint lease that would permit the rental payment of a remaining tenant family to be based on the income of a family that had vacated the unit conflicts with the statutory directive on the amount of rental payment of each "family". Despite the use of separate leases, the leases would indicate that continued occupancy by one family is dependent on the continued occupancy of the other, so that when one family sharing a unit vacates the unit, the remaining family would be entitled to remain in the unit for only 60 days. (See section I B 5, below.)

A question may arise with respect to whether a particular group of people who wish to live together constitute one family or several families sharing a unit. This question has significance since it determines the number of persons whose income is counted toward family income, which is subject to a maximum for eligibility purposes in these programs under Parts 813 and 913, and which ultimately determines the amount of rent to be paid by the "family".

The question of who constitutes a family arises particularly with respect to

disabled or handicapped persons, since the 1937 Act and Parts 812, 813, 912 and 913 provide that an elderly Family may consist of one or more unrelated elderly, disabled or handicapped persons living together. The significance of the distinction between one or more Elderly Families is that each Elderly Family is entitled, under Parts 813 and 913, to a deduction from income for being Elderly Family and a deduction for medical expenses exceeding three percent of its income. Since rent payments are based on income after deductions, two Elderly Families "sharing' a unit might make a lower rental payment than one Elderly Family with the same total income and expenses. In the Certificate Program, there is a additional difference: two Elderly Families would be entitled to two Certificates, thus committing more of a PHA's resources to that unit than would be committed if the persons were determined to be one Elderly Family.

The determination of whether any particular group of two or more persons sharing a unit constitute one or more Families in shared housing will be made by the owner of PHA, following estabished procedures, as are other decisions about family qualifications. This determination should be based on such factors as whether the persons involved have previously maintained a single household and whether they share income and expenses. In the case of the Certificate program, the PHA should be mindful of the need to conserve Certificates.

4. Ceiling on Permissable Rents for Section 8 Tenants

In the Certificate Progam and the Moderate Rehabilitation Program, the rent charged the assisted family and the PHA is limited to a level determined by HUD as the Fair Market Rent (FMR) for a particular size unit in a certain area (§§ 882.106 and 882.408). In the Certificate Program, the rent is also limited to a level determined to be reasonable, given the condition and location of the housing (§882.106). This provision would be modified to apply to shared housing by limiting the total rent charged for the unit to the FMR for the size of the entire unit, and by limiting the amount paid on behalf of any family to the lower of the FMR for the size unit for which the family separately qualifies or the family's pro rata share of the rent for the entire unit (a new §882.106(e)). In the Certificate Program, the total rent charged for the unit would still be subject to the rent reasonableness requirement of § 882.106(b).

In the case of an owner-occupied unit in the Certificate Program, the figure used in this calculation for the "total rent charged for the unit" would be an amount based on the total size of the unit determined by the PHA to be both within the FMR for that size unit and reasonable for the unit's size and location. Thus, the PHA would determine the rental value of the entire house, perhaps by reviewing newspaper advertisements for rentals of similar units, estimate the monthly utility cost for the house, and then (under § 882.106(e)) determine the pro rata portion attributable to the assisted family based on the number of bedrooms it occupies.

In the New Construction and Substantial Rehabilitation Programs, the definition of "contract rent" would be revised to provide that contract rent for a family in shared housing would be the pro rata amount attributable to the family, based on the number of bedrooms occupied by the Family.

5. Result of Departure of One Family

The Section 8 Programs currently provide for certain action when a famiy becomes overhoused because of a change in the family's size or composition (§§ 882.213, 882.509, 880.605 and 881.605) if the rent to the owner then exceeds the FMR for the size unit to which the family would be entitled. However, these provisions will not apply to the case when one sharing family vacates a unit, since they would require HUD to pay the full Contract Rent for the departed family, perhaps indefinitely. Instead, a provision dealing with departure of one family is added to the sections in each part dealing with Shared Housing.

In the case of the Certificate Program § 882.114(c) would provide that if one family vacated the unit, the remaining family would have 60 days to take one of the following actions: (1) Accept as a replacement for the departed family from the waiting list that had indicated a willingness to share (or if the waiting list contains no such family, any other replacement family of appropriate size acceptable to the owner); (2) move to a smaller, appropriate size unit available in projects owned by the same owner or in the PHA's public housing projects; (3) arrange with the Owner to continue in occupancy without another family, in return for total rental payments not exceeding the FMR for the size unit for which the family is eligible (but presumably higher than in the family's current Contract Rent); (4) obtain a Certificate (§§ 882.209(m)) and move to another, appropriate size unit; or (5) move to another unit without assistance. The owner would be obligated under § 882.114(b) to offer the tenant any available appropriate size unit in the owner's control. If the departing family had vacated in violation of its lease, the owner would be entitled to vacancy payments under §882.105(b) for up to 60 days in an amount of 80 percent of the contract rent for the vacating family.

In the Moderate Rehabilitation Program, § 882.517(d) would provide options for the remaining tenant family and requirements for owners to those provided in the Certificate Program, except that a Certificate might not be available from the PHA. The owner could receive vacancy payments for the vacating family under § 882.509 regardless of whether the departing family moved in violation of its lease.

In the New Construction and Substantial Rehabilitation Programs, § 880.613(d) and 881.613(d) would have similar provisions to those in the Certificate Program, except that no Certificates would be available. The owner could receive vacancy payments for up to 60 days in an amount of 80 percent of the contract rent for the vacating family § 880.611(c) and 881.611(c), regardless of whether the departing family moved in violation of its lease.

In all the Section 8 programs, the tenant would be required to notify the owner if the sharing family vacates the unit; the owner would be required to notify a tenant if the other family terminates its lease; and the tenancy of the remaining family would terminate 60 days after the unit is vacated by the first family unless a replacement family is admitted or a new lease is executed.

In Public Housing, because of the differences in the way the subsidy is structured, upon the departure of one sharing family, the remaining family would be treated the same way as an overhoused nonsharing family, under a new ¶ 960.208)c).

6. No Preference for Families Who Share a Unit in Admission or in Assignment to Large Units.

Generally, no preferences in admission or for issuance of a Certificate may be provided for families wishing to share a unit. In fact, since units with three bedrooms or more are generally at a premium in the assisted housing programs because of the large number of large, lower income families, this rule would provide that in the project-based programs (Section 8 New Construction, Substantial Rehabilitation, Moderate Rehabilitation and Public Housing) large units be used for large families rather than for small families sharing a unit.

However, to the extent that one-bedroom units in projects containing

efficiency units are involved, the preference for two-person households over one-person households may work to the advantage of two one-person families who wish to share a unit. In addition, if a remaining family in Shared Housing wishes to find a family to replace a vacated family instead of moving to a smaller unit, those applicants who have indicated a willingness to share will be considered.

C. Other Related Changes to the Regulations

The definition of Contract Rent (found in §§ 882.102, 880.201, and 881.201), a term used in the provision placing a ceiling on rents charged assisted tenants (§§ 882.106 and 882.408) and in the provision permitting partial rent payments to owners for a vacant unit for the first 60 days after it has been vacated (§§ 882.105, and 882.411, 880.611 and 881.611), would be revised to reflect that the Contract Rent for families in shared housing is allocated separately to each sharing family.

A definition of Shared Housing would be added to §§ 882.102, 813.102, 880.201, 881.201 and 913.102. A definition of Private Space would also be added to §§ 882.102, 880.201 and 881.201. The definition of Unit would be revised in those sections to reflect that in shared housing the unit includes both private space and shared common space. In § 813.102, the definitions of Gross Rent and Tenant Rent (as well as of Total Tenant Payment, as described above) would be revised to reflect the treatment of families sharing a unit, reflecting that utility allowances would be allocated to sharing families based on the number of bedrooms occupied.

References to shared housing would be added to §§ 882.103(b), 882.118(a)(4), and 882.207.

The prohibition against assistance payments for owner-occupied units in §§ 882.105 and 882.401 would be modified to permit assistance on behalf of a family unrelated to the owner sharing the unit with the owner.

Section 882.106, limiting the amount of rent to be paid for an assisted unit, would be reorganized to separate the portions applicable to Independent Group Residences, Congregate Housing and Shared Housing that are different from the rule for other types of units. The material concerning Shared Housing is new.

Section 882.112, Security and utility deposits, would be revised to reflect that a deposit may be collected from each family and that reimbursement from the PHA in the event that the deposit is insufficient to reimburse the owner for an amount owed under the lease after departure of the tenant is limited to two month's Contract Rent *for the vacating family.*

Cross references are proposed to be changed in various sections to reflect other changes.

II. Clarification of Status of Live-In-Aide

Existing policy would be embodied in §§ 813.106 and 913.106, by adding a new paragraph (b) to indicate that the income of a live-in aide who is determined to be necessary to the care or well-being of a member of an Elderly Family (which includes any family with an elderly, disabled or handicapped head of household or spouse) will not be included in the Family's income so long as the aide is not related to or obligated for the support of a Family member.

The presence of a live-in aide would be considered, however, in determining the unit size to be assigned an Elderly Family, as described in new §§ 880.603a, 881.603a and 960.208.

III. Assignment of One-Bedroom Units

A new policy is stated in the proposed new §§ 880.603b, and 881.603b, that would limit the assignment of one-bedroom units in projects containing efficiency units to one-person households only when (1) all efficiencies are occupied, and (2) the waiting list contains no two-person families, and (3) there are no two one-person households anywhere on the waiting list willing to share a one-bedroom unit. Exceptions would be permitted for persons with medical justifications, and units designed for the handicapped. Similarly, in § 960.208, a preference in assignment of one-bedroom units is to be given two-person families.

A one-person family admitted initially after the effective date of a final rule concluding this rulemaking, to a one-bedroom unit because no efficiency unit was then available, shall, when an efficiency unit becomes available and there is a need for a one-bedroom unit to serve a two-person household, either agree to share the one-bedroom unit with another eligible family, or be required to move to the efficiency unit.

IV. Miscellaneous Changes

Paragraphs (b)(2) and (b)(3) of § 882.105 are revised to remove gender-specific references to owners. Paragraph (a) of § 882.105 is revised to remove discussion of the method of paying a utility reimbursement, which is then moved to § 882.116(k).

V. Findings and Certifications

Findings of No Significant Impact with respect to the environment have been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Findings of No Significant Impact are available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because it gives more flexibility to living arrangements permitted in existing programs and more economic use of assisted housing units, but imposes no major requirements on tenants, housing owners or public housing agencies.

This rule was listed under the Office of Housing as item number 82 in the HUD Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684, 41708) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program (Public Housing and Section 8).

List of Subjects

24 CFR Part 882

Grant programs—housing and community development, Low and moderate income housing, Manufactured homes, Rent subsidies.

24 CFR Part 813

Grant programs—housing and community development, Rent subsidies, Utilities.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing, New Construction.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing, Substantial Rehabilitation.

24 CFR Part 913

Public housing.

24 CFR Part 960

Public housing.

Accordingly, 24 CFR Parts 882, 813, 880, 881, 913 and 960 would be amended as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

1. Section 882.102 would be amended by revising the definitions of Contract Rent, and Unit and by adding, in alphabetical order, definitions of Private Space and Shared Housing, to read as follows:

§ 882.102 Definitions.

* * * * *

Contract Rent. The rent payable to the owner under the Contract with the PHA, including both the portion of the rent payable by the Family and the assistance payment by the PHA. In the case of a cooperative, Contract Rent means charges under the occupancy agreement between members and the cooperative. In the case of Shared Housing, Contract Rent means the amount of the total rent charged by the Owner for the unit attributable to the Family assisted under this Part (see § 882.106(e)).

* * * * *

Private Space. In the case of Shared Housing, that portion of the dwelling unit that is for the exclusive use of the assisted Family.

* * * * *

Shared Housing. Housing consisting of two or more private spaces occupied by two or more Families, and common space shared by the families (some of whom may be unassisted). Shared housing may take the form of a rental unit or an owner-occupied dwelling shared with one or more tenants unrelated to the owner.

* * * * *

Unit. For all housing except Shared Housing, the unit is the residential space available for the private use of a Family (including individuals who comprise a Family in accordance with Part 812 of this chapter), such as an apartment, house, or Independent Group Residence, which contains a living room, kitchen area, bathroom(s) and bedroom(s). However, a congregate housing unit need not contain a kitchen area since central dining facilities are available within the building or housing complex, and a 0-bedroom unit may have a combined living/bedroom area. For Shared Housing, the unit is the residential space available for the use of a Family, which includes both the Private Space and the shared common space. The size of a unit is based on the number of bedrooms contained in the unit.

2. Paragraph (b) of § 882.103 would be revised to read as follows:

§ 882.103 "Finders-Keepers" policy.

* * * * *

(b) Neither in the provision of assistance to any Family in finding a unit nor by any other action shall the PHA directly or indirectly reduce the Family's opportunity to choose among the available units in the housing market. The provisions of this section shall apply to all Certificate holders, including those who are residing in or may wish to reside in Congregate Housing, Independent Group Residences, or Shared Housing.

* * * * *

3. Section 882.105 would be amended by revising paragraph (a), and paragraphs (b) (2) and (3) to read as follows:

§882.105 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to an Owner for the unit under lease by an eligible Family, in accordance with the Contract. Where applicable, the Utility Reimbursement will be paid by the PHA to the Family as an additional Housing Assistance Payment. No Section 8 assistance may be paid for any unit occupied by an Owner, except on behalf of a Family unrelated to the Owner occupying a unit under lease in Shared Housing. Cooperatives are considered rental housing rather than Owner-occupied housing for the purpose of this limitation.

(b) * * *

(2) The Owner shall not be entitled to any payment under this paragraph (b) unless the Owner: (i) Immediately upon learning of the vacancy or prospective vacancy, has notified the PHA of it; (ii) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to: contacting applicants on the Owner's waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants and advertising the availability of the unit; and (iii) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(3) The Owner shall not be entitled to Housing Assistance Payments with respect to vacant units under this paragraph (b) to the extent the Owner is entitled to payments from other sources (for example, payments or losses of rental income incurred for holding units vacant for relocatees under Title I of the HCD Act or payments under § 882.112).

4. Section 882.106 would be amended by revising and redesignating paragraph (c)(4) as paragraph (b)(4); by redesignating paragraphs (c)(2) and (c)(3) as paragraphs (d)(1) and (d)(2), respectively; by adding a paragraph heading for paragraph (d) to read "*Independent Group Residences*"; by redesignating paragraph (c)(1) as paragraph (c), and revising the heading of paragraph (c) to read "*Congregate Housing*"; and by adding a new paragraph (e), to read as follows:

§ 882.106 Contract rents.

* * * * *

(b) * * *

(4) For Congregate Housing and Independent Group Residences, in determining the reasonableness of the rents, consideration shall be given to the presence or absence of common rather than private cooking, dining and sanitary facilities and the provision of special amenities or of maintenance or management services. The Contract Rent shall not include the cost of providing supportive services, housekeeping or laundry services, furniture, food, or serving food.

* * * * *

(e) *Shared Housing.* The Gross Rent for the entire unit is subject to the limits of paragraphs (a) and (b) of this section based on the total number of bedrooms. The Gross Rent for the portion of the unit occupied by an assisted Family is limited to the lesser of (1) the FMR for the size unit for which it qualifies; or (2) its pro rata share of the Gross Rent (or, in the case of an Owner-occupied unit, the pro rata amount of the Gross Rent computed as if the entire unit were rented), based on the number of bedrooms occupied by the Family.

§§ 882.102 and 882.605 [Amended]

5. In the definition of Resident Assistant in § 882.102, the reference to "882.106(c)" would be removed and "882.106(d)" substituted in its place. In § 882.605(a) the words, "and (d)" would be added after "882.106(c)".

6. Section 882.109 would be amended by adding a new paragraph (p), to read as follows:

§ 882.109 Housing quality standards.

* * * * *

(p) *Shared Housing*—(1) *Performance Requirement.* The unit shall satisfy paragraphs (a) through (l). In addition, the private space shall also satisfy paragraph (c)(1). Determination of appropriate unit size will be in accordance with PHA standards under § 882.209(b)(2). A living room that is being shared shall not be used or counted as a sleeping room for purposes of complying with § 882.109(c)(2). Shared spaces must be appropriate for shared use. Bedrooms may not be shared by members of different families. Both the shared spaces and the private space in units accommodating physically handicapped occupants shall be accessible and useable by the occupants.

(2) *Acceptability Criteria.* Spaces that may be shared are living room, kitchen, dining area, bathroom(s), and any recreational space. The Private Space must include a sufficient number of sleeping room(s) for the Family. In units occupied by physically handicapped persons, the areas used by the handicapped occupant shall be sufficiently accessible to permit independent living.

7. Section 882.112, paragraphs (a) and (d), would be revised to read as follows:

§ 882.112 Security and utility deposits.

(a) If at the time of initial execution of the Lease the Owner wishes to collect a security deposit, the maximum amount to be collected from each Family shall be the greater of one month's Total Tenant Payment or $50. However, this amount shall not exceed the maximum amount allowable under State or local law. For units leased in place, security deposits collected before the execution of a Contract that are in excess of this maximum amount do not have to be refunded until the Family vacates the unit subject to the lease terms. The Family is expected to pay security deposits and utility deposits from its resources or from other public or private sources.

* * * * *

(d) If the security deposit is insufficent to reimburse the Owner for the unpaid Tenant Rent or other amount that the Family owes under the Lease, or if the Owner did not collect a security deposit, the Owner may claim a reimbursement from the PHA calculated as follows: (1) The amount owed the Owner—not to exceed two month's Contract Rent (in Shared Housing, two month's Contract Rent for the vacating Family); (2) minus the greater of the security deposit actually collected or the amount of security deposit the Owner could have collected under the program (under paragraph (a) of this section). Any reimbursement under this section must be applied first toward any unpaid Tenant Rent due under the Lease, and then to any other amounts owed. No reimbursement may be claimed for unpaid rent for the period after the Family vacates.

8. A new § 882.114 would be added, to read as follows:

§ 882.114 Shared Housing.

(a) *Voluntary arrangement.* Holders of Certificates of Family Participation may voluntarily arrange to lease a Shared Housing unit, provided the unit satisfies the applicable Housing Quality Standards (§ 882.109(p)) and the Owner agrees to lease the unit on this basis. (See definition of Shared Housing in § 882.102 and description of determination of total Gross Rent and determination of Gross Rent for each participating Family in § 882.106(e).) In such an arrangement, the income of each assisted Family is calculated separately.

(b) *Leases.* The PHA shall require that the lease in Shared Housing require a tenant to notify the Owner if the other sharing Family vacates the unit; require the Owner to notify a tenant if the other sharing family terminates its lease; and require the tenancy of one sharing family to terminate upon 60 days following vacating of the unit by the other sharing family unless a substitute family is admitted or a new lease is executed for the remaining Family. The PHA may require additional lease terms to deal with the special case of Shared Housing. One lease and Contract will be executed for each assisted Family occupying a unit in Shared Housing. One lease and Contract will be executed where two or more individuals (elderly, handicapped, or disabled persons) share a single unit as one Elderly Family, as defined in Part 812.

(c) *Action when one family vacates the unit.* (1) The remaining tenant must take one of the following actions within 60 days after the other sharing family vacates the unit:

(i) Accept as a replacement for the vacated Family a Family of appropriate size on the PHA's waiting list that has indicated a willingness to share. If no Family on the waiting list has indicated a willingness to share, the remaining Family may find another qualified Family acceptable to the Owner;

(ii) Move to a smaller, appropriate size unit available in projects owned by the same Owner or in the PHA's public housing projects;

(iii) Arrange with the Owner to remain in occupancy without another tenant in return for a Contract Rent not exceeding the FMR for the size unit for which the remaining Family qualifies;

(iv) Obtain a Certificate in accordance with § 882.209(m) and move to another, appropriate size unit; or

(v) Move to another unit without assistance.

(2) The Owner and PHA have the following rights and obligations:

(i) The Owner and PHA must offer the remaining tenant any available appropriate size unit in the Owner or PHA's control and provide any available information about eligible families wiling to share a unit.

(ii) The Owner may receive vacancy payments under § 882.105(b) in an amount equal to 80 percent of the Contract Rent for the vacating Family if the Owner complies with paragraph (c)(2)(i) of this section and with paragraph (b) of § 882.105.

9. Section 882.116(k) would be revised to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(k) *Payment of housing assistance payments, including any applicable Utility Reimbursement.* If the family and the utility company consent, the PHA may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

* * * * *

§ 882.118 [Amended]

10. Section 882.118 would be amended by adding after the words "dwelling unit" in paragraph (a)(4), the words "(or, in the case of shared Housing, the portion thereof)".

§ 882.207 [Amended]

11. The parenthetical statement in the introductory paragraph of § 882.207 would be amended by adding after the word "families", the words "and assistance for Shared Housing units".

12. Section 882.209 would be amended by adding a new paragraph (c)(9) and by revising paragraph (b)(2), to read as follows:

§ 882.209 Selection and participation.

* * * * *

(b) *Issuance of Certificate of Family Participation and Certificate Holder's Packet.* * * *

(2) The PHA shall enter on the Certificate the smallest number of bedrooms consistent with standards established by the PHA for determining the number of bedrooms for Families of

different sizes and compositions. The PHA's standards shall provide for the minimum commitment of housing assistance payments while avoiding overcrowding and shall be consistent with the applicable housing quality standards (see § 882.109 (c), (n), and (p)). The PHA shall grant exceptions from the standards if the PHA determines the exceptions are justified by the relationship, age, sex, health or handicap of Family members, or other individual circumstances. For a Family renting a unit with a larger or smaller number of bedrooms than stated on the Certificate, see § 882.209(i).

* * * * *

(c) *Briefing of certificate holders.* * * *

(9) The PHA must inform each Family of the program policy permitting shared Housing. Upon requests by a Family, the PHA may provide assistance in finding Shared Housing or in finding persons with whom a unit might be shared.

13. In § 882.401, paragraph (c)(7) would be revised to read as follows:

§ 882.401 Applicability, scope and purpose.

* * * * *

(c) *Eligible and Ineligible Properties.* * * *

(7) No Section 8 assistance may be paid for any unit occupied by an Owner, except for a Family unrelated to the Owner occupying a unit under lease in Shared Housing. Cooperatives are considered rental housing rather than Owner-occupied housing for the purpose of this limitations.

* * * * *

14. A new paragraph (d)(3) would be added to § 882.514, to read as follows:

§ 882.514 Family participation.

* * * * *

(d) *Briefing of Families.* * * *

(3) The PHA must inform each family of the program policy permitting Shared Housing. Upon request by a Family, the PHA may provide assistance in finding Shared Housing or in finding persons with whom a unit might be shared.

* * * * *

15. a new § 882.517 would be added, to read as follows:

§ 882.517 Shared Housing.

(a) *Voluntary arrangement.* Holders of Certificates of Family Participation may voluntarily arrange to lease a Shared Housing unit, provided the unit satisfies the applicable Housing Quality Standards (§ 882.109(p)) and the Owner agrees to lease the unit on this basis. (See definition of Shared Housing in § 882.102 and description of determination of total Gross Rent and allocation of Gross Rent to participating Families in § 882.102(e).) In such an arrangement, the income of each assisted Familiy is calculated separately.

(b) *Leases.* The PHA shall require that the lease in Shared Housing require a tenant to notify the Owner if the other sharing Family vacates the unit; require the Owner to notify a tenant if the other sharing Family terminates its lease; and require the tenancy of one sharing Family to terminate upon 70 days following vacating of the unit by the other sharing Family unless a substitute family is admitted or a new lease is executed for the remaining Family. The PHA may require additional lease terms to deal with the special case of Shared Housing. A separate lease and Contract will be executed for each assisted Family occupying a unit in Shared Housing. One lease and Contract will be executed where two or more individuals (elderly, handicapped or disabled persons) share a single unit as one Elderly Family, as defined in Part 812.

(c) *Unit size.* In referring Families from the PHA waiting list to units with three or more bedrooms, preference shall be given by the PHA to large Families over two or more small Families wanting to share a unit.

(d) *Action when one family vacates the unit.* (1) The remaining tenant must take one of the following actions within 60 days after the other sharing family vacates the unit:

(i) Accept as a replacement for the vacated Family a Family of appropriate size on the PHA's or Owner's waiting list that has indicated a willingness to share. If no Family on the waiting lists has indicated a willingness to share, the remaining Family may find another qualified Family acceptable to the Owner;

(ii) Move to a smaller, appropriate size unit available in projects owned by the same Owner or in the PHA's public housing projects;

(iii) Arrange with the Owner to remain in occupancy without another tenant in return for a Contract Rent not exceeding the FMR for the size unit for which the remaining Family qualifies;

(iv) Obtain a Certificate and move to another unit; or

(v) Move to another unit without assistance.

(2) The Owner and PHA have the following rights and obligations:

(i) The Owner and PHA must offer the remaining tenant any available appropriate size unit in the Owner's or PHA's control and provide any available information about eligible Families willing to share a unit.

(ii) The Owner may receive vacancy payments under § 882.411(b) in an amount equal to 80 percent of the Contract Rent for the vacating Family if the Owner complies with paragraph (d)(2)(i) of this section and with paragraph (b) of § 882.411.

(ii) The PHA must issue a Certificate to the remaining Family if it has sufficient ACC authority.

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND RELATED PROGRAMS

16. Section 813.102 would be amended by adding a definition of Shared Housing and by revising the definitions of Contract Rent, Gross Rent, Tenant Rent and Total Tenant Payment, to read as follows:

§ 813.102 Definitions.

* * * * *

Contract Rent. The total amount of rent specified in the Housing Assistance Payments (HAP) Contract as payable by HUD (or the PHA) and the tenant to the Owner (including a PHA) for an assisted unit. In the case of the rental of only a manufactured home space, Contract Rent is the total rent specified in the HAP Contract as payable by HUD (or the PHA) and the tenant to the Owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home. In the case of Shared Housing, Contract Rent means the pro rata portion of the total rent charged by the owner for the unit attributable to the Family assisted under this Part, based on the number of bedrooms occupied by the assisted Family.

* * * * *

Gross Rent. The total monthly housing cost of housing an eligible Family, which is the sum of the Contract Rent and any Utility Allowance for the assisted unit. In the case of rental of only a manufactured home space, Gross Rent also includes the Family's monthly payment to amortize the purchase price of the manufactured home. In the case of Shared Housing, Gross Rent means the pro rata portion of the total rent changed by the Owner for the unit and the pro rata portion of any applicable utility Allowance, (Based on the number of bedrooms occupied by the assisted Family), which is subject to any Fair Market Rent limitation imposed by individual program regulations.

* * * * *

Shared Housing. Housing consisting of two or more private spaces occupied separately by two or more families and common space shared by the families. Shared housing may take the form of a rental unit or an owner-occupied dwelling shared with one or more assisted tenants unrelated to the owner.

Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA). Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost thereof is not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance. In the case of a Family renting only a manufactured home space, Tenant Rent equals the space rental minus the Housing Assistance Payment, as defined in the applicable program regulation. In the case of Shared Housing, the amount of Utility Allowance that is subtracted from Total Tenant Payment to determine Tenant Rent is the eligible Family's pro rata share (based on the total number of bedrooms occupied by the assisted Family) of the Utility Allowance for the entire unit.

Total Tenant Payment. The protion of the Gross Rent payable by an eligible Family participating in a program covered by this Part, determined in accordance with § 813.107. In the case of Shared Housing, each Family sharing a unit has its Total Tenant Payment calculated separately, based on its own Monthly adjusted income.

* * * * *

17. Section 813.106 would be amended by removing the reference in paragraph (a) to paragraphs (c) and (d) and substituting in its place a reference to paragraphs (d) and (e), respectively; by removing the references in paragraph (b) to paragraph (b) and (c) and substituting in there place references to paragraphs (c) and (d), respectively; by redesignating paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e), and (f); and by adding a new paragraph (b), to read as follows:

§ 813.106 Annual income.

* * * * *

(b) In the case of an Elderly Family, if a person determined to be essential to the care or well-being of a Family member resides with the family, the income of this live-in aide will not be included in the Family's income so long as the aide is not related to or obligated for the support of a family member. In the case of Shared Housing, the income of each Family shall be determined separately.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

18. Section 880.101(a)(3) would be amended to read as follows:

§ 880.101 General.

(a) * * *

(3) This part does not apply to projects developed under other Section 8 program regulations, including Parts 881, 882, 883, and 885, except that sections 880.603b and 880.613 do apply to projects developed under Part 885, and except to the extent otherwise stated in those parts.

* * * * *

19. Section 880.201 would be amended by adding, in alphabetical order, definitions of Private Space, Shared Housing, and Unit; and by revising the definition of Contract Rent, to read as follows:

§ 880.201 Definitions.

* * * * *

Contract Rent. The rent payable by HUD and the tenant to the Owner under the Contract with HUD for an assisted unit. In the case of the rental of only a manufactured home space, Contract rent is the total rent specified in the Contract as payable by HUD and the tenant to the Owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home. In the case of Shared Housing, Contract Rent means the pro rata portion of the total rent charged by the Owner for the unit (which is subject to the Contract Rent limits in §880.204) attributable to the Family under this part, based on the number of bedrooms occupied by the Family.

* * * * *

Private Space. In the case of Shared Housing, that portion of the dwelling unit that is for the exclusive use of the assisted Family.

* * * * *

Shared Housing. Housing consisting of two or more private spaces occupied separately by two or more families and common space shared by the families.

* * * * *

Unit. For all housing except Shared Housing, the unit is the residential space available for the private use of a Family (including individuals who comprise a Family in accordance with Part 812 of this chapter). For Shared Housing, the unit is the residential space available for the use of a Family, which includes both the Private Space and shared common space.

20. Section 880.603(b) would be amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) respectively, and by adding a new paragraph (2), to read as follows:

§ 880.603 Selection and admission of assisted tenants.

* * * * *

(b) * * *

(2) The Owner may permit two or more Families (or Single Persons authorized to be admitted in accordance with Part 812 of this chapter) who indicate a desire to share a unit to do so, in accordance with provisions for Shared Housing in this Part (see, *e.g.*, §880.613). The Owner may assist applicants who indicate an interest in Shared Housing to locate others with a similar interest.

* * * * *

21. A new §880.603b would be added, to read as follows:

§ 880.603b Type and size of unit.

(a) The Owner shall assign the type and size of unit based on the number of persons in the household and the relationship and sex of those persons and any special needs of the Family, such as whether the occupants are elderly, handicapped, or require the assistance of a live-in aide. Every Family member, regardless of age, shall be counted as a person. In selecting unit size, the Owner must balance the need to avoid overcrowding with the objectives of maximizing use of space and avoiding unnecesssary subsidy costs.

(b) After (insert effective date of this rule), in projects containing efficiency units, a one-bedroom unit shall not be rented to a single-person Family unless all efficiencies are occupied and no two-person Families or two one-person Families willing to share a one-bedroom unit are on the waiting list. However, this policy will not apply to individuals with medical justifications, including a handicap or disability requiring additional space; or to one-bedroom units designed to be accessible to handicapped persons if no two-person Families with handicapped members requiring accessibility features are on the waiting list. When an efficiency unit becomes available in the project and there is a need for a one-bedroom unit to serve a two-person household, a one-person Family admitted initially on or after (insert effective date of this rule) to

a one-bedroom unit because efficiences were not available will be required either to move to an efficiency unit or to agree to share the unit with another eligible one-person Family interested in sharing. The other eligible one-person Family interested in sharing should be selected first from the waiting list, and if there are none on the waiting list, then from any other source.

22. Section 880.606 would be amended by adding new paragraphs (c) and (d), to read as follows:

§ 880.606 Lease requirements.

* * * * *

(c) *Parties to lease.* One lease will be executed where two or more individuals share a unit as one Elderly Family, as defined in Part 812. A separate lease will be executed for each Family occupying a unit in Shared Housing.

(d) *Shared Housing lease.* The lease in Shared Housing must (1) require a tenant to notify the Owner if the other sharing family vacates the unit; (2) require the Owner to notify a tenant if the other sharing family terminates its lease; and (3) require the tenancy of one sharing family to terminate upon 60 days following vacating of the unit by the other sharing family unless a substitute family is admitted.

23. A new § 880.613 would be added, to read as follows:

§ 880.613 Shared Housing.

(a) *Voluntary arrangement.* Any Family of Single Person eligible for admission in accordance with Parts 812 and 813 of this chapter may choose to share a unit that qualifies as Shared Housing with one or more other such Family or Single Person, if the Owner agrees to such an arrangement.

(b) *Shared Housing standards.* The dwelling unit shall afford the Family adequate space and security. The Private Space must include a sufficient number of bedrooms for the Family, except that a one-bedroom unit may be shared by two single-person Families. In units occupied by physically handicapped persons, the areas used by the handicapped occupant shall be sufficiently accessible to permit independent living.

(c) *Unit size.* In allocating the use of units with three or more bedrooms, the Owner shall give preference to large Families over two or more smaller Families wanting to share.

(d) *Action when one family vacates the uit.* (1) The remaining tenant must take one of the following actions within 60 days after the other sharing family vacates the unit:

(i) Accept as a replacement for the vacated Family a Family of appropriate size on the Owner's waiting list that has indicated a willingness to share. If no Family on the waiting list has indicated a willingness to share, the remaining Family may find another qualified Family acceptable to the Owner;

(ii) Move to a smaller, appropriate size unit available in projects owned by the same Owner;

(iii) Arrange with the Owner to remain in occupancy without another tenant in return for a Contract Rent not exceeding the FMR for the size unit for which the remaining Family qualifies;

(iv) Obtain a Section 8 Certificate, if available, from the local PHA and move to another unit;

(v) Move to another unit without assistance.

(2) The Owner has the following rights and obligations:

(i) The Owner must offer the remaining tenant any available appropriate size unit in the Owner's control and provide any available information about eligible Families willing to share a unit.

(ii) The Owner may receive vacancy payments under § 880.611(c) in an amount equal to 80 percent of the Contract Rent for the vacating Family if the Owner complies with paragraph (d)(2)(i) of this section and with paragraph (c) of § 880.611.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

24. Section 881.102(a)(3) would be revised to read as follows:

§ 881.101 General.

(a) * * *

(3) This part does not apply to projects developed under other Section 8 program regulations including Parts 880, 882, 883 and 885, except that §§ 881.603b and 881.613 do apply to projects developed under Part 885, and except to the extent otherwise stated in those parts.

* * * * *

25. Section 881.201 would be amended by adding, in alphabetical order, definitions of Private Space, Shared Housing, and Unit; and by revising the definition of Contract Rent, to read as follows:

§ 881.201 Definitions.

* * * * *

Contract Rent. The rent payable by HUD and the tenant to the Owner under the Contract with HUD for an assisted unit. In the case of the rental of only a manufactured home space, Contract rent is the total rent specified in the Contract as payable by HUD and the tenant to the Owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home. In the case of Shared Housing, Contract Rent means the pro rata portion of the total rent charged by the Owner for the unit (which is subject to the Contract Rent limits in § 881.204) attributable to the Family under this Part, based on the number of bedrooms occupied by the Family.

* * * * *

Private Space. In the case of Shared Housing, that portion of the dwelling unit that is for the exclusive use of the assisted Family.

* * * * *

Shared Housing. Housing consisting of two or more private spaces occupied separately by two or more families and common space shared by the families.

* * * * *

Unit. For all housing except Shared Housing, the unit is the residential space for the private use of a Family (including individuals who comprise a Family in accordance with Part 812 of this chapter). For Shared Housing, the unit is the residential space available for the use of a Family, which includes both the Private Space and the shared common space.

26. Section 881.603(b) would be amended by redesignating paragraphs (2), (3) and (4) as paragraphs (3), (4) and (5), respectively, and by adding a new paragraph (2), to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) * * *

(2) The Owner may permit two or more Families (or Single Persons authorized to be admitted in accordance with Part 812 of this chapter) who indicate a desire to share a unit to do so, in accordance with provisions for Shared Housing in this Part (see, e.g., § 881.613). The Owner may assist applicants who indicate an interest in Shared Housing to locate others with a similar interest.

* * * * *

27. A new § 881.603b would be added, to read as follows:

§ 881.603b Type and size of unit.

(a) The Owner shall assign the type and size of unit based on the number of persons in the household and the relationship and sex of those persons and any special needs of the Family,

such as whether the occupants are elderly, handicapped or require the assistance of a live-in aide. Every Family member, regardless of age, shall be counted as a person. In selecting unit size, the Owner must balance the need to avoid overcrowding with the objectives of maximizing use of space and avoiding unnecessary subsidy costs.

(b) After (insert effective date of this rule), in projects containing efficiency units, a one-bedroom unit shall not be rented to a single-person household unless all efficiencies are occupied and no two-person families or two one-person families willing to share a one-bedroom unit are on the waiting list. However, this policy will not apply to individuals with medical justifications, including a handicap or disability requiring additional space; or to one-bedroom units designed to be accessible to handicapped persons if no two-person families with handicapped members requiring accessibility features are on the waiting list. When an efficiency unit becomes available in the project and there is a need for a one-bedroom unit to serve a two-person household, a one-person Family admitted initially on or after (insert effective date of this rule) to a one-bedroom unit because efficiencies were not available will be required either to move to an efficiency unit or to agree to share the unit with another eligible one-person Family interested in sharing. The other eligible one-person Family interested in sharing should be selected first from the waiting list, and if there are none on the waiting list, then from any other source.

28. Section 881.606 would be amended by adding new paragraphs (c) and (d) to read as follows:

§ 881.606 Lease requirements.

* * * * *

(c) *Parties to lease.* One lease will be executed where two or more individuals share a unit as one Elderly Family, as defined in Part 812. A separate lease will be executed for each Family occupying a unit in Shared Housing.

(d) *Shared Housing lease.* The lease in Shared Housing must (1) require a tenant to notify the Owner if the other sharing family vacates the unit; (2) require the Owner to notify a tenant if the other sharing family terminates its lease; and (3) require the tenancy of one sharing family to terminate upon 60 days following vacating of the unit by the other sharing family unless a substitute family is admitted.

29. A new § 881.613 would be added, to read as follows:

§ 881.613 Shared Housing.

(a) *Voluntary arrangement.* Any Family or Single Person eligible for admission in accordance with Parts 812 and 813 of this chapter may choose to share a unit that qualifies as Shared Housing with one or more other such Family or Single Person, if the Owner agrees to such an arrangement.

(b) *Shared Housing standards.* The dwelling unit shall afford the Family adequate space and security. The Private Space must include a sufficient number of bedrooms for the Family, except that a one-bedroom unit may be shared by two single-person Families. In units occupied by physically handicapped persons, the areas used by the handicapped occupant shall be sufficiently accessible to permit independent living.

(c) *Unit size.* In allocating the use of units with three or more bedrooms, the Owner shall give preference to large Families over two or more smaller Families wanting to share a unit.

(d) *Action when one family vacates the unit.* (1) The remaining tenant must take one of the following actions within 60 days after the other sharing family vacates the unit:

(i) Accept as a replacement for the vacated Family a Family of appropriate size on the Owner's waiting list that has indicated a willingness to share. If no Family on the waiting list has indicated a willingness to share, the remaining Family may find another qualified Family acceptable to the Owner;

(ii) Move to a smaller, appropriate size unit available in projects owned by the same Owner;

(iii) Arrange with the Owner to remain in occupancy without another tenant in return for a Contract Rent not exceeding the FMR for the size unit for which the remaining Family qualifies;

(iv) Obtain a Section 8 Certificate, if available, from the local PHA and move to another unit;

(v) Move to another unit without assistance.

(2) The Owner has the following rights and obligations:

(i) The Owner must offer the remaining tenant any available appropriate size unit in the Owner's control and provide any available information about eligible Families willing to share a unit;

(ii) The Owner may receive vacancy payments under § 881.611(c) in an amount equal to 80 percent of the Contract Rent for the vacating Family if the Owner complies with paragraph (d)(2)(i) of this section and with paragraph (c) of § 881.611.

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

30. Section 913.102 would be amended by adding, in alphabetical order, a definition of Shared Housing, to read as follows:

§ 913.102 Definitions.

* * * * *

Shared Housing. Housing in which two or more Single Persons or Families, eligible for admission in accordance with Part 912 and this Part, share a dwelling unit, each having some private space and sharing other common space.

* * * * *

31. Section 913.106 would be amended by redesignating paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e) and (f); by removing the reference in paragraph (a) to paragraphs (c) and (d) and substituting in its place a reference to paragraphs (d) and (e), respectively; and by adding a new paragraph (b), to read as follows:

§ 913.106 Annual income.

* * * * *

(b) In the case of an Elderly Family, if a person determined by the PHA to be essential to the care or well-being of a Family member resides with the Family, the income of this live-in aide will not be included in the Family's income so long as the aide is not related to or obligated for the support of a Family member. In the case of Shared Housing, the income of each Family shall be determined separately.

* * * * *

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

32. A new section 960.205a would be added, to read as follows;

§ 960.205a Shared housing.

(a) *Voluntary arrangement.* The PHA may permit a Family or Single Person eligible for admission in accordance with Parts 912 and 913 and this part to share a unit that qualifies as Shared Housing with one or more other such Families or Single Persons, provided the prospective tenants agree to such an arrangement. Upon request by a Family, the PHA may provide assistance in finding persons with whom a unit might be shared.

(b) *Shared housing standards.* The dwelling unit shall afford the Family adequate space and security. Bedrooms may not be shared by members of

different families, except in the case of two single-person Families sharing a one-bedroom unit. In units occupied by physically handicapped persons, the areas used by the handicapped occupant shall be sufficiently accessible to permit independent living.

(c) *Unit size.* In allocating the use of units with three or more bedrooms, the PHA shall give preference to large Families over smaller Families wanting to share a unit.

(d) *Leases.* One lease will be executed where two or more individuals share a unit as one Elderly Family, as defined in Part 912. A separate lease will be executed for each Family occupying a unit in Shared Housing.

33. A new § 960.208 would be added, to read as follows:

§ 960.208 Type and size of unit.

(a) In the leasing of the following types of units, the PHA shall extend a preference to the type of household indicated:

(1) Units in projects constructed or rehabilitated for use by the elderly—Elderly Families.

(2) Units in projects constructed or rehabilitated to provide accessible housing—Families with physically handicapped members who would benefit from the accessibility features provided.

(3) One bedroom units in projects that contain efficiency units—two-person households (including two one-person families willing to share). However, this policy will not apply to individuals with medical justification, including a handicap or disability requiring additional space; or to one-bedroom units designed to be accessible to handicapped persons if no two-person households with handicapped persons are on the waiting list. When an efficiency unit becomes available in the project and there is a need for a one-bedroom unit to serve a two-person household, a one-person Family assigned to a one-bedroom unit on or after (insert effective date of this rule) will be required either to move to an efficiency unit or to agree to share a unit with another eligible one-person Family.

(b) In determining the appropriate size unit for an Elderly Family, the presence of a person determined by the PHA to be necessary for the care or well-being of an Elderly, Disabled or Handicapped member of the Family will be considered.

(c) The PHA shall have a transfer policy to cover the problem that arises when a Family becomes overcrowded or overhoused because of changes in Family size or composition or because one Family in a shared housing arrangement (see § 960.205a) vacates the unit. In a shared housing arrangement, replacement of the departed Family may be preferable to a transfer of the remaining Family.

Authority: Sec. 211, Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181; sec. 8, United States Housing Act of 1937, 42 U.S.C. 1437f; sec. 3, United States Housing Act of 1937, 42 U.S.C. 1437c; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 20, 1984.

John J. Knapp,

Acting Secretary.

[FR Doc. 84-31841 Filed 12-6-84; 8:45 am]

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Friday
December 7, 1984

Part VII

Environmental Protection Agency

40 CFR Parts 51 and 52

Air Quality Implementation Plans; Requirements for Preparation, Adoption, and Submittal; Approval and Promulgation; Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AH-FRL-2596-1, Docket No. A-80-46]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA here proposes amendments to its regulations concerning the construction of new stationary sources of air pollution and modifications to existing sources which appear at 40 CFR 51.24 and 52.21. The amendments relate to the air quality models used to assess impact and estimate ambient concentrations. EPA is proposing to review its "Guideline on Air Quality Models" (EPA-450/2-78-027, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards Research, Triangle Park, N.C. 27711, April 1978), and to substitute by reference the revised guideline for the April 1978 version. The purpose of the revision is to update the guidance because substantial new knowledge concerning modeling analyses has developed since the original guidance was issued. The revised guidance should improve the technical basis for the impact assessment of air pollution sources.

DATES: The period for initial comment on the proposed amendments closes on April 1, 1985. A public hearing on the proposed amendments will be held January 29, 30, and 31, 1985, (Tuesday, Wednesday, and Thursday) from 9:00 a.m. to 5:00 p.m. on January 29 and 30; 9:00 a.m. to noon on January 31. EPA will hold the public docket for this rulemaking open for 30 days after the close of the initial comment period for the submission of written rebuttal and supplementary information.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, Attention: Docket No. A-80-46.

Copies of the draft revised guideline may be obtained by writing or calling Joseph A. Tikvart, Source Receptor Analysis Branch, MD-14, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, phone (919) 541-5561.

Public Hearing: Thomas Jefferson Auditorium, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C.

Docket: EPA has established a docket for this rulemaking, Docket A-80-46, in accordance with section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d). The docket is available for public inspection and copying between 8:00 am and 4:00 pm, Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW, Washington, D.C., 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Joseph A. Tikvart, Source Receptor Analysis Branch (MD-14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; (919) 541-5561.

SUPPLEMENTARY INFORMATION:

Background

Section 165(e)(3)(D) of the Clean Air Act (CAA) requires the Administrator to adopt regulations specifying with reasonable particularity each model or models to be used in cases subject to the Act's prevention of significant deterioration requirements. Therefore the guideline was incorporated by reference in the regulations promulgated for the prevention of significant deterioration. Because of its incorporation, revisions to the guideline must satisfy the rulemaking requirements of section 307(d) of the Act.

At the time the original Guideline on Air Quality Models was published (April 1978), it was anticipated that improvements in modeling capability would occur rapidly and that revisions to the guidance would be needed at 18 to 36 month intervals. It was stated in the "Preface" to the document that revisions would be synchronized with the Conference on Air Quality Modeling, required by the Clean Air Act to be held every 3 years (section 320). Although EPA has attempted to meet that schedule, the time required to complete several important steps has not made this possible.

In March 1980, EPA issued a Notice soliciting air quality models developed outside the Agency for potential inclusion in the planned revisions to the Guideline on Air Quality Models (see 45 FR 20157, March 27, 1980). EPA received nearly 30 air quality models from private model developers. These were reviewed for technical feasibility and for utility to potential users. In addition, the Notice stated that a revised guideline document would be synchronized with the next (second) Conference on Air Quality Models planned for early 1981, and that public meetings on the proposed revisions would be held in the fall of 1980. In October of that year EPA held three public meetings (in Washington, D.C., Chicago, Illinois, and Seattle, Washington) to discuss a proposed guideline revision that included the new models as well as several changes in model use and in model input requirements. As a result of the comments received, EPA determined that much additional background work was needed before the guideline could be revised in a manner that would respond to the comments and criticisms elicited from the public, private industry and other governmental (Federal, State and local) entities.

In march of 1981, EPA issued a Notice concerning a delay (46 FR 17651, March 19, 1981) and indicated that the (second) Conference on Air Quality Modeling would be held in the summer of that year. The purpose of the Conference would not be to discuss the guideline but to encourage information exchange on the topics of model accuracy and reliability and the use of models in a regulatory framework. The Notice further stated that the Guideline on Air Quality Models, dated April 1978, was the guideline of record and should be used.

An announcement of the Second Conference on Air Quality Modeling was issued June 12, 1981 (46 FR 31048) and stated that the modeling guideline was not to be a topic for discussion at the Conference. A public hearing on the guideline would take place in 1982. EPA was unable to maintain that scheduled date. As a substitute, a report summarizing a series of internal EPA Workshops, held for the purpose of clarifying modeling guidance, was issued to each EPA Regional Office for their use in reviewing and evaluating modeling analyses in support of regulatory programs. This report clarified issues that had arisen in areas where the 1978 guideline was vague or not specific. In 1982 that report entitled "Regional Workshops on Air Quality Modeling: A Summary Report," EPA-450/4-82-015 was sent to the National Technical Information Service (NTIS) where it is available as PB83-150573 together with addenda consecutively dated to October 1983. A copy of this document is also available for review in Docket A-80-46.

In the meantime, EPA has reviewed more than 80 comments submitted during the 1980 public meeting and established the need for several activities to be undertaken before adequate responses to those comments could be made. These activities included

a program for model evaluation, an investigation of technical issues involving important model algorithms such as dispersion parameters, plume rise and terrain adjustment factors, and a review of recommendations resulting from a cooperative agreement between EPA and the American Meteorological Society. Although research continues on a number of technical issues, including complex terrain and dispersion parameters, there was sufficient new information available that EPA began the process of revising the guideline in early 1983.

As a part of that process, EPA has responded to the comments resulting from the draft guideline submitted at the public meetings in 1980. A summary of both the comments and the EPA response is contained in a document entitled "Summary of Comments and Responses on the 1980 Proposed Draft of the Guideline on Air Quality Models," February 1984. A copy of this document is available for review in Docket A–80–46.

EPA has undertaken a multiyear program of model evaluation in order to respond to criticisms concerning the model selection procedures EPA has used in the past. Sufficient results are available from those studies to enable the Agency to make an informed decision regarding models to be included in the guideline. Individual model algorithms were also investigated and changes have been made in some of the preferred models based on that investigation. There is now sufficient new knowledge concerning modeling analyses used in support of EPA regulatory requirements, including the PSD program, that changes in the modeling guidance should now be made even though all of the studies are not completed and research has not yet found all the answers.

EPA is currently studying the type and extent of uncertainty surrounding the air quality concentration estimates made by models. EPA is developing statistical methods to explicitly deal with these uncertainties in regulatory decisions. When these studies are complete, EPA will provide appropriate guidance on how to use the statistical methods when setting emission limits for sources of air pollution.

Proposed amendments

This notice contains a proposal to change the references to the "Guideline on Air Quality Models" in 40 CFR 51.24 and 40 CFR 52.21 from the 1978 edition of that guidance to a revised "Guideline on Air Quality Models" to be completed and dated when these proposed changes become final and are promulgated. A draft of the revised guideline is available for review in each of the ten EPA Regional Office Libraries and at the Central Docket Section at EPA headquarters in Washington, DC. Copies of the draft guideline may be obtained by writing or calling Joseph A. Tikvart whose address and telephone number is listed in the "For Further Information" section above. EPA solicits comments on that draft guideline document and on the proposal to incorporate that document in the regulations covering the prevention of significant deterioration.

EPA also proposes to delete from the regulations the paragraphs in Part 51 and Part 52 relating to the recommended use of the "Workbook for the Comparison of Air Quality Models," EPA–450/2–78–028 (a) and (b) to "determine the comparability of air quality models." EPA no longer considers "comparability" a criterion for selecting or using a model not specifically recommended in the guideline.

The format of the guideline will be changed to a notebook style. Major sections will begin on new pages. This will allow the future revision of this guide on a page by page basis, thus permitting updates and changes as they are needed in specific sections without opening the entire document to review and comment. Such a page by page revision process should permit a shorter processing time for changes. All future changes will be noticed in the **Federal Register** and public comment will be solicited.

Public Participation

EPA will hold a public hearing on the proposed amendments and the revised guideline on January 29, 30, and 31, 1985, (Tuesday, Wednesday, and Thursday) from 9:00 a.m. to 5:00 p.m. on January 29 and 30; 9:00 a.m. to noon on January 31 in the Thomas Jefferson Auditorium, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. The hearing will be informal. A panel of EPA staff will hear the oral presentations. There will be no cross-examination and no requirement that any person be under oath. Each member of the panel may seek clarification or amplification of any presentation. The presiding officer of the panel may set a time limit for each presentation and may restrict any presentation that would be repetitious or irrelevant. A transcript of the hearing will be made and placed in the rulemaking docket. This hearing will be held in conjunction with the Third Conference on Air Quality Modeling required by Section 320 of the Clean Air Act.

Any person who wishes to speak at the hearing should, as soon as possible, send written notice of this to EPA, giving name, address, telephone number and length of presentation. If presentations are projected to be longer than 15 minutes, the presenter should also state why it needs to be longer. Notices should be sent to Joseph A. Tikvart, at the address given in the beginning of this notice. EPA will develop a schedule for presentations based on the notices received. Persons failing to submit a written notice but desiring to speak at the hearing should notify the presiding officer immediately before the hearing. The presiding officer will determine the schedule for these presentations. Each speaker should bring extra copies of his or her presentation for the convenience of the hearing panel, the hearing reporter and other participants. The hearing will be open to the public. Additional written statements or comments, not presented at the hearing, should be submitted in duplicate to the Central Docket Section, LE–131, Attention: Docket A–80–46.

EPA previously received comments on a number of technical issues and has responded in the document "Summary of Comments and Responses on the 1980 Proposed Draft of the Guideline on Air Quality Models" which was cited earlier. For the public hearing announced here, EPA is soliciting, in particular, advice and comments on: (1) Specific changes to 40 CFR Parts 51 and 52; (2) the revised format of the modeling guideline; (3) recommendations concerning models for ozone; (4) proposed changes to the preferred models; (5) how performance evaluations can be improved for models, particularly photochemical ozone models (i.e., EKMA for which adequate evaluation data bases are not available); (6) specific quantitative procedures for relating air quality standards and PSD increments to emission limitations through the use of mathematical models that include statistical techniques to deal with uncertainty; (7) the degree to which individual State or local regulatory agencies, within the context of Clean Air Act regulatory requirements, should be provided more (or less) authority to use air quality models which have not been reviewed and approved by EPA; and (8) if regulatory agencies are provided additional authority to use other air quality models, what degree of oversight or approval authority should be retained by EPA. Comments are not being solicited concerning the form of air quality standards and PSD increments.

E.O. 12291

Under Executive Order 12291, EPA must judge whether a proposed action would be a "major rule" and therefore subject to the requirement of a Regulatory Impact Analysis. The revision that EPA is proposing 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-based enterprises in domestic or export markets. This regulation will result in no significant environmental or energy impacts. Thus, no Regulatory Impact Analysis was conducted.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. This rule merely updates existing technical requirements for air quality modeling analyses required by other Clean Air Act programs (prevention of significant deterioration, new source review, SIP-revisions) and imposes no new regulatory burdens.

Economic Impact Assessment

The requirement for performing an economic impact assessment in section 317 of the Act, 42 U.S.C. 7617, does not apply to this action since the revisions included do not constitute a substantial change in the regulatory burden imposed by the regulation. However, since the guidance includes new models, relatively more sophisticated, and addresses the use of site-specific data (required under a different section of the PSD regulations), an analysis of the relative cost of using some of the 1978 models and data bases versus the models and data bases specified in the 1980 updated guidance was prepared. This report, "Cost Analysis of Proposed Changes to the Air Quality Modeling Guideline" is available for inspection in Docket A–80–46 at the Central Docket Section whose address is given above, or from the National Technical Information Service as NTIS No. PB 83–112177.

Paperwork Reduction

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

The proposed amendments have been submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from that office on the revisions and any EPA responses have been placed in the docket for this proceeding.

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particular matter, Hydrocarbons, Carbon monoxide.

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead.

Authority: This Notice of Proposed Rulemaking is issued under the authority granted by sections 165(e) and 320 of the Clean Air Act, 42 U.S.C. §§ 7475(e), 7620.

Dated: December 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 51—REQUIREMENTS FOR PREPARATION ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

It is proposed to amend Part 51, Chapter I, Title 40 of the Code of Federal Regulations, as follows:

1. Section 51.24 is amended by revising paragraph (l)(1)(i) to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(l) * * *

(1) * * *

(i) All estimates of ambient concentrations required under paragraph (1) shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1984) which is incorporated by reference. It is EPA publication No. 450/2–78-027R and is for sale from the U.S. Department of Commerce, National Technical Information Service, 5825 Port Royal Road, Springfield, Virginia, 22161. It is also available for inspection at the Office of the **Federal Register** Information Center, Room 8301, 1100 L Street, NW, Washington, D.C. 20408. This incorporation by reference was approved by the Director of the **Federal Register** on [Date of approval]. These materials are incorporated as they exist on the date of approval and a notice of any change will be published in the **Federal Register.**

* * * * *

2. Section 51.24 is amended by removing paragraph (l)(1)(v).

3. Section 51.24 is amended by removing paragraph (l)(2).

4. Section 51.24 is amended by redesignating paragraph (l)(3) as paragraph (l)(2) and revising it to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(l) * * *

(2) The document referenced in this paragraph is available for public inspection at the libraries of each of the ten EPA Regional Offices and at the EPA library at 401 M Street, SW, Washington, D.C. 20460. Copies are available, as supplies permit, from the Center for Environmental Information (CERI), ORD Research Information Unit, U.S. Environmental Protection Agency, Cincinnati, Ohio, 45268.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTING PLANS

It is proposed to amend Part 52, Chapter I of Title 40 of the Code of Federal Regulations, as follows:

1. Section 52.21 is amended by revising paragraph (l)(1) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(l) * * *

(1) All estimates of ambient concentrations required under paragraph (l) shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1984) which is incorporated by reference. It is EPA publication No. 450/2–78–027R and is for sale from the U.S. Department of Commerce, National Technical Information Service, 5825 Port Royal Road, Springfield, Virginia, 22161. It is also available for inspection at the Office of the **Federal Register** Information Center, Room 8301, 1100 L Street, NW, Washington, D.C. 20408. This incorporation by reference was approved by the Director of the **Federal Register** on [Date of approval]. These materials are incorporated as they exist on the date of approval and a notice of any change will be published in the **Federal Register.**

* * * * *

2. Section 52.21 is amended by revising paragraph (l)(2) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(l) * * *

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment under paragraph (q) of this section. Written approval of the Administrator must be obtained for any modification or substitution.

* * * * *

3. Section 52.21 is amended by revising paragraph (l)(3) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(l) * * *

(3) The document referenced in this paragraph is available for public inspection at the libraries of each of the ten EPA Regional Offices and at the EPA library at 401 M Street, SW, Washington, D.C. 20460. Copies are available, as supplies permit, from the Center for Environmental Information (CERI), ORD Research Information Unit, U.S. Environmental Protection Agency, Cincinnati, Ohio, 45268.

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[FR Doc. 84-31971 Filed 12-6-84; 8:45 am]
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federal register

Friday
December 7, 1984

Part VIII

Environmental Protection Agency

40 CFR Part 600

Fuel Economy Test Procedures; Additional Proposed Procedures for Adjustment of CAFE Results To Compensate for Changes in Test Procedures; Supplemental Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 600

[AMS—FRL 2696-4]

Fuel Economy Test Procedures; Additional Proposed Procedures for Adjustment of CAFE Results To Compensate for Changes in Test Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice is a supplement to an EPA notice of proposed rulemaking (NPRM) published on December 21, 1983 (48 FR 56526) in which EPA proposed establishing procedures to adjust corporate average fuel economy (CAFE) test results to account for the effects of test procedure changes. EPA recently received a request for a CAFE adjustment to account for changes in the properties of the test fuel used for gasoline-powered vehicles. EPA did not consider the CAFE impact of the test fuel properties in the December 21, 1983 NPRM. This notice proposes to apply an additional industry-wide CAFE adjustment for the 1980 and later model years to account for the effects of the test fuel properties. Also, NPRM commentors requested additional CAFE credits for the 1980 and 1981 model years due to the availability of fuel efficient oils. This notice proposes an additional 1981 model year industry-wide CAFE adjustment for fuel efficient oil improvements that were not reflected in fuel economy testing for that year.

DATE: Comments on the proposed rule must be received by January 22, 1985.

ADDRESS: Comments in reponse to this notice should be submitted to the U.S. Environmental Protection Agency, Central Docket Section (A—130), Attn: Docket No. A-83-44, Gallery 1, West Tower Lobby, Waterside Mall, 401 M street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joseph P. Whitehead, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105; (313) 668-4403.

SUPPLEMENTARY INFORMATION:

A. Background

In January 1982, the United States Court of Appeals for the Sixth Circuit ordered EPA to initiate rulemaking proceedings concerning procedures for establishing adjustment factors for CAFE test results. EPA responded to this court order by issuing an NPRM which proposed to apply an industry-wide CAFE adjustment of 0.2 miles per gallon (mpg) for 1980 and later model years to account for the effects of past changes in test procedures.

EPA also proposed to determine whether CAFE adjustment is warranted for future changes to the 1975 test procedure by assessing all test changes and their industry-wide impact on CAFE numbers, and to adjust CAFE numbers for any significant CAFE penalty imposed on a representative fleet. EPA proposed to define a "significant CAFE penalty" as any change or group of changes that have at least a tenth of an mpg effect on CAFE numbers.

EPA also proposed that a general CAFE correction factor be calculated for future test changes which exhibit a predictable, quantifiable, and fairly uniform industrywide reduction in test results used for CAFE calculations. To the extent that any change to the 1975 test procedures would reduce the fuel economy of an average vehicle fleet, CAFE stringency would be increased. Since EPA is not authorized to change CAFE stringency through test procedure changes, manufacturers are entitled to a CAFE adjustment if any test procedure change can be determined to have had such an effect.

B. Test Fuel Adjustments

On August 15, 1984, subsequent to the close of the comment period for the CAFE adjustment NPRM, General Motors (GM) submitted a request to EPA for CAFE adjustments to compensate for changes in test fuel properties from the 1975 model year baseline condition. The GM request is available in the public docket, No. A-83-44.

The GM request states that changes have been noted in the properties of the unleaded gasoline used for emissions and fuel economy testing. According to GM, vehicle tests indicate that these changes in test fuel properties have a measurable effect on fuel economy.

EPA regulations specify an equation for calculating fuel economy (40 CFR 600.113-600.78). This equation is based on the carbon balance technique which allows fuel economy to be determined from measurement of exhaust emissions. The fixed numerical coefficients of the EPA equation are based on a fuel with a fixed specific gravity and a fixed carbon weight fraction (grams of carbon per gram of fuel). GM stated that their records indicate that the average specific gravity and carbon weight fraction of test fuel were virtually identical to the values used in the fuel economy equation from 1974 through 1979. However, these test fuel properties gradually shifted in the period between 1979 and June 1984.

GM suggested CAFE corrections by model year for model years 1981 through 1984. GM estimated the fuel change CAFE credits, based on GM CAFE's and fuel data available to GM, as: 0.02 mpg for 1981, 0.19 mpg for 1982, 0.27 mpg for 1983, and 0.32 mpg for 1984. The GM calculation methodology accounted for the test fuel carbon weight fraction, specific gravity, energy content, and the engine combustion efficiency as affected by the energy content of the test fuel.

EPA concurs with GM that test fuel properties which affect measured fuel economy have changed over time. Furthermore, EPA believes that a compensating CAFE adjustment is warranted by these changes in test fuel properties. This notice proposes CAFE adjustments for fuel changes as specified below. However, EPA has not yet determined the actual mpg credits nor the final method for calculating past and future credits.

EPA is studying the GM method of calculations, which corrects for the volumetric "error" caused by using fuel with a different carbon content and fuel energy content. GM's estimate of the energy content effects is determined "experimentally" because of different vehicle-to-vehicle effects. It is not yet clear to EPA whether the GM estimates are appropriate for recent technology vehicles. An EPA memorandum (Subject: Questions and Comments on GM's Calculation of Fuel Change CAFE Credits) is contained in the docket and outlines the Agency's concerns with the GM methodology. EPA requests comments on the GM method and on the Agency's concerns.

EPA proposes the following CAFE adjustments due to test fuel changes.

1. Test Fuel Credits for Past Model Years

For model years 1980 through 1985, EPA is proposing to grant yearly, industry-wide CAFE adjustments for the fuel economy influence of test fuel properties. EPA is considering GM's suggested method for calculating test fuel credit although the EPA memorandum in the docket has identified areas of uncertainty. Fuels used by EPA in its certification and fuel economy confirmatory testing programs will be analyzed to establish the appropriate credit. This CAFE adjustment for test fuel properties will be aggregated with the other CAFE adjustments proposed in the December 21, 1983 NPRM. Both light-duty vehicles and light-duty trucks would be granted these CAFE adjustments since both

categories of vehicles were affected by test fuel properties. Annual average EPA test fuel properties will be used for calculating the CAFE adjustments. The actual numerical credits will be determined in the final rule by use of a calculation method to be adopted in the final rule, in light of public comments.

2. Test Fuel Adjustments for Future Model Years

Beginning prior to the 1986 model year, EPA intends to purchase test fuel within a specified tolerance of 1 percent for the carbon density (2421±20 grams carbon/gallon). This will help reduce the effects of test fuel variability, but may not totally eliminate the possible effects. In particular, it would not be practical to specify energy content to fuel suppliers. Therefore, corrections may still be necessary beyond the 1985 model year.

EPA has considered two options to implement the corrections for future model years. One option is to perform the correction for each test conducted. Thus, energy content and carbon density corrections would be built into the calculation on a fuel batch basis. This option appears to be the most direct and potentially precise approach to establish CAFE corrections. The disadvantage of this option is that the fuel economy calculation for each test would be further complicated by requiring input as to the specific test's fuel properties. This added data input complexity might result in a test void rate increase. Also, it may not be necessary to calculate corrections with this level of precision, considering the precision of the 1975 baseline.

The second option for future fuel change credits is to calculate credits on a model year basis using average EPA test fuel specifications used during the test year. Thus, test data during the year would be processed as it is now, and a CAFE credit or debit (if appropriate) would be issued when the manufacturer's CAFE is calculated. This option would be simpler to implement than the test-by-test correction option, and would require only that EPA perform a single calculation each year. The potential disadvantage of this option is that the CAFE correction would be based on average testing conditions for the year at only EPA's laboratory. This method raises the possibility of less precision, compared to test-by-test correction, both due to batch-to-batch variations in fuel at EPA and possibly wider fuel difference between laboratories.

The EPA proposes to use the second option, which is to perform a single annual CAFE calculation. As EPA tightens its test fuel specifications in the future, very little correction should be necessary. The use of annual average fuel specifications will be of adequate precision, consistent with the precision of other CAFE corrections, if we assume adequate incentives will exist for manufacturers to control their fuel specifications to match EPA's. We request comments on the need for and appropriateness of establishing tighter controls on the fuels used in manufacturers' laboratories. If comments and additional data supplied in response to this NPRM along with EPA's further analyses indicate that a test-by-test correction is more advantageous, that option may be adopted.

EPA also intends to analyze changes in diesel test fuel properties to determine if CAFE corrections are appropriate for the light-duty diesel category. The methodology will be identical to that used in correcting for gasoline fuel changes. If credits are warranted, they will be included in the final rulemaking.

C. Fuel Efficient Oils Adjustments

Beginning with the 1982 model year, EPA approved the use of energy efficient oils in test vehicles which improve fuel economy by 1.8 percent. In comments to the CAFE adjustment NPRM, both GM and Ford Motor Co. (Ford) proposed that CAFE credits be given for the 1980 and 1981 model years, during which fuel efficient crankcase oils were available, but not used in test vehicles. GM and Ford claimed in their comments that such oils were available during the 1980 and 1981 model years when they were prohibited from deriving a CAFE benefit by using fuel-efficient oil in their test vehicles. Furthermore, GM has suggested that a small credit should be due even beyond 1981, given that EPA's existing policy restricts fuel-efficient oils used in test vehicles to the sales-weighted average fuel economy improvement of actual oils in the marketplace. GM has pointed out that EPA limits the use of fuel-efficient oils to those which provide a maxium fuel-economy improvement of 1.8 percent even though the Department of Transportation (DOT) used a projection of 2 percent as part of its analysis of the feasibility of achieving the CAFE standards. GM, therefore, believes it is due credit for the difference of 0.2 percent.

EPA has always, including in the 1975 base year, required the use of engine oils in test vehicles that were representative of what was likely to be used in production and in typical consumer use. This did not become an issue until the late 1970's when oils with claimed fuel savings potential began to be marketed. In 1978, EPA issued guidance indicating it would not permit the use of such oils in test vehicles unless it could be determined that such oils were likely to be used by consumers.[1] Several important criteria were established as a guide in the determination of whether an oil was representative of what was likely to be used. First, a generic name or classification should be available to enable consumers to readily identify which oils they should be using. Without a generic class from which to select, EPA was concerned that manufacturers had the sophistication to screen oils and pick the one most beneficial to them, but consumers would have no means to identify and use comparable oils. Additionally, this generic class of oils had to be generally available, competitively priced, and clearly recommended for use in owner's manuals.

In 1981, EPA concluded that essentially all multi-grade oils bearing the new "SF" service designation contained fuel savings additive packages.[2] Hence, the SF designation, while not originally intended to relate to fuel savings potential of oil, became a reasonable surrogate for the generic name EPA was seeking. It was further determined that SF oils were generally available and competitively priced. Therefore, as long as the manufacturer recommended in its owner's manuals that only an SF oil be used, EPA could conclude consumers were likely to use such oils. Since consumers would have no means to determine which, if any, SF oils were better than others as fuel savings oils, EPA restricted the manufacturers from using oils whose percent improvement in fuel savings was better than the sales-weighted average percent improvement which should be representative of the oil used by the average consumer.

EPA still considers its general requirement (that the oils be representative of what is likely to be used by consumers) to be appropriate policy. The current guidelines automatically will allow manufacturers to upgrade test vehicle oils as oils in the marketplace improve. Furthermore, EPA's stated policies do not preclude alternative means to demonstrate that a given oil will be likely to be representative. EPA considers it

[1] See public docket for EPA letter to Chrysler Corporation (Stork to Heinen) dated January 16, 1978.

[2] See public docket for EPA letter of GM (Walsh to Fisher) dated March 17, 1981.

appropriate to maintain its general policy of denying the use of an alleged fuel saving oil (and, hence, denying commensurate CAFE credit) unless such oils can be shown to be representative.

As a result of the GM and Ford comments, and EPA's examination of the historical facts surrounding the fuel-efficient oils issue, EPA has concluded, within the constraints of its general policy, that a CAFE credit is appropriate for the 1981 model year. EPA has reached this conclusion based on the likelihood that fuel-efficient oil was available and used during the 1981 model year.

EPA is not proposing a fuel-efficient oil CAFE credit for the 1980 model year. EPA cannot establish that adequate availability and likely usage had occurred during the 1980 model year. (Note that the API "SF" designation was not established until early 1980, halfway into the 1980 model year. Thus, this designation and the subsequent labeling of oils conforming to the SF designation cannot be used to imply availability of fuel-efficient oils during the 1980 model year.) Therefore, it is not likely that the fuel-efficient oil availability was sufficient to be representative of in-use oils during the 1980 model year. EPA invites commentors to supply data as to the representativeness of fuel-efficient oils in use during the 1980 model year. If data show that such oils were likely in widespread use during the 1980 model year, EPA will consider further CAFE credit for 1980.

Regarding the magnitude of the 1981 model year credit, when EPA approved the use of fuel-efficient oils for the 1982 model year, it specified that the test vehicle oil could not exceed a sales-weighted average fuel economy improvement of SF multigrade. Subsequent manufacturer surveys of the marketplace indicated the average improvement to be 1.8 percent.[3] Therefore, EPA proposes the 1981 model year fuel-efficient oils CAFE credit to be the 1.8 percent maximum improvement allowed for fuel-efficient oils in test vehicles. This amounts to a 0.40 mpg (1.8 percent of the 22 mpg 1981 CAFE standard) credit addition for 1981.

As noted above, GM and Ford claimed the full 2 percent credit based on DOT projections when establishing standards. This would mean that another 0.2 percent credit would also be due to manufacturers for all model years beginning with 1981. EPA disagrees that the additional 0.2 perent credit is due. In setting the 1981–1984 model year standards, DOT projected several technological improvements as options to improve fuel economy. One option, improved lubricants, was estimated to improve fuel economy by 2 percent. In setting the 1981–1984 CAFE standards, the DOT decided not to set the standards so high that all of the technological options would be necessary within the period of 1981–1984. The DOT stated that implementation of all of the technological options would result in average fuel economy levels in excess of 27.5 mpg. Clearly, the standards which DOT promulgated were believed to be achievable without needing the full estimated benefit of improved lubricants. Most importantly, the approval for use of energy-efficient oils which improve fuel economy by 1.8 percent was granted by EPA on the basis of the fuel economy improvement of actual oils, representatively available and, therefore, expected to be used in typical service. The DOT's 2 percent benefit, in contrast, was an estimate of potential improvement. Therefore, EPA is limiting its proposal to a 1.8 percent credit for the 1981 model year. If sufficient data are supplied to show greater than 1.8 percent sales-weighted average improvement for 1981 or subsequent model years, EPA will consider additional credits.

[3] See public docket for GM letter to "File" (from Fisher) dated April 9, 1981.

D. Public Participation

EPA requests written comments on the above proposals to provide additional CAFE adjustments. In particular, EPA requests comment on the test fuel adjustment calculation methodology, and requests data on test fuel properties (e.g., carbon weight fraction and specific gravity) used by manufacturers from the 1975 model year test program through the present. Additionally, EPA is interested in comments regarding future improvements in the fuel economy measurement methodology to account for test fuel properties. These comments should address how such fuel economy measurement improvements could be implemented in laboratory practice. EPA also requests comments and data on the usage of and likely percent improvement of fuel-efficient oils in the 1980 model year.

E. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because if adopted, it will result in an annual effect on the economy of less than $100 million. Also, this regulation should not result in measurable increased costs or prices for consumers, industries or others, nor should it have adverse effects on competition, employment, investment or productivity. In fact, this regulation is expected to benefit the automobile industry by improving its position regarding CAFE compliance. Therefore, EPA has not prepared a regulatory impact analysis.

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket for this rulemaking: Docket No. A–83–44.

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a regulatory analysis. This regulation should not impact small entities because under section 502(c) of the Energy Policy and Conservation Act, manufacturers of fewer than 10,000 vehicles per year may apply for an exemption from the CAFE standards. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 600

Electric power, Energy conservation, Gasoline, Labeling, Motor vehicles, Reporting and recordkeeping requirements, Administrative practice and procedure, Fuel economy.

Authority: Sec. 503 of the Energy Policy and Conservation Act, 15 U.S.C. 2003.

Dated: December 3, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-31977 Filed 12-6-84; 8:45 am]

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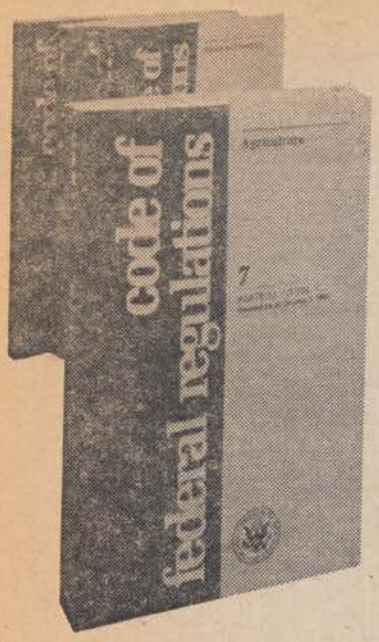
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