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Federal Register

Wednesday
December 11, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Philadelphia, PA and Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

Administrative Practice and Procedure
Veterans Administration

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Banks and Banking
Federal Reserve System

Civil Rights
Veterans Administration

Disaster Assistance
Federal Emergency Management Agency

Endangered and Threatened Species
Fish and Widlife Service

Flood Insurance
Federal Emergency Management Agency

Food Additives
Food and Drug Administration

Imports
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Pesticides and Pests
Environmental Protection Agency

CONTINUED INSIDE

Selected Subjects

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

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

PHILADELPHIA, PA

WHEN: Dec. 17; at 1 pm.
Dec. 18; at 9 am. (identical session)

WHERE: Room 3306/10,
William J. Green, Jr., Federal Building,
600 Arch Street, Philadelphia, PA.

RESERVATIONS: Laura Lewis,
Philadelphia Federal Information Center.
215-597-1709

WASHINGTON, DC

WHEN: January 17; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Howard Landon 202-523-5227
Melanie Williams 202-523-5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the Washington, DC briefing.

Contents

Federal Register
Vol. 50, No. 238
Wednesday, December 11, 1985

Separate Parts in This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 50, No. 238
Wednesday, December 11, 1985

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-26; Amdt. 39-5180]

Airworthiness Directives; General Electric Company CF6-80A/A2 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of certain General Electric (GE) CF6-80A/A2 engines by individual telegrams. The AD requires replacement of fuel manifold supply tube, GE Part Numbers (P/N's) 9327M46G01 or G02, prior to accumulating 2,500 total cycles. The AD is needed to prevent rupture of the fuel manifold supply tube which could result in a rejected takeoff.

DATES: Effective December 23, 1985, to all persons except those persons to whom it was made immediately effective by telegraphic airworthiness directive (TAD) T85-15-51, issued July 26, 1985, which contained this amendment.

Compliance required within the next 100 operating cycles after the effective date of this AD, unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: On July 26, 1985, T85-15-51 was issued and made effective immediately to all known U.S. owners and operators of certain GE CF6-80A/A2 turbofan engines. The AD requires replacement of fuel manifold supply tube, GE P/N's 9327M46G01 or G02, prior to accumulating 2,500 total cycles. AD action was necessary to prevent rupture of the fuel manifold supply tube which could lead to a rejected takeoff. Three failures of this tube have been encountered in service.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued July 26, 1985, to all know U.S. owners and operators of certain GE CF6-80A/A2 turbofan engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) to make it effective to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriated, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 9 U.S.C. 135(a), 121 and 123; 9 U.S.C. 106(g) (Revised, Pub. L. 97-9, January 12, 1983); and 1 CFR 11.89.

2. By adding the following new AD:

General Electric Company: Applies to General Electric CF6-80A/A2 model turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent rupture of the fuel manifold supply tube which could lead to a rejected takeoff, accomplish the following:

(a) Remove from service fuel manifold supply tube, GE P/N 9327M46G01 or G02, with 2,500 or more total cycles within the next 100 operating cycles.

(b) Remove from service fuel manifold supply tube, GE P/N 9327M46G01 or G02, with less than 2,500 total cycles, prior to accumulating 2,500 total cycles, or within the next 100 operating cycles, whichever occurs later.

(c) Replace fuel manifold supply tube, GE P/N 9327M46G01 or G02, removed in accordance with (a) or (b) above, with a serviceable part.

Note.—This AD establishes a life limit of 2,500 cycles for fuel manifold supply tube, GE P/N 9327M46G01 or G02.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, ANE-140, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7080.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

This amendment becomes effective December 23, 1985, to all persons except those persons to whom it was made immediately effective by T85-15-51 issued July 26, 1985, which contained this amendment.

Issued in Burlington, Massachusetts, on November 29, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-29299 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-136-AD; Amdt. 39-5182]

Airworthiness Directive; Scott Aviation Oxygen Mask Connector

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires inspection of Scott Aviation oxygen connectors, Part Numbers 289-56 289-56-1, to assure the connector bore, through which oxygen flows, is completely drilled through and is unobstructed. The AD is prompted by reports of connectors which were found with the flow passage not completely drilled through, and if uncorrected there would be no oxygen flow to the oxygen mask assembly which uses the connector.

EFFECTIVE DATE: December 30, 1985.

ADDRESSES: The applicable service information may be obtained from Scott Aviation, 123 East Montecito Avenue, Sierra Madre, California 91024. This information may be examined at the Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Systems & Equipment Section, ANM-173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; telephone (213) 297-1388. Mailing address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM-173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

SUPPLEMENTARY INFORMATION: There has been a recent report where, during an attempt to use an oxygen mask with a Scott Part Number 289-56 connector, no oxygen flow resulted. It was discovered that the connector was not completely drilled through. Subsequent inspections have found several more improperly drilled connectors. If uncorrected, this condition would prevent oxygen flow to the user of an oxygen mask. Scott Aviation issued Service Bulletin 289-35-10 on May 10, 1985, which contains procedures for inspection of these connectors to ensure that they are properly drilled through.

Since this condition is likely to exist on other connectors of the same type design, an airworthiness directive is being issued which requires compliance with the service bulletin and replacement of improperly drilled connectors.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft equipment. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve significant/major regulation, final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration Amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 2, 1983); 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Scott Aviation: Applies to Scott Aviation oxygen connectors, Part Numbers 289-56 and 289-56-1.

Note.—The constant-flow oxygen masks to which the above connectors might be fitted include, but are not necessarily limited to, the following Scott Part Numbers: 289-127, 289-127-2, 289-127-4, 289-128, 289-128-2, 289-360, 289-395, 289-701-23, 289-701-24, 289-701-223, 289-601-6, 289-601-13, 289-601-17, 289-601-206, 269-601-213, 289-601-217.

Compliance is required within thirty (30) days after the effective date of this AD, unless previously accomplished.

To prevent the blockage of oxygen flow due to incompletely drilled oxygen connectors, accomplish the following:

A. Inspect the oxygen mask connectors in accordance with Scott Aviation Service Bulletin 289-35-10 dated May 27, 1985. Improperly drilled connectors must be replaced prior to return to service.

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Scott Aviation, 123 East Montecito Avenue, Sierra Madre, California 91024. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

This amendment becomes effective on December 30, 1985.

Issued in Seattle, Washington, on December 4, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-29298 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWA-20]

Alteration of the Massachusetts Transition Area and the North Atlantic Control Area

Correction

In FR Doc. 85-27303 beginning on page 47359 in the issue of Monday, November 18, 1985, make the following corrections:

1. On page 47360, first column, North Atlantic, MA [Amended], fourth line "41°08'00" N." should read "41°08'30" N."

2. On the same page, first column, Massachusetts, MA [Amended], eighth line, "70°00" W." should read "70°00'00" W."

BILLING CODE 1505-01-M

14 CFR Part 73

[Airspace Docket No. 84-ANM-26]

Establishment of Restricted Area R-6741E, Yakima, WA

Correction

In FR Doc. 85-27305, appearing on page 47361 in the issue of Monday, November 18, 1985, make the following corrections: In the third column, R-6714E Yakima, WA [New], fourth and fifth lines "46°33'30" N." should read "46°33'30" N.".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 250 and 259

[Docket No. 35-23929; File No. S7-28-85]

Requirement That Applications and Declarations Filed Under the Public Utility Holding Company Act of 1935 Contain a Proposed Notice of the Proceeding Initiated Thereby

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule and form amendment.

SUMMARY: The Commission is adopting amendments to Rule 22 and Form U-1 under the Public Utility Holding Company Act of 1935 that require that all applications and declarations filed with the Commission under that Act include, as an exhibit, a proposed notice of the proceeding initiated by such filing. The amendments as adopted, will expedite the processing applications and declarations by the Commission's staff.

EFFECTIVE DATE: January 2, 1986.

FOR FURTHER INFORMATION CONTACT: Glen A. Payne (202-272-3018), Assistant Director, Office of Investment Company Regulation, Division of Investment Management, Kathleen A. Brandon (202-272-2676), Attorney, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 22 [17 CFR 250.22] specifies procedures to be followed by persons filing applications and declarations with the Commission under the Public Utility Holding Company Act of 1935 ("Act"). The Commission is amending this rule by adding a new paragraph which will require applications and declarations filed under the Act to contain proposed notices, which may be used by the Commission in giving public notice of such filings.[1] In order to ensure that the proposed notices will be subject to the verification requirements of Rule 22(c) [17 CFR 250.22(c)], where applicable, the Commission will require them as a formal exhibit to the application or declaration. Additionally, the Commission is amending General Instruction C of Form U-1 under the Act [17 CFR 259.101] to make filing of proposed notice specifically applicable to persons filing applications or declarations on that form.[2]

The rule and form amendments are designed to reduce the staff time currently spent preparing notices of filing of applications and declarations.[3] Applicants or declarants would not have to furnish any additional information not now required. Patterned after the application or declaration they accompany, the proposed notice would identify the parties involved, *briefly* describe the relevant transactions and why the applicant or declarant believes that it qualifies for the requested Commission order, and summarize the critical representations and undertakings contained in the filing. The proposed notices should be brief as well as informative.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission has certified that the proposed amendments to Rule 22 and Form U-1 will not, if adopted, have a significant economic impact on a substantial number of small entities. No comments were received on that certification.

List of Subjects in 17 CFR Parts 250 and 259

Reporting and recordkeeping requirements, Public Utility Holding Companies.

Text of Rule and Form Amendment

The Commission is amending Parts 250 and 259 of Chapter II, Title 17 of the Code of Federal Regulations as set forth below:

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 continues to read as follows:

Authority: Secs. 3, 20, 49 Stat. 810, 833; 15 U.S.C. 79c, 79t unless otherwise noted.

2. By adding paragraph (f) to § 250.22 as follows:

§ 250.22 Applications and declarations.

* * * * *

(f) *Proposed notice.* A proposed notice of the proceeding initiated by the filing of an application or a declaration shall accompany each application or declaration as an exhibit thereto and, if necessary, shall be modified to reflect any amendments to such application or declaration.

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

3. By revising General Instruction C of Form U-1 described in § 259.101 to read as follows:

§ 259.101 Form U-1, application or declaration under the Public Utility Holding Company Act of 1935.

* * * * *

(C) Attention is directed to the provisions of Rule 22 for certain additional procedural requirements, including the proposed notice requirement in Rule 22(f).

* * * * *

Dated: December 3, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-29345 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[1] Rule 0-2[g] under the Investment Company Act of 1940 [17 CFR 270.02[g]] and Rule 0-4[g] under the Investment Advisers Act of 1940 [17 CFR 275.04[g]] require that applicants for Commission orders under those acts attach proposed notices as exhibits to their applications. This procedure has helped facilitate the processing of such applications.

[2] It is important that the proposed notice requirement be specifically applicable to filings on Form U-1 since most applications and declarations requesting orders under the Act are made on that form.

[3] The amendments were proposed for comment in Holding Company Act Release No. 35-23744 (July 9, 1985). The Commission received one comment on the proposal which expressed no objection to the filing of proposed notices but did suggest that Commission consider including this filing requirement under the Form U-1, "Instructions as to Exhibits."

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 84F-0396]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of mono- and diisooctyl esters of phosphoric acid reacted with

tert-alkyl (C_{12}–C_{14}) primary amines as a corrosion inhibitor or rust preventative in lubricants with incidental food contact. This action responds to a petition filed by Nalco Chemical Co.

DATES: Effective December 11, 1985; objections by January 10, 1986.

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

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 4, 1985 (50 FR 551), FDA announced that a food additive petition (5B3837) had been filed by Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 60521, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the safe use of phosphoric acid, mono- and diisooctyl esters, compounds with *t*-alkyl (C_{12}–C_{14}) primary amines as a corrosion inhibitor or rust preventative in lubricants with incidental food contact. Based upon its review of the petition, FDA has concluded that the additive is more appropriately described as mono- and diisooctyl esters of phosphoric acid reacted with *tert*-alkyl (C_{12}–C_{14}) primary amines. The agency is therefore adopting this modified name for the additive in this final rule.

FDA has evaluated all data in the petition and other relevant material and concludes that the food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency 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 is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(2).

Any person who will be adversely affected by this regulation may at any time on or before January 10, 1986 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.3570(a)(3) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * *	* * *
Mono- and diisooctyl esters of phosphoric acid reacted with *tert*-alkyl (C_{12}–C_{14}) primary amines (CAS Reg. No. 68187-67-7).	For use only as a corrosion inhibitor or rust preventative in lubricants at a level not to exceed 0.5 percent by weight of the lubricant.
* * *	* * *

Dated: December 2, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–29306 Filed 12–10–85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid and Bacitracin Methylene Disalicylate

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 supplemental new animal drug application (NADA) filed by Hoffmann-LaRoche, Inc., providing for safe and effective use of a complete broiler feed manufactured with separately approved lasalocid sodium and bacitracin methylene disalicylate premixes. The feed is used for prevention of coccidiosis and for improved feed efficiency. Additionally, FDA is amending the regulations by correcting a previously codified combination of lasalocid and bacitracin by inserting a 3-day withdrawal period.

EFFECTIVE DATE: December 11, 1985.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Hoffmann-LaRoche, Inc., Nutley, NJ 07110, filed a supplement to NADA 107-996 providing for use of lasalocid sodium at 68 to 113 grams per ton in combination with bacitracin methylene disalicylate 4 to 50 grams per ton in complete broiler feeds. The feeds are used for prevention of coccidiosis caused by *Eimeria tenella, E. necatrix*

E. acervulina, E. brunetti, E. mivati, and *E. maxima* and for improved feed efficiency. The supplemental NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In the **Federal Register** of July 18, 1984 (49 FR 29057), FDA approved a supplemental NADA providing for the use of lasalocid in chickens with no withdrawal period. At that time, FDA inadvertently removed the 3-day withdrawal period for lasalocid in combination with bacitracin methylene disalicylate. Therefore FDA is correcting the error by inserting a 3-day withdrawal period into the regulation for the previously codified combination of lasalocid sodium and bacitracin methylene disalicylate.

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 agency has determined under 21 CFR 25.24(d)(1)(ii) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.311 is amended in paragraph (f)(4) in the table in the "Limitations" column by inserting the phrase "withdraw 3 days before slaughter;" after the word "ration:" and by adding new paragraph (f)(10) to read as follows:

§ 558.311 Lasalocid.

* * * * *

(f) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(10) 68 (0.0075 pct) to 113 (0.0125 pct).	Bacitracin 4 to 50...	Broiler chickens: for prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and for improved feed efficiency.	For broiler chickens only; feed continuously as the sole ration; withdraw 3 days before slaughter; bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.	000004

Dated: December 4, 1985.

Marvin A. Norcross,

Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 85-29307 Filed 12-10-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin With Pyrantel Tartrate

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 the Upjohn Co., providing for safe and effective use of certain complete swine feeds manufactured by combining separately approved lincomycin and pyrantel tartrate premixes. The medicated swine feeds are used for reduction in the severity of swine mycoplasma pneumonia, as an aid in the prevention of migration and establishment of large roundworm infections, and as an aid in the prevention of establishment of nodular worm infections.

EFFECTIVE DATE: December 11, 1985.

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: The Upjohn Co., Agricultural Division, Kalamazoo, MI 49001, filed NADA 138-941 providing for combining separately approved lincomycin and pyrantel tartrate premix formulations to manufacture swine feeds containing 200 grams of lincomycin with 96 grams of pyrantel tartrate per ton and swine feed supplements containing 2,000 grams of lincomycin with 960 grams of pyrantel tartrate to make the swine feeds. The complete swine feeds are used for the reduction in severity of swine mycoplasma pneumonia caused by *Mycoplasma hyopneumoniae,* as an aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections, and as an aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

Based on the data and information submitted, the NADA is approved and the regulations are amended accordingly. The basis of 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 agency has determined under 21 CFR 25.24(d)(1)(ii) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 558.485 by adding new paragraphs (d)(2)(v) and (e)(12) to read as follows:

§ 558.485 Pyrantel tartrate.

* * * * *

(d) * * *

(2) * * *

(v) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 2,000 grams per ton lincomycin when produced from individual, approved premixes and used in paragraph (e)(12) of this section.

* * * * *

(e) * * *

(12) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and lincomycin, 200 grams as lincomycin hydrochloride monohydrate.

(i) *Indications for use.* For the reduction in severity of swine mycoplasma pneumonia caused by *Mycoplasma hyopneumoniae;* aid in the prevention of migration and establishment of large roundworms (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum* spp.) infections.

(ii) *Limitations.* Feed as sole ration for 21 days; not to be fed to swine that weigh more than 250 pounds; withdraw 6 days before slaughter; consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(iii) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

Dated: December 2, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-29305 Filed 12-10-85; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Rescission of Substantive Regulations on Health Insurance Benefits for Employees Age 65 to 69

AGENCY: Equal Employment Opportunity Commission.

ACTION: Rescission of interim rule.

SUMMARY: Section 4(g) of the Age Discrimination in Employment Act provides that employees and their spouses aged 65 through 69 must be provided with the same health insurance, under the same conditions, as younger employees and spouses. The Equal Employment Opportunity Commission gives notice that the interim regulations (29 CFR 1625.20) implementing section 4(g) are hereby rescinded. No final regulations are being issued.

DATE: Effective December 11, 1985.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo at (202) 634-6592.

SUPPLEMENTARY INFORMATION: On June 7, 1983, the Equal Employment Opportunity Commission (Commission) published interim regulations implementing section 4(g) of the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. 623(g). *See* 29 CFR 1625.20, 48 FR 26434. That section had been added to the ADEA by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), and was designed to reduce federal expenditures by shifting from Medicare to employers some portion of the costs associated with providing health care to employees aged 65 through 69. Section 116(a) of TEFRA became the new section 4(g) of ADEA, 29 U.S.C. 623(g). Section 4(g) has since been amended by section 2301(b) of the Deficit Reduction Act of 1984, Pub. L. No. 98-369, and now reads as follows:

(g)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69, and any employee's spouse aged 65 through 69, shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee, and the spouse of such employee, under age 65.

(2) For purposes of paragraph (1), the term "group health plan" has the meaning given to such terms in section 162(i)(2) of the Internal Revenue Code of 1954.

The Commission's interim regulations, which were published pursuant to the substantive rule-making authority granted by section 9 of ADEA, were designed to clarify employer obligations under section 4(g). A public comment period followed the publication of the interim rules and it was anticipated that the promulgation of a final rule would follow the Commission's review of all comments submitted regarding the interim regulations.

Subsequent to completion of the above process, Congress amended section 4(g) of the ADEA by passage of section 2301(b) of DEFRA. Prior to the DEFRA amendment, section 4(g) did not state whether providing older employees with the same coverage as younger employees also entailed providing the same insurance to spouses aged 65 through 69. Now section 4(g) specifically provides that spouses aged 65 through 69 are themselves entitled to the same treatment under any group health plan as spouses under 65.

The Commission believes that with the addition of the DEFRA language concerning spousal coverage Congress has resolved the most significant ambiguity regarding implementation of section 4(g). After reviewing public comment and following consultation with other concerned agencies, pursuant to Executive Order 12067, and with the Office of Management and Budget, pursuant to Executive Order 12291, the Commission has concluded that regulations implementing section 4(g), interim or final, will serve no useful purpose. The Commission has therefore decided to rescind the current interim regulations and declines to issue final regulations.

The Commission is also serving notice that the Department of Labor's Interpretative Bulletin, 29 CFR 860.120, 44 FR 30468 (1979), may not be relied on to define the rights, pursuant to section 4(g), of employees aged 65 through 69 to receive coverage under group health plans. That Interpretative Bulletin expressly authorized the use of Medicare carve-out plans that would encourage employees over age 65 to choose Medicare as their primary insurer. *See* 29 CFR 860.120(f)(1)(ii). The Department of Labor's reading also permitted an employer to offer lesser benefits to older employees, provided that the cost to the employer was the same as for the benefits offered to younger employees. *See* 29 CFR 860.120(a)(1). Subsequent to the publication of that Interpretative Bulletin Congress substantially redefined the obligations of employers under the ADEA by enacting section 4(g). The explicit language of that section, as well as the legislative intent behind its adoption, are clearly at odds with the provisions of the Interpretative Bulletin discussed above. Therefore those Bulletin provisions can no longer be relied on. The in-depth analysis of legislative intent provided in the preamble to the interim regulations makes this point more fully. *See* 48 FR 26434 (1983).

PART 1625—[AMENDED]

Accordingly, the Commission amends Part 1625 of Title 29 as follows:

1. The authority for Part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10-68; Secretary's Order No. 11-68, and sec. 2; Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1625.20 [Removed]

2. Section 1625.20 is removed.

The Commission also hereby serves notice that the provisions of the Department of Labor Interpretative Bulletin, 29 CFR 860.120, 44 FR 30648, as it pertains to health insurance benefits for employees and spouses aged 65 through 69, may no longer be relied upon by any person.

Dated: December 5, 1985.

For the Commission.

Clarence Thomas,

Chairman.

[FR Doc. 85-29339 Filed 12-10-85; 8:45 am]

BILLING CODE 6570-06-M

VETERANS ADMINISTRATION

38 CFR Part 3

Incompetent; Estate Over $1,500 and Hospitalized

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration (VA) has amended its adjudication regulations to implement certain provisions of the Veterans' Benefits Improvement Act of 1984, and two opinions of the VA General Counsel. These amendments are necessary to avoid financial hardship for certain incompetent and previously incompetent veterans. The effect of these amendments will be to exclude the value of a veteran's home from most computations of estate value, to provide for waiver of payment discontinuance in cases of financial hardship, and to delete certain requirements for the release of benefits to previously incompetent veterans.

EFFECTIVE DATE: These amendments are effective October 24, 1984, as provided by law.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, (202) 389-3005.

SUPPLEMENTARY INFORMATION: On pages 12041-12043 of the **Federal Register** of March 27, 1985, the VA published proposed amendments to 38 CFR 3.556 through 3.559. Interested persons were given until April 26, 1985, to submit comments, suggestions or objections to the proposed amendments.

Comments were received from the Chairman of the Senate Veterans's Affairs Committee which addressed several aspects of the proposed amendments to § 3.559 concerning waiver of payment discontinuance to avoid financial hardship in the case of certain institutionalized incompetent veterans. Some of the comments were concerned with the procedural aspects of implementing the proposed changed and some were directed to substantive issues within the proposal. The comments are summarized and addressed below.

The first comment addressed the procedural aspects of ascertaining an incompetent veteran's monthly liabilities, income and liquid assets in order to determine if withholding of benefits under § 3.557 would create a financial hardship on the veteran. Financial hardship decisions will be made following a careful review of all financial data contained in the veteran's claims folder and Principal Guardianship File as well as information developed through mail or telephone contact with the veteran's fiduciary or through a field examination if necessary. This financial data will be assessed by the Veterans Service Officer (VSO) who will forward his or her recommendation on the waiver issue to the Adjudication Officer for appropriate action.

The second comment questioned whether the VA would routinely develop for financial hardship in every instance of hospital admission of an incompetent veteran who had no dependents and whether the VA had considered the reporting burden on fiduciaries. Under this regulatory amendment requests for waiver of withholding can be submitted by veterans or their fiduciaries or representatives, or they may be initiated by VSOs. In order to clarify this point we have amended proposed § 3.557(e) to provide that waivers must be requested and that veterans as well as any person or organization acting on their behalf may request such waivers. Development would not be done routinely upon institutionalization of an incompetent veteran who has no dependents. This would not increase a fiduciary's reporting burden since the request for waiver would generally not be made without current evidence of financial hardship.

Another comment questioned whether benefit payments would be discontinued until waiver eligibility is established, and what effect timeliness of adjudication action would have on the purposes of the waiver and on benefit resumption upon hospital discharge. If an incompetent veteran without dependents is institutionalized and the evidence of record shows an estate clearly inexcess of $1500, immediate action is required to withhold benefits in order to prevent or reduce overpayments. Requests for waiver subsequently recieved would be acted upon expeditiously to determine whether financial hardship existed. If the evidence as to size of estate was inconclusive, development would be undertaken prior to any withholding action. Although not affected by this regulatory proposal, action to resume benefit payments upon institutional release would also be expedited.

Although a veteran's home may be excluded from estate computation, one comment indicates that the home may still be vulnerable to benefit interruptions. While this may be true for extended periods of institutionalization, the combination of estate reduction to $500 for benefit resumption under § 3.558 and the new waiver of withholding provision recently enacted should operate to keep this possibility to a minimum. The same combination of actions would operate to reduce the vulnerability of deinstitutionalized veterans who must rent, however, it should be noted that effective dates and benefit resumption are provided by law and were not affected by this newly created waiver authority.

Additional concerns were expressed with regard to the ability of an incompetent veteran to make monthly mortgage or rent payments while institutionalized, and an example was cited of a single incompetent veteran rated 100 percent disabled because of service-connected disability whose liquid assets amounted to $205. Such a veteran would be subject to benefit withholding upon institutionalization with receipt of one monthly compensation check.

In the cited example an assessment of financial data may result in a finding of hardship and waiver of withholding action. If no hardship were found, the estate would have to be used to meet current liabilities until it was reduced to $500. The law that requires withholding of benefits in these cases was designed to prevent the accumulation of large estates by incompetent institutionalized veterans which could eventually pass to remote heirs. We believe that this new waiver authority, carefully applied, will sustain that purpose while ensuring that the needs of individual veterans are met. We will continue to insist on prompt action with respect to waiver of withholding decisions and resumption of benefits upon discharge from care.

The Chairman also questioned whether the VA had considered the granting of a waiver automatically upon institutionalization with subsequent development of financial data and recovery of overpayments from future benefits if a waiver was later found not to be appropriate. Such a procedure was not considered a viable option based on a review of the legislative history of this provision of law. The compromise agreement on section 402 of Pub. L. 98-543, as reported in the Congressional Record of October 5, 1984, on page H11273, provided the following

comments. "The committees intend that the Administrator use this discretionary authority only in those cases where it is established that without the waiver the veteran will suffer significant financial hardship. The waiver is not to be used as an administrative expediency nor where liquid assets are readily available to meet current expenses."

Finally, it was suggested that the only time a waiver would be appropriate would be when an incompetent veteran is living beyond his or her means. We cannot agree. The waiver of withholding authority is intended to protect certain veterans who are living within their means while not institutionalized but whose means are suddenly reduced because of a need for temporary institutional care. We believe that the regulatory amendment we have proposed to implement that authority will provide affected veterans with the assistance they need to avoid financial hardship and resume normal activities following discharge from institutional care.

We appreciate the Chairman's concerns and detailed comments. After careful review and consideration we find no basis for changing the proposed rule other than as noted above. Accordingly, the proposed regulatory amendments, as amended herein, are adopted.

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these regulations impose no regulatory burdens on small entities, and only claimants for VA benefits will be directly affected.

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these regulations are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They 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.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

Approved: November 15, 1985.

Harry N. Walters,

Administrator.

PART 3—[AMENDED]

Title 38 CFR Part 3, ADJUDICATION, is amended as follows:

1. In § 3.556, paragraph (e) is revised to read as follows:

§ 3.556 Adjustment on discharge or release.

* * * * *

(e) *Regular discharge.* When a veteran, either competent or incompetent, is given a regular discharge or release, the full rate, including any allowance for regular aid and attendance will be restored effective the date of release from the hospital, subject to prior payments. The award will be based on the most recent rating and, where the award was reduced under § 3.551(b), will include, in the case of a competent veteran, any amounts withheld because of hospitalization. The amount withheld for an incompetent veteran will not be authorized until the expiration of 6 months following a rating of competency by the VA. Any institutional award will be discontinued effective date of last payment, as provided in § 3.501(j). Where an apportionment made under § 3.551(c) is not continued, the apportionment will be discontinued effective the day preceding the date of the veteran's release from the hospital, or, if adjusted, effective the date of the veteran's release from the hospital, unless an overpayment would result. In the excepted cases, the awards to the veteran and apportionee will be adjusted as of date of last payment. (38 U.S.C. 3203)

* * * * *

2. In § 3.557, the title and paragraphs (a), (b) and (c) are revised, and new paragraph (e) is added, so that the revised and added material reads as follows:

§ 3.557 Incompetents—estate over $1,500 and institutionalized.

(a) Where a veteran having neither spouse, child, nor dependent, is being hospitalized by the VA and is rated incompetent by the VA, the pension of such veteran will be subject to reductions as provided in § 3.551.

(38 U.S.C. 3203)

(b) Effective December 1, 1959, where a veteran:

(1) Is rated incompetent by the VA, and

(2) Has neither spouse nor child, and

(3) Is hospitalized, institutionalized or domiciled by the United States or any political subdivision, with or without charge, and

(4) Except as provided in paragraph (c) of this section, has an estate, derived from any source, which equals or exceeds $1,500, further payments of pension, compensation or emergency officers' retirement pay will not be made, except as provided in paragraph (d) of this section, until the estate is reduced to $500. If the veteran is hospitalized for observation and examination, the date treatment began is considered the date of admission.

(38 U.S.C. 3203)

(c)(1) Computation of the $1,500 or $500 amounts shall include, but is not restricted to:

(i) Funds in a "Funds Due Incompetent Beneficiaries" (FDIB) account;

(ii) Funds in a "Personal Funds of Patient" (PFOP) account;

(iii) Funds on deposit with a chief officer of the institution; and

(iv) Funds or other property in the control of a fiduciary.

(2) The following shall be excluded in computing the $1,500 or $500 amounts:

(i) Amounts withheld under § 3.551(b); and

(ii) The value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home.

(38 U.S.C. 3203) (Oct. 24, 1984)

* * * * *

(e)(1) When the discontinuance of payments under this section results or would result in financial hardship for the veteran, discontinuance may be waived to avoid or reduce such hardship. Waiver of discontinuance under this paragraph may be granted more than once in any calendar year but may not exceed a total of 60 days in any calendar year.

(2) The veteran, or any person or organization acting on the veteran's behalf, is authorized to request such waiver.

(3) For purposes of this paragraph, financial hardship shall be held to exist for any month in which a veteran's liabilities during that month exceed the sum of the veteran's income and liquid assets during that month.

(4) Waivers under this paragraph are not to be granted as an administrative expediency or where liquid assets are

readily available to meet current expenses.

(38 U.S.C. 3203) (Oct. 24, 1984)

3. In § 3.558, paragraphs (a) and (c) are revised to read as follows:

§ 3.558 Resumption and payment of withheld benefits—incompetents $1,500 estate cases.

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in § 3.557(e) or paragraph (b) of this section until proper notice has been received showing the estate is reduced to $500 or less. Payments will not be made for any period prior to the date of which the estate was reduced to $500 or less.

(38 U.S.C. 3203)

* * * * *

(c) Any amount not paid because of the provisions of § 3.557 will be awarded:

(1) To a veteran who is currently rated competent by the VA after the expiration of 6 months following the effective date of the rating of competency. Included for payment under this provision are amounts of compensation or retirement pay withheld pursuant to the provisions of § 3.551(b) (and/or predecessor regulatory provisions) as it was constituted prior to August 1, 1972, and not previously paid because of the provisions of § 3.557(b).

(38 U.S.C. 3203)

(2) For a veteran rated incompetent by the VA who had met the provisions of subparagraph (1) of this paragraph and who was again rated incompetent by the VA before award action could be taken thereunder, if he or she has a proper dependent, and if there was no error in the intervening rating of competency. For the purpose of amounts not paid because of the provisions of § 3.557(a), a proper dependent is a spouse, child or dependent parent. For the purpose of amounts not paid because of the provisions of § 3.557(b), proper dependent is a spouse or child.

(38 U.S.C. 3203)

§ 3.559 [Amended]

4. In § 3.559, paragraphs (a) and (b) are amended by removing the words "Claims activity" and inserting the words "adjudication division".

(38 U.S.C. 210(c))

[FR Doc. 85-29354 Filed 12-10-85; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6691]

Suspension of Community Eligibility; New Jersey et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, 500 C Street, Southwest, FEMA—Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards

required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	
Region II					
New Jersey: Passaic	Pompton Lakes, borough of	345328D	June 5, 1970, Emerg.; Sept. 4, 1970, Reg.; Dec. 18 1985, Susp.	June 2, 1970, Sept. 1, 1970, July 1, 1974, July 4, 1975, Oct. 15, 1976 and Dec. 18, 1985.	Dec. 18, 1985.
New York:					
Jefferson	Herrings, village of	360339B	Aug. 13, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Aug. 9, 1974, Dec. 12, 1975 and Dec. 18, 1985.	Do.
Chenango	Norwich, city of	360161B	Apr. 26, 1974, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Feb. 22, 1974, Aug. 20, 1976 and Dec. 18, 1985.	Do.
Region III					
West Virginia:					
Putnam	Winfield, town of	540271B	June 10, 1975, Emerg.; Dec. 18, 1985, Reg., Dec. 18, 1985, Susp.	Nov. 15, 1974, Apr. 30, 1976 and Dec. 18, 1985.	Do.
Putnam	Bancroft, town of	540165B	July 1, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Aug. 9, 1974, June 11, 1976 and Dec. 18, 1985.	Do.
Region IV					
Alabama: Autauga	Unincorporated areas	010314B	Dec. 16, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Mar. 24, 1976 and Dec. 18, 1985.	Do.
Region V					
Wisconsin: LaCrosse	LaCrosse, city of	555562B	Dec. 4, 1970, Emerg.; Jan. 15, 1971, Reg.; June 25, 1985, Susp; July 3, 1985, Rein.; Dec. 18, 1985, Susp.	Jan. 15, 1971, July 1, 1975, May 14, 1976 and May 15, 1985.	Do.
Region VI					
Texas: Parker	Springtown, city of	480521B	May 13, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	May 24, 1974, June 25, 1976 and Dec. 18, 1985.	Do.
Region VIII					
North Dakota: Cass	Reed, township of	380257C	Dec. 27, 1977, Emerg.; Oct. 15, 1980, Reg.; Dec. 18, 1985, Susp.	Oct. 15, 1980, May 1, 1984 and Dec. 18, 1985.	Do.
Utah:					
Salt Lake	Sandy City, city of	490106B	Feb. 3, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	July 26, 1974, Jan. 16, 1976 and Dec. 18, 1985.	Do.
Do	Murray, city of	490103B	Dec. 19, 1974, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Mar. 29, 1974, Dec. 19, 1975 and Dec. 18, 1985.	Do.
Do	Draper, city of	490244A	Apr. 30, 1980, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	Dec. 18, 1985	Dec. 18, 1986.
Do	South Jordan, city of	490107B	June 10, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.	July 26, 1974, Jan. 30, 1976, and Dec. 18, 1985.	Dec. 18, 1985.
Minimal Conversion					
Region I					
Vermont: Orleans	Craftsbury, town of	500247B	Oct. 2, 1975, Emerg.; Sep. 27, 1985, Reg.; Dec. 18, 1985, Susp.	Sep. 13, 1974, Nov. 5, 1976, and Sep. 27, 1985.	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: December 3, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-29315 Filed 12-10-85; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 205

[Docket No. 205-100]

Fire Suppression Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: FEMA has determined that certain administrative changes should be made in the Fire Suppression Assistance regulations under section 417 of the Disaster Relief Act of 1974, Pub. L. 93-288. The changes are intended to clarify some provisions in existing regulations and add other provisions to update the regulations.

EFFECTIVE DATE: January 10, 1986.

FOR FURTHER INFORMATION CONTACT: Gene Morath, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Room 714, 500 C Street SW., Washington, DC 20472, Telephone (202) 646-3683.

SUPPLEMENTARY INFORMATION: The changes are, essentially, administrative in nature designed to (1) eliminate the requirement for an annual update of the FEMA-State Agreement for Fire Suppression Assistance (section 101), (2) retitle the Reimbursement section (104) to read Cost Eligibility and clarify portions of the cost eligibility section, (3) allow the use of reasonable State equipment rates instead of requiring the use of FEMA rates [section 104(b)], (4) comply with the Single Audit Act of 1984, Pub. L. 98-502 [section 105(d)], and (5) add a new section (103) entitled "Grant Administration" applicable to the administration of fire suppression assistance grants.

On August 28, 1985, FEMA published a proposed change in the **Federal**

Register (50 FR 34865) with a 60 day comment period. Two comment letters were received by the Rule Docket Clerk. Two other comment letters were sent directly to the Disaster Program Office. A number of telephone inquiries were received from local fire fighting jurisdications inquiring as to the availability of Federal grant funds.

Several comment letters requested clarification of FEMA audit requirements under the Single Audit Act of 1984. Accordingly, § 205.105(d) was expanded to cross reference FEMA implementing guidelines contained in Subpart H, 44 CFR Part 205 (50 FR 32062). Two comments suggested that the cost eligibility section clarify (1) reimbursement for the use of Federal Excess Personal Property (FEPP) vehicles and (2) the definition of eligible/ineligible field support personel costs.

Consequently, § 205.104(b)(1)(vi) was revised to limit reimbursement for the use of FEPP vehicles to direct costs only, and § 205.104(b)(2)(i) was changed to indicate that State administrative support personnel at home stations and higher organizational levels are ineligible for reimbursement. Two of the comments suggested that FEMA eliminate its floor cost requirement and follow a straight 25 percent State/75 percent Federal cost share for reimbursement. These provisions were not contained in the proposed rule but always have been a part of the standard continuing FEMA-State Agreement for Fire Suppression Assistance. Consequently, no change is being made in the reguation at this time. However, FEMA has been working with the Forest Service, U.S. Department of Agriculture, toward developing an appropriate alternative to,the State floor cost. In the interim, FEMA will continue to use the floor cost as a basis for eligible cost reimbursement.

Environmental Considerations

FEMA regulations at 44 CFR Part 10, Environmental Considerations, which implement the National Environmental Policy Act (NEPA) regulations, sets forth the determination that Fire Suppression Assistance authorized under section 417 of the Disaster Relief Act of 1974, 42 USG 5187 is entitled to a categorical NEPA exclusion. See 44 CFR 10.8(c)(3)(vii)(F). In addition, 44 CFR 10.8(c)(2)(i) states that the preparation of regulations, manuals, and other guidance related to an action which qualifies for categorical exclusion are also categorical exclusions. Thus, the preparation of an environmental assessment for the issuance of these reguations is not required.

Executive Order 12291, "Federal Regulations"

This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

The information collection requirement contained in this rule has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has been assigned OMB control number 3067–0066.

List of Subjects in 44 CFR Part 205

Disaster Assistance, Grants Programs, Housing and Community Development.

PART 205—[AMENDED]

Accordingly, Chapter 1 of Title 44, Code of Federal Regulations is amended by revision Subject G to Part 205 to read as follows:

Subpart G—Fire Suppression Assistance

Sec.

Authority: 42 U.S.C. 5201; Reorganization Plan No. 3 of 1978; and E.O. 12148.

Subpart G—Fire Suppression Assistance

§ 205.100 General

When the Associate Director determines that a fire or fires threaten such destruction as would constitute a major disaster, assistance may be authorized, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland.

§ 205.101 FEMA-State agreements.

Federal assistance under section 417 of the Act is provided in accordance with a continuing FEMA-State Agreement for Fire Suppression Assistance (the Agreement) signed by the Governor and the Regional Director. The Agreement contains the necessary terms and conditions, consistent with the provisions of applicable laws, Executive orders, and regulations, as the Associate Director may require and specifies the type and extent of Federal assistance. The Governor may designate authorized representatives to execute requests and certifications and otherwise act for the State during fire emergencies. Supplemental agreements shall be executed as required to update the continuing Agreement.

§ 205.102 Request for assistance.

When a Governor determines that fire suppression assistance is warranted, a request for assistance may be initiated. Such request shall specify in detail the factors supporting the request for assistance. In order that all actions in processing a State request are executed as rapidly as possible, the State may submit a telephone request to the Regional Director, promptly followed by a confirming telegram or letter.

(Approved by the Office of Management and Budget under the Control Numbers 3067–0066)

§ 205.103 Providing assistance.

Following the Associate Director's decision on the State request, the Regional Director will notify the Governor and the Federal firefighting agency involved. The Regional Director may request assistance from Federal agencies if requested by the State. For each fire or fire situation, the State shall prepare a separate Fire Project Application based on Federal Damage Survey Reports and submit it to the Regional Director for approval.

§ 205.104 Cost Eligibility

(a) To be eligible under a FEMA grant, costs must meet the following general criteria:

(1) Be necessary and reasonable for proper and efficient administration of the approved work, be allocable thereto under these regulations, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

(2) Be authorized or not prohibited under State or local laws or regulations.

(3) Conform to any limitations or exclusions set forth in these regulations, Federal laws, or other governing limitations as to types or amounts of cost items.

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

(5) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(6) Not be allocable to or included as a cost of any other federally financed program.

(7) Be net of all applicable credits which offset or reduce otherwise eligible cost, including discounts, insurance recoveries, and salvage.

(b) Eligible State costs are reimbursed in accordance with the terms and provisions of the Agreement. Only certain costs incurred in fire suppression operations are eligible for reimbursement. The following paragraphs describe those specific items which are clearly eligible or clearly ineligible.

(1) Eligible costs of the State consist of the following costs reasonably and directly related to fire suppression:

(i) All compensation for employees, except as noted under paragraph (b)(2)(i) of this section, directly engaged in authorized suppression activities. Included are field support personnel, such as cooks, guards, timekeepers, and supply personnel.

(ii) Travel and per diem costs for employees directly engaged in fire suppression activities.

(iii) Expenses to provide field camps and meals when made available to the eligible employees in lieu of per diem costs.

(iv) Cost for use of publicly owned equipment used on eligible fire suppression work on reasonable State equipment rates.

(v) Cost of use of privately owned equipment based on the rental rate: Provided such costs are comparable to the going rate for the same or similar equipment in the locality, as determined by the Regional Director.

(vi) Cost to the State for use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by the State. Only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State and local cooperators, can be paid.

(vii) Cost of firefighting tools, materials, and supplies expended or lost, to the extent not covered by reasonable insurance.

(viii) Repair and reconditioning costs of tools and equipment used in eligible fire suppression activities.

(ix) Replacement value of equipment lost in fire suppression, to the extent not covered by reasonable insurance.

(x) Costs for personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety.

(xi) Mobilization and demobilization costs directly relating to the Federal fire suppression assistance approved by the Associate Director.

(xii) Eligible costs of local governmental firefighting organizations which are reimbursed by the State pursuant to an existing cooperative mutual aid agreement, in suppressing and approved incident fire.

(xiii) State costs for suppressing fires on Federal land in cases in which the State has a responsibility under a cooperative agreement to perform such action on a nonreimbursable basis. This provision is an exception to normal FEMA policy under the Disaster Relief Act of 1974 and is intended to accommodate only those rare instances that involve State fire suppression of section 417 incident fires involving co-mingled Federal/State and privately owned forest or grassland.

(2) Costs that are ineligible for reimbursement are are:

(i) Any clerical or overhead costs other then field administration and supervision [see paragraph (b)(1)(i) of this section]. Ineligible costs include administrative employees at home stations (and at higher organizational levels) of the fire fighting force who provide support and backup to the "field" (those at the fire scene).

(ii) Any costs for presuppression, salvaging timber, restoring facilities, seeding and planting operations.

(iii) Any costs not incurred during the incident period as determined by the Regional Director other than reasonable and directly related mobilization and demobilization costs.

(iv) State costs for suppressing a fire on co-mingled Federal land where such costs are reimbursable to the State by a Federal agency under another statute (see 44 CFR Part 151).

(3) In those instances in which assistance under section 417 of the Act is provided in conjunction with existing Interstate Forest Fire Protection Compacts, eligible costs are reimbursed in accordance with eligibility critria established in this section.

§ 205.105 Grant Administration.

(a) Project administration shall be in accordance with applicable portions of Subpart H, 44 CFR Part 205. All grants for fire suppression assistance shall be approved as categorical grants.

(b) Each claim for reimbursement shall be supported by a program review and a certification by the State that the assistance and costs claimed are eligible under these regulations.

(c) In those instances in which reimbursement includes State fire suppression assistance on commingled State and Federal lands (Section 205.104(b)(1)(xiii)), the Regional Director shall coordinate with other Federal programs to preclude any duplication of payments. See 44 CFR Part 151.

(d) Audits shall be in accordance with the Single Audit Act of 1984, Pub. L. 98-502. See Subpart H of this Part including Appendix A to Subpart H which incorporates OMB Circular A-128.

(e) Payment is made to the State for its actual eligible costs, subject to verification, as necessary, by Federal review, inspection and audit.

(f) A State may appeal a determination by the Regional Director on any action related to Federal assistance for fire suppression. Appeal procedures are contained in 44 CFR 205.120.

Dated: November 27, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-29314 Filed 12-10-85; 8:45 am]

BILLING CODE 6718-01-M

Proposed Rules

Federal Register
Vol. 50, No. 238
Wednesday, December 11, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 980

Vegetable Import Regulations; Irish Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would require that all Irish potatoes imported from Canada into the United States through points of entry in Maine shall be imported only through the ports of Madawaska, Fort Fairfield and Houlton. This is necessary to facilitate compliance with section 608e–1 of the Agricultural Marketing Agreement Act of 1937, as amended. Enforcement has been made ineffective as a result of multiple crossing points.

DATE: Comments due December 31, 1985.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Deparment of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5764.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

Potatoes imported into the United States are regulated under the Agricultural Marketing Agreement Act of 1937, as amended. Section 608e of the Act sets forth the requirements under which fruits and vegetales, including potatoes, may be imported. The Secretary of Agriculture is charged with maintaining compliance with these requirements on the part of handlers and importers. Performing restricted inspections on loads of potatoes being imported into the United States from Canada recently has been employed as a compliance tool. Such inspections have been intended to isolate shipments that may fail the requirements of § 608e. However, the many ports of entry along the Maine-Canada border have served to dilute the effectiveness of compliance efforts. The road network in Northern Maine, along with the numerous ports, makes it possible for shipments of questionable loads to escape detection. Therefore it is proposed that shipments of potatoes imported from Canada into the State of Maine be permitted entry only at the ports of Madawaska, Fort Fairfield and Houlton. By limiting entry to these three ports, the Department would be able to provide greater coverage; and shippers of questionable loads would have fewer opportunities to circumvent border inspections. Designating these three strategically located points would not be expected to cause undue hardship to Canadian shippers. The net result is expected to be increased compliance with the potato import regulation (7 CFR 980.1).

It is hereby found and determined that providing more than twenty days notice with respect to this proposal is impractical, unnecessary and contrary to the public interest because substantial increases in potato imports are expected in January and it would be desirable to have the rulemaking completed by that time. Furthermore, all three proposed ports of entry are on major highways customarily used by potato shippers. Thus, closing other ports would not cause an undue burden on Canadian shippers of U.S. importers.

List of Subjects in 7 CFR Part 980

Marketing agreements and orders, Imports, Potatoes.

PART 980—VEGETABLES; IMPORT REGULATIONS; POTATOES

1. The authority citation for Part 980.1 continues to read as follows:

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

2. Section 980.1 Import regulations; Irish potatoes (26 FR 12280, December 23, 1961; 28 FR 12199, November 16, 1963; 30 FR 13935, November 4, 1965; 26 FR 12751, December 30, 1961; 32 FR 8418, June 13, 1967; 32 FR 9509, July 1, 1967; 34 FR 8043, May 22, 1969) is hereby proposed to be further amended as follows: Amend (g)(1)(ii) by revising the address list of contacts for inspection and add a new (g)(1)(iii) to read as follows:

§ 980.1 Import regulations; Irish potatoes.

* * * * *

(g) * * *
(1) * * *
(ii) * * *

Ports and points	Inspection office	Advance notice days
Ports of Houlton, Fort Fairfield and Madawaska in ME.	Officer-in-Charge, P.O. Box 1058, Presque Isle, ME 04769, PH: 207–764–1942.	1
Port of Boston, MA	Officer-in-Charge, Boston Market Terminal, Room 1, 34 Market Street, Everett, MA 02149, PH: 617–389–2480.	1
Port of New York, NY.	Officer-in-Charge, Room 28A, Hunts Point Market, Bronx, NY 10474, PH: 212–991–7669.	1
Port of Philadelphia, PA.	Officer-in-Charge, 293 Produce Building, 3301 South Galloway Street, Philadelphia, PA 19148, PH: 215–336–0845.	1
Port of New Orleans, LA.	Officer-in-Charge, 5027 U.S. Postal Service Building, 701 Loyola Avenue, New Orelans, LA PH: 504–589–6741.	1
All others	Fresh Products Branch, F&V Division, AMS, USDA Washington, D.C. 20250, PH: 202–447–5870.	3

(iii) The ports of Madawaska, Fort Fairfield and Houlton, Maine, shall be the sole ports of entry for potatoes imported from Canada into the United States through the state of Maine.

* * * * *

Dated: December 5, 1985.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–29391 Filed 12–10–85; 8:45 am]

BILLING CODE 4310–02–M

7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments of a proposal to continue through February 1986 a suspension of portions of the Eastern Colorado Federal Milk order. Provisions proposed to be suspended relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farm to nonpool manufacturing plants and still be priced under the order. Also proposed to be suspended for the same period is the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during the previous September through February. A third provision that is proposed to be suspended is the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Continuation of the suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movement of milk.

DATES: Comments are due no later than December 18, 1985.

ADDRESSES: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered for January and February 1986:

1. In the second sentence of § 1137.7(b), the words "of March through August".

2. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing plant".

3. In the second sentence of § 1137.12(a)(1), the words "20 percent", "of", and "distributing".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include January 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Mid-American Dairymen, Inc. (Mid-Am), an association of producers that supplies some of the market's fluid milk needs and handles some of the market's reserve milk supplies, requested the suspension. The suspension would continue to relax for January and February 1986 the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and remove the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month. Continuation of the suspension would also remove the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during the previous September through February.

The order now provides that a cooperative may divert a quantity of milk not in excess of 20 percent of the cooperative asssociation's member milk received at pool distributing plants. Suspension of the requested language would allow up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool. Mid-Am states that during the months of January through October 1985, producer receipts pooled under the Eastern Colorado order increased 11.6 percent over the same period of the previous year. At the same time, the cooperative states, producer milk in Class I has risen only 1.4 percent. Mid-Am estimates that approximately 40 loads of producer milk per month will have to be shipped from the Denver area to surplus outlets in Eastern Kansas and Nebraska during the January and February period. For the same period, the cooperative estimates that it would have to make approximately the same number of shipments of milk per month from farms in Kansas and Nebraska to Eastern Colorado pool distributing plants in order to qualify Mid-Am producers for continued pool status. The cooperative states that these shipments would displace Denver area milk, which would have to be moved to surplus handling plants. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested continued suspension, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1137 continues to read as follows:

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

Signed at Washington, DC, on: December 5, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-29388 Filed 12-10-85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1140

[Docket No. AO-387]

Milk in the Hawaii Marketing Area; Postponement of Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Postponement of public hearing on proposed rulemaking.

SUMMARY: This action postpones a public hearing scheduled to consider a proposed milk order to regulate the handling of milk in an area designated as the Hawaii marketing area. The hearing was scheduled to begin at 9:00 a.m on December 11, 1985, in Room 6323

of the Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850. This notice postpones the hearing until a date to be announced at a later time.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

A notice was issued on September 24, 1985 (50 FR 39711), giving notice of a rescheduled public hearing to be held at the Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii, beginning at 9:00 a.m., local time, on December 11, 1985, with respect to a proposed Federal marketing agreement and order regulating the handling of milk in the Hawaii marketing area.

Notice is hereby given, pursuant to the rules of practice applicable to such proceedings (7 CFR Part 900), that the said hearing is postponed until a date to be announced at a later time.

Prior documents in this proceeding:

Notice of Hearing: Issued August 6, 1985; published August 12, 1985 (50 FR 32426).

Notice of Rescheduled Hearing: Issued September 24, 1985; published September 30, 1985 (50 FR 39711).

Statement of Consideration

The producer groups proposing a Federal milk order for Hawaii have requested that the hearing be postponed until a date to be announced at a later time. Proponents wish to have more time to prepare testimony and evidence to better support the need for such an order and justify its proposed provisions.

List of Subjects in 7 CFR Proposed Part 1140

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, DC on: December 3, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-29389 Filed 12-10-85; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-2]

Electronic Fund Transfers; Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation E (Electronic Fund Transfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The proposed revisions address questions that have arisen about the regulation.

DATE: Comments must be received on or before February 7, 1986.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B-2223, 20th and C Streets NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to EFT-2. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3667 or (202) 452-2412, or Joy W. O'Connell, Telecommunications Device for the Deaf (TDD) at (202) 452-3224.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). Effective September 24, 1981, an official staff commentary (EFT-2, Supp. II to 12 CFR Part 205) was published to interpret the regulation. The commentary is designed to provide guidance to financial institutions in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. There have been three updates so far; these were published on April 6, 1983 (48 FR 14880), October 18, 1984 (49 FR 40794), and April 3, 1985 (50 FR 13180). This notice contains the proposed fourth update. It is expected that it will be adopted in final form in March 1986.

(2) *Proposed revisions.* Proposed question 3-7.5 responds to several inquiries as to whether requiring payment by preauthorized electronic fund transfers (EFTs) as part of a biweekly mortgage program would violate the compulsory use prohibition in section 913 of the Electronic Fund Transfer Act (15 U.S.C. 1693k(1)). Question 3-7.5 would make clear that such a program does not violate the compulsory use prohibition when the program is not the only credit option offered by the creditor and the program provides a cost-related incentive for repayment by EFTs.

Proposed question 10-18.75 responds to numerous requests that the staff further clarify the statutory and regulatory provisions requiring preauthorized EFTs to be "authorized by the consumer only in writing." (15 U.S.C. 1693e(a) and 12 CFR 205.10(b)). Specifically, the staff has been asked whether the requirement is met by a payee signing a written authorization as the consumer's agent, based on the consumer's oral authorization of the preauthorized EFTs during a taped telephone conversation. Although the staff believes that existing question 10-18.5 can be viewed as addressing this situation, question 10-18.75 would be added to make clear that this procedure does not comply with the requirement that preauthorized EFTs be authorized in writing by the consumer.

List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

(3) *Text of revisions.* The proposed revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205) read as follows:

Section 205.3—Exemptions

Q 3-7.5: *Compulsory use—biweekly loan programs.* A lender offers consumers the option of a mortgage loan involving biweekly payments, which results in the repayment of the loan in a shorter time and in a lower total finance charge that a loan involving monthly payments. An integral part of this option is a requirement that consumers make the biweekly payments by preauthorized electronic fund transfers. Does this automatic transfer requirement violate the act's prohibition against compulsory use of electronic fund transfers?

A: No, it does not, given that the lower finance charge provides a cost-related incentive to consumers. (Section 205.3(d)(3), section 913)

* * * * *

Section 205.10—Preauthorized Transfers

Q 10-18.75: *Preauthorized debits—authorization by agent.* A telemarketing company (directly or through an agent) asks consumers to make the monthly payments for their purchases by preauthorized electronic fund transfers. If a consumer agrees, the company obtains the consumer's bank account number and completes a written authorization based on the telephone conversation (which the company records). The company signs the authorization as the consumer's agent, sends the authorization to the consumer's account-holding financial institution, and sends the consumer a written confirmation of the transaction. Does this procedure satisfy the requirement of the act and regulation that preauthorized EFTs may be authorized by the consumer only in writing?

A: No. The requirement that preauthorized EFTs may be authorized by the consumer only in writing cannot be met by a payee signing a written authorization on the consumer's behalf, with only an oral authorization from the consumer. (Nor does the tape recording of the telephone conversation constitute an authorization by the consumer "in writing" for purposes of the requirement.) To allow a payee to complete a written authorization for preauthorized EFTs as the consumer's agent based on a telephone authorization would render the statutory and regulatory requirement meaningless. (Section 202.10(b))

* * * * *

Board of Governors of the Federal Reserve System, December 5, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-29302 Filed 12-10-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, and 29

[Docket No. 24848; Notice No. 85-23]

Helicopter Minimum Flightcrew

Correction

In FR Doc. 85-28231, beginning on page 48786 in the issue of Wednesday, November 27, 1985, the "Notice No." should read as it appears in the bracketed heading above.

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-22671; File No. S7-47-85]

Lost and Stolen Securities Program Proposed Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Security and Exchange Commission is publishing for comment proposed amendments to the Lost and Stolen Securities Program. The proposed amendments would: (1) Broaden the existing exemption from Program registration to include all reporting institutions that limit their securities activities exclusively to uncertificated securities, global certificate securities issues or securities for which neither record nor beneficial owners can obtain negotiable securities certificates; (2) eliminate the current exemptions from the reporting and inquiry requirements for registered government securities, security issues that are not assigned CUSIP numbers, and bond coupons, and replace them with exemptions for uncertificated securities, global certificate securities issues and securities for which neither record nor beneficial owners can obtain negotiable securities certificates; (3) reduce the *de minimis* exemption from the inquiry requirements to securities transactions that have a value of $5,000 or less; (4) narrow the customer exemption from the inquiry provisions to circumstances where a reporting institution receives securities certificates from a person to whom it previously had sold those certificates; (5) define "appropriate law enforcement agency," "uncertificated security," and "global certificate securities issue"; (6) clarify that the exemption from the inquiry requirements is available only to a transfer agent acting in its capacity as a transfer agent for an issue; and (7) clarify that only the reporting institution which originally reported a security certificate as lost, missing, or stolen must report the recovery of that security.

DATE: Comments must be received on or before January 31, 1986.

ADDRESS: Interested persons should submit written views, data and comments to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comments should refer to File No. S7-47-85 and will be available for public inspection at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: Joseph M. Furey, Esq., at (202) 272-2416, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") is proposing for public comment amendments to Rule 17f-1 [17 CFR 240.17f-1] under section 17(f)(1) of the Securities Exchange Act of 1934 (the "Act").

I. Background

Section 17(f)(1) of the Act, enacted as part of the 1975 Securities Acts Amendments,[1] was designed to deter and reduce illicit trafficking in lost, stolen, missing and counterfeit securities. In that section, Congress granted the Commission board rulemaking authority to establish a Lost and Stolen Securities Program (the "Program"); to require most financial institution [2] to report lost, stolen, missing and coutnerfeit securities to the Commission or its designee; and to require those institutions to inquire about the status of securities that come into their possession.[3] Pursuant to this authority, the Commission adopted Rule 17f-1 in 1976 and last amended that rule in 1979.[4]

The Program has helped deter illicit trafficking in stolen and counterfeit securities by providing a centralized automated data base for reporting losses and inquiring about securities certificates. For example, since 1979 approximately 15,500 securities certificates worth an estimated $114 million have been identified through the Program as securities previously reported as lost, missing, counterfeit or stolen. Approximately 19,000 banks, brokers and other financial institutions participate in the Program.[5]

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[1] Pub. L. No. 94-29 (June 5, 1975).

[2] The types of financial institutions required to participate are enumberated in section 17(f)(1) of the Act. *See* note 7, *infra*.

[3] Section 17(f)(1) of the Act, 15 U.S.C. 78q(f)(1) (1982).

[4] *See* Securities Exchange Act Release No. 13053 (December 10, 1976), 41 FR 54923 (December 16, 1976) and Securities Exchange Act Release No. 15667 (May 23, 1979), 44 FR 31500 (May 31, 1979).

[5] During 1984, participating institutions reported as missing, lost, stolen or counterfeit 491,944 certificates valued at approximately $1.6 billion. In 1984, 3402 certificate with an estimated value of approximately $16 million were located through the Program. At the end of 1984, the total value of lost, missing, stolen or counterfeit securities maintained in the Program's data base was approximately $8 billion. The lastest annual report on the Program contains other statistics that may be useful to commenters in considering the proposed amendments and can be obtained from the Commission's Public Reference Room.

As noted above, Rule 17f–1 was last amended in 1979, when the Program was but a few years old. The Commission understands that since that time, banks and brokers using the Program have gained important experience with the Program and are now in a better position to assess the scope, costs and benefits of the Program and the requirements of Rule 17f–1.

Accordingly, in an effort to strengthen the Program, the Commission is proposing certain changes.[6] These changes seek to clarify common questions about the Program, to codify certain longstanding interpretations of Rule 17f–1, to focus the Rule on negotiable certificated securities, and to effectuate certain recommendations made by the General Accounting Office ("GAO") in its May 1984 Report on the Program.[7]

II. Discussion

A. Exemption From Program Registration

Rule 17f–1 provides that all reporting institutions, absent an applicable exemption, must register with the Commission or its designee to participate in the Program.[8] The Rule provides two exemptions from registration. First, the Rule exempts broker-dealers that engage solely in the sale of variable contracts or limited partnership interests and that do not take or hold securities subject to the reporting and inquiry provisions of the Rule.[9] Second, the Rule exempts members of an exchange that engage in securities transactions only on the floor of the exchange and that do not take or hold customer securities.[10]

The Commission is proposing to eliminate the first of these exemptions and replace it with a broader, more functional exemption for all reporting institutions whose securities activities involve exclusively uncertificated securities, global certificate securities issues or securities for which neither record nor beneficial owners can obtain negotiable securities certificates. To reflect this proposed change, the Commission is proposing definitions for "uncertificated security" and "global certificate securities issue" in subpragraphs (a)(3) and (a)(4) respectively. The Commission also is proposing a technical amendment to subparagraph (b)(1) to clarify that exchange specialists fall within the category of exempt entities under this subparagraph.

1. Exemptions for Reporting Institutions That Limit Their Securities Activities to Legally or Functionally Uncertificated Securities

Based on experience administering the Program since 1979, the Commission believes that the current exemption from registration for brokers and dealers engaged exclusively in the sale of variable contracts or limited partnership interest and who do not hold or take securities subject to the reporting and inquiry provisions is too restrictive and should be expanded. For example, the Commission understands that some mutual funds do not permit investors (or the brokers-dealers with whom they have accounts) to obtain negotiable securities certificates.[11] A broker or dealer that limits its securities activities to selling mutual funds of this type currently is not exempt from Program registration, however. Requiring such brokers and dealers to register in the Program appears unnecessary because these broker-dealers do not handle securities certificates or have occasion to make inquiries or reports. Similarly, as more issuers begin to experiment with global certificate securities issues and uncertificated securities issues, and as investors become more receptive to such issues, the Commission expects that some broker-dealers and other types of reporting institutions will begin to operate businesses that deal exclusively in these essentially uncertificated securities.[12] To require such entities to register in the Program would be unnecessarily burdensom and would not contribute to the Congressional goal of deterring trafficking in lost, stolen or counterfeit securities. Accordingly, the proposed amendments would exempt from registration all reporting institutions that limit their securities activity exclusively to uncertificated securities, global certificate securities issues or securities for which neither record nor benefitical owners can obtain negotiable securities certificates.[13]

The terms "uncertificated security" and "global certificate securities issue" are defined in proposed subparagraphs (a)(3) and (a)(4) of the Rule. To avoid confusion, proposed subparagraph (a)(3) cross-references the definition of uncertificated security in the 1977 official version of the Uniform Commercial Code.[14] Proposed subparagraph (a)(4) defines "global certificate securities issue" as a securities issue for which the issuer prints a single master securities certificate representing the entire issue and registers that certificate in a registered clearing agency's nominee name.[15]

The Commission believes that the proposed amendments would exempt from registration in the Program all reporting institutions that limit their securities activities to securities for which negotiable securities certificates cannot be lost, misplaced, counterfeited or stolen. Because such entities will not

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[6] In accordance with section 17A(d)(3)(A)(i) of the Act, the Commission consulted with, and requested the views of, the federal bank regulatory agencies at least 15 days prior to this announcement.

[7] *See Report by the the U.S. General Accounting Office: SEC's Efforts to Find Lost and Stolen Securities* (May 1984).

[8] *See* 17 CFR 240.17f–1(b). Reporting institutions include all national securities exchanges, members thereof, registered securities associations, brokers, dealers, municipal securities dealers, registered transfer agents, registered clearing agencies, participants therein, members of the Federal Reserve System, and banks that are insured by the Federal Deposit Insurance Corporation.

[9] *See* 17 CFR 240.17f–1(b)(2).

[10] *See* 17 CFR 240.17f–1(b)(1).

[11] *E.g.*, Massachusetts business trusts do not permit investors in those funds to obtain negotiable securities certificates under any circumstances.

[12] Recently, investors have become more receptive to securities issues that do not provide negotiable certificates as evidence of ownership. As states continue to adopt the 1977 amendments to the Uniform Commercial Code, which establish legal principles governing the transfer of uncertificated securities, and as cost savings and processing efficiencies increase as a result of further immobilization of securities certificate in securities depositiories market forces should encourage expanded use of legally or functionally uncertificated securities and reduce the number of negotiable securities certificates outstanding. For example, global certificate securities issues, while in certificated form, are functionally uncertificated for purposes of Rule 17f–1 because beneficial owners are unable to obtain negotiable securities certificates. *See* note 14, *infra*.

[13] For example, the Options Clearing Corporation ("OCC"), a registered clearing agency, and the Chicago Board Options Exchange ("CBOE"), a registered securities exchange, are required to register in the Program. OCC and CBOE, however, deal exclusively with options, which are uncertificated securities. Thus, OCC and CBOE, like broker-dealers that engage exclusively in the purchase or sale of uncertificated securities for which negotiable securities certificates cannot be obtained, should not be required to register in the Program.

[14] UCC section 8–102(b) defines uncertificated security as: a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issued which is

(i) not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) of a type commonly dealt in on securities exchanges or markets; and

(iii) either one a class of series or by its terms divisible into a class or series of shares, participations, interests or obligations.

[15] In global certificate issues, no certificates are available to beneficial owners, and all changes in ownership are recorded in book-entry form at the depository. For a discussion of global certificate issues, *see* Division of Market Regulation Staff Draft Report, *Progress and Prospects: Depository Immobilization of Securities and Use of Book-Entry Systems*, at 17–22 (June 1985)

have occasion to use the Program, requiring them to register makes no sense. Conversely, reporting institutions (particularly broker-dealers whose activities involve any security for which either record or beneficial owners can obtain a negotiable securities certificate) that could have in their possession, from time to time, negotiable securities certificates that could be lost, misplaced or stolen, should be required to register as participants in the Program.

2. Exemptions for Certain Members of National Securities Exchanges

As noted above, Rule 17f–1 currently exempts from registration "[a] member of a national securities exchange who effects securities transactions exclusively on the floor of the exchange solely for other members and does not receive or hold customer securities." The Commission has interpreted this provision to exempt brokers and dealers that do business only on the floor of a national securities exchange and who do not conduct a public business. [16] Because these broker-dealers (*e.g.*, floor traders, floor brokers, and specialists) do not deliver or receive securities certificates, except perhaps from other broker-dealers or financial institutions, requiring their participation in the Program does not advance Program goals. Such broker-dealers could receive negotiable securities certificates only from other Program participants, who already have an obligation to inquire about the particular securities certificates. Thus, to clarify that these broker-dealers are exempt from Program registration, the Commission is proposing to delete the phrase "solely for other members" from subparagraph (b)(1).

B. Reporting Requirements

Rule 17f–1 currently requires that reporting institutions report all lost, missing, stolen and counterfeit securities to the Commission's designee within specified time frames [17] and to the appropriate law enforcement agency. The proposed amendments would codify Commission guidelines about which law enforcement agencies Program participants must notify. The proposed amendments also would clarify Program participants' responsibilities to report the recovery of certificates previously reported as missing, lost or stolen.

1. Reports to Appropriate Law Enforcement Agencies

Rule 17f–1(c)(1)(ii) currently requires certain institutions to report to the appropriate law enforcement agency, promptly upon descovery, the theft or loss of any security where there is a substantial basis for believing that criminal activity was involved. In 1977, the Commission published guidelines about which law enforcement agencies need to be notified. [18] Despite these guidelines, the Commission understands that some reporting institutions remain confused as to which law enforcement agencies must be contacted in different circumstances.

The Commission believes that codification of a definition of "appropriate law enforcement agency" in new subparagraph (a)(2) should eliminate participant confusion. For purposes of this section, appropriate law enforcement agency means one or more of the following: (1) The local police, sheriff or similar authority in all cases involving the counterfeiting, theft or loss of any security, where there is substantial basis for believing criminal activity was involved; (2) the Federal Bureau of Investigation ("FBI") in all cases involving the counterfeiting, theft or loss, where there is substantial basis for believing criminal activity was involved: (a) of any security in excess of $5,000, or (b) regardless of market value, of any security from a federally insured bank or of any security which is a direct obligation of, or guaranteed as to principal and interest by, the United States, or any security issued or guaranteed by a corporation in which the United States has a direct or indirect interest; and (3) the United States Secret Service in all cases involving the theft, loss or counterfeiting or any security which is a direct obligation of, or guaranteed as to principal and interest by, the United States or any security issued or guaranteed by a corporation in which the United States has a direct or indirect interest.

In a number of instances, the Rule would require that more than one law enforcement agency be notified of a theft, loss or counterfeiting. At a minimum, reporting institutions must contact the appropriate local law enforcement agency of a theft, loss or counterfeiting. Local law enforcement agency in this context means the local law enforcement agency at the location where the securities disappeared. In addition to contacting the local police, reporting institutions also may be required to contact the FBI or the U.S. Secret Service. [19]

In certain circumstances, such as discoveries of counterfeit U.S. Government-issued or guaranteed securities, reporting institutions must notify three law enforcement agencies: the local police, the FBI, and the Secret Service. The Commission is concerned that such multiple notification requirements may be inefficient and burdensome to reporting institutions. The Commission therefore requests comment whether centralizing in the Commission's designee the requirements to notify federal law enforcement agencies might ensure that those agencies actually receive notification, and might result in reduced compliance costs for Program participants. [20]

2. Recovery Reports

Rule 17f–1(c)(4) requires reporting institutions to report the recovery or finding of any security previously reported missing, lost or stolen. Reports must be made to the Commission or its designee and to the registered transfer agent for the issue within one business day of the recovery or finding. This obligation to report recoveries, however, is limited to the institution which originally reported the security as missing, lost or stolen.

Notwithstanding the language of Rule 17f–1(c)(4), Program participants apparently are uncertain about their reporting obligations under this paragraph. Some reporting institutions have interpreted the Rule to mean that all reporting institutions that learn of a recovery of a security previously reported as lost, missing or stolen must report this recovery to the Commission's designee and the registered transfer agent for the security involved. Such reports are not required by the Rule and

[16] *See* Securities Exchange Act Release 15683, 44 FR 20614 (April 5, 1979); Securities Exchange Act Release No. 15867, 44 FR 31500, 31501 (May 31, 1979).

[17] Those time frames vary depending on whether the securities are lost or missing (as opposed to stolen) and, if lost or missing without any indication of criminality, or whether delivery occurs by mail or by other means. *See* 17 CFR 240.17f–1(c). The Commission invites commenters to address whether the reporting time frames in Rule 17f–1(c) should be revised, and if so, why.

[18] See Securities Exchange Act Release No. 13832 (August 5, 1977), 42 FR 41022, 41023, n. 10 (August 12, 1977).

[19] Under the proposed definition, for example, if a nonbank reporting institution discovers the theft of $7,000 of corporate bonds, that reporting institution woud be required to report the theft to the local FBI office (because the stolen securities exceeded $5,000 in principal amount). Similarly, if a federally insured bank discovered the theft of $3,000 of corporate bonds, it would be required to report the theft to the local FBI office, even though the securities did not exceed $5,000 (because the securities were stolen from a member of the Federal Reserve System or a bank whose deposits are insured by the Federal Deposit Insurance Corporation).

[20] Eliminating the requirement under the Rule to notify federal law enforcement agencies would have no effect on any independent notification obligations that reporting institutions may have under other laws or statutes.

generate unnecessary work both for Program participants and the Commission's designee.

The proposed amendments would clarify that only the reporting institution that originally reported a security as lost, missing or stolen must report the recovery or finding of that security to the Commission's designee and the registered transfer agent for the issue.[21] By permitting deletions from the data base only on instructions from the original reporting institution and only when the recovery report data elements match exactly those of the earlier reports, the integrity of the data base is assured. While recognizing that reports of lost, missing or stolen securities certificates could remain in the data base even though another reporting institution had recovered the certificates in question, the Commission believes that maintaining a slightly overinclusive data base is less harmful than an underinclusive data base, which could result from permitting participants other than the original reporting institution to report recoveries. The proposed amendments would not change the current obligation to notify appropriate law enforcement agencies of a recovery.

C. Inquiry Requirements

Subparagraph (d)(1) of the Rule requires reporting institutions (other than transfer agents) to inquire about each and every security that comes into their possession, unless an exemption exists. Currently, the Rule provides for five exemptions. First, if a reporting institution receives a security directly from an issuer or an issuer's agent during an initial issuance, the reporting institution does not have to inquire about the status of that security. Second, if the reporting institution receives securities from another reporting institution, inquiry is not required. Third, if the reporting institution receives securities from a customer and those securities are registered in the customer's name or in the nominee name of the customer or if the reporting institution previously sold those securities to the customer, no inquiry is required (the "customer exemption"). Fourth, if the securities are port of a transaction that involves $10,000 or less, the reporting institution is not required to inquire about those securities (the *"de minimis* transaction exemption"). Finally, if the reporting institution receives securities directly from a drop that is affiliated with a reporting institution for purposes of receiving or delivering certificates, the reporting institution is not required to inquire about the status of those securities.

The Commission is proposing three amendments to subparagraph (d). The first change would reduce the $10,000 *de minimis* transaction exemption to $5,000. The second change would restrict the scope of the customer exemption. The third change is a technical one that would clarify that transfer agents are exempt from the inquiry provisions of the Rule only when they are acting in their capacity as transfer agent.

1. The De Minimis Transaction Exemption

The Commission is proposing to lower the ceiling of the *de minimis* transaction exemption from $10,000 to $5,000. Currently, if a reporting institution receives securities certificates as part of a transaction valued at less than $10,000, no inquiry is required.[22] This ceiling was set in 1979, after extensive industry comment. That comment indicated that a ceiling below $10,000 would increase user expenses dramatically. In its May 1984 Report concerning the Program, however, the GAO recommended, among other things, that the Commission either eliminate or reduce the $10,000 *de minimis* transaction exemption. Accordingly, the Commission is proposing that the existing *de minimis* transaction exemption be lowered to $5,000.[23] The Commission requests that interested parties specifically address whether a *de minimis* transaction exemption continues to be appropriate and, if so, what the level of that exemption should be.[24] In addition to considering whether the exemption should be lowered to $5,000 or retained at $10,000, commenters should also consider whether the ceiling should be raised above $10,000. In light of the substantial industry comment on this aspect of the rule in 1979, the Commission is not adopting at this time GAO's conclusion that a change in the ceiling is necessary.

To assist the Commission in balancing the benefits and costs of different dollar value ceilings for the transaction exemption, the Commission requests commenters to provide estimated costs of compliance with a $10,000 ceiling, a $5,000 ceiling and no ceiling at all. Commenters also are asked to express their view whether a lower ceiling will result in a proportionately greater number of "hits" or recoveries and, if so, whether in their view this benefit offsets the increased compliance costs they estimate the reduced ceiling would entail.

2. The Customer Exemption

The Commission is proposing to limit and clarify the exemption from Program inquiry requirements (Rule 17f-1(d)(1)(iii)) for certain securities certificates that are received from a Program participant's customers. As interpreted in the past by the Commission's Division of Market Regulation, the customer exemption applies only where the Program participant received securities certificates registered in the delivering customer's name and (1) the Program participant, on at least one occasion, inquired of the Commission's designee with respect to securities certificates previously received from this customer; or (2) the security was previously sold to the customer by that reporting institution. The Commission is proposing to modify this interpretation by eliminating the first exemption and clarifying the second exemption.

The rationale underlying the first exemption (Rule 17f-1(d)(1)(iii)(A)) is that once a person engages in a *bona fide* securities transaction with an institution, that institution should not be required to check that person's *bona fides* in connection with future transactions. The Commission understands that purveyors of suspect securities could engage in one or two legitimate transactions with a financial institution in an effort to establish their *bona fides*. Having established a false identity or a false impression of integrity, these persons then could pledge or sell stolen or bogus certificates with a high degree of confidence that the institution will not inquire about the certificates. To prevent this, the Commission is proposing to eliminate

[21] The Commission is working with the designee to insure that the designee will accept a recovery report from a successor transfer agent in cases where a predecessor transfer agent made the initial loss report.

[22] Program participants, of course, may continue to inquire whenever they wish. Indeed, the Commission understands that several Program participants inquire with respect to all certificates they receive. The Commission continues to expect that responsible financial institutions will inquire whenever good business judgment dictates, regardless of transaction value.

[23] The Commission understands that approximately 20% of the daily inquiries concern securities transactions that are valued at less than $10,000. The bulk of these inquiries concern securities transactions valued between $5,000 and $10,000.

[24] The Commission specifically requests commenters to address whether the incentives to inquire increase as the dollar value of securities increases and whether margin benefits exist from mandatory inquiries at levels below $10,000 given that Program participants can make voluntary inquiries without regard to dollar value.

the exemption afforded in Rule 17f-1(d)(1)(iii)(A).[25]

Under the proposed amendments, a reporting institution would not be required to inquire about a securities certificate if that reporting institution previously had delivered that certificate to the presentor, as verified by the internal records of the reporting institution. For example, if a broker-dealer's internal indicated that it previously sold and delivered a securities certificate to a specific customer and that customer subsequently presents that certificate for sale, the customer exemption from the inquiry requirements would apply. Under these circumstances, the institution should be reasonably assured that the presentor and the presentment are *bona fide*.

3. The Transfer Agent Exemption

Existing subparagraph (d)(1) requires all reporting institutions, except transfer agents, to inquire about all securities that come into their possession unless one of five exemptions is satisfied. This provision has generated some confusion among banks that receive securities certificates in their capacity as registered transfer agents as well as in other capacities (such as lenders). Accordingly, the Commission is proposing to amend Rule 17f-1(d)(1) to clarify that the exemption for transfer agents is only available to reporting institutions that receive securities certificates in their capacity as transfer agents.

D. Securities Subject to Inquiry and Reporting Requirements

The Commission is proposing amendments to paragraph (f) that would decrease the number and types of securities that are exempt from the reporting and inquiry requirements of the Program. Specifically, the proposed amendments would eliminate the existing exemptions for registered government securities, securities, that are not assigned CUSIP numbers and coupons on bearer bonds. In place of existing exemptions, the Commission proposes to limit the inquiry and reporting exemptions to transactions in securities that do not involve certificates.

1. Government and Agency Securities

Currently, registered government securities are exempt from the reporting and inquiry provisions of the Rule pursuant to subparagraph (f)(1), while government securities in bearer form are subject to the reporting and inquiry provisions of the Rule.[26] Program participants have noted that the existence of different schemes for government securities depending on whether the securities are in bearer or registered form is unnecessarily confusing and burdensome. The GAO, in its Report on the Program, also suggested that registered government securities should be subject to reporting and inquiry requirements and recommended that the Commission eliminate the existing exemption. The Commission agrees with the suggestion and is proposing to eliminate the exemption.

Because registered government securities currently are exempt from the reporting and inquiry requirements, there seems to be some confusion concerning whether government securities dealers are exempt from the Program registration requirement. The Commission notes that section 17(f)(1) of the Act requires all brokers and dealers (including government securities dealers that are not registered as such with the Commission under section 15 of the Act) to register in the Program. Because the proposed amendments would eliminate the existing reporting and inquiry exemptions for registered government securities and would retain the requirement for bearer securities, the Commission believes the proposal should eliminate participant confusion and increase participant efficiency in complying with the Rule.

2. Securities That Are Not Assigned CUSIP Numbers

The Commission is proposing to amend subparagraph (f)(2) by eliminating the existing exemption from the reporting and inquiry requirements of the Rule for securities issues that are not assigned CUSIP numbers ("non-CUSIP securities"). The CUSIP numbering system, maintained by Standard and Poor's Corporation, provides the entire financial community with a unique identification system for automated securities processing.

Originally, the exemption was created because non-CUSIP securities generally have a duration of less than one year or are of local interest only. For these reasons, they were not considered prime targets for illicit trafficking in lost and stolen securities. As the Program has matured, however, the Commission has received numerous requests to enter information into the data base about lost or stolen non-CUSIP securities.[27]

The Commission believes that inclusion of non-CUSIP securities within the Program's parameters provides important benefits to the public and Program users, without imposing significant additional burdens on reporting institutions or the Commission's designee. The Commission, therefore, specifically requests comment from Program participants on the costs and benefits of mandatory reporting and inquiry for securities that are not assigned CUSIP numbers.

3. Bond Coupons

The Commission is proposing to eliminate the existing exemption from the reporting and inquiry requirements with respect to bond coupons. The Commission understands that no centralized data base currently exists where broker-dealers and banks can routinely report and inquire about the validity of bond coupons. In addition, the proposal would effectuate GAO's recommendation that the Commission increase the scope of the Rule's reporting and inquiry requirements. Commenters specifically are invited to address the relative costs and benefits of adopting this proposal.

[25] Limiting the customer exemption in this manner appears to be the only certain way to prevent suspect securities re-entering the flow of commerce through existing or recently established accounts at broker-dealers and banks. The Commission recognizes that eliminating this exemption may result in additional compliance costs for Program participants, but nevertheless believes the propoosal would be appropriate to effectuate Congressional goals embodied in section 17(f)(1) of the Act. The Commission welcomes alternative formulations of this exemption that might reduce compliance burdens while achieving Program goals.

[26] Inquiries and reports concerning lost, stolen or missing bearer and registered government securities were originally proceessed by the Federal Reserve Banks. In 1979, however, the Board of Governors of the Federal Reserve System advised the Commission that the Federal Reserve Banks no longer wished to process inquires concerning lost or stolen bearer securities and that reports and inquires about those securities should be directed elsewhere. Following notice and comment, the Commission revised the Program to require that reports and inquires about lost or stolen government bearer certificates be made to the Commission's designee, at that time, the Federal Reserve Banks continued to provide services similar to the Program with respect to registered government securities issues of the U.S. Government, U.S. Government Agencies and certain international organizations. The Federal Reserve Banks, however, no longer provide those services for registered government securities.

[27] Recently, the Commission's designee established an identification system for non-CUSIP securities. Participants wishing to report and inquire about securities that are not assigned CUSIP numbers have been able to do so for several months.

4. Exemptions for Transactions That Do Not Involve Certificates

The Commission is proposing new exemptions from the reporting and inquiry provisions of the Rule for uncertificated securities, global certificate securities issues and securities for which neither record nor beneficial owners can obtain negotiable securities certificates.[28] The Commission also is proposing to revise existing subparagraphs (c) and (d) to clarify that reporting and inquiry requirements only apply in connection with the handling of securities certificates. Thus, participants would not have to report or inquire about essentially uncertificated securities.

III. Summary of Initial Regulatory Flexibility Analysis

November 29, 1985, the Commission prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 as amended by the Regulatory Flexibility Act (the "RFA") regarding the proposed amendments to Rule 17f–1. The following is a summary of the Analysis.

The Analysis notes that the amendments to this Rule are being proposed as part of the Commission's review of the Lost and Stolen Securities Program. The Analysis notes that the proposed amendments to Rule 17f–1 would affect approximately 4,618 broker-dealers, 2 national securities exchanges and 1,400 registered transfer agents that qualify as "small entities for purposes of the RFA. Under the proposed amendments, these entities generally would incur increased compliance costs as a result of the proposed elimination of several current exemptions from the reporting and inquiry provisions of Rule 17f–1. More specifically, the proposed amendments would eliminate the exemptions from the reporting and inquiry requirements for registered government securities, security issues that are not assigned CUSIP numbers and bond coupons and replace them with exemptions for uncertificated securities, global certificate securities issues and securities for which neither record nor beneficial owners can obtain negotiable securities certificates. In addition, the proposed amendments would reduce the *de minimis* exemption from the inquiry requirements of the Rule to securities transactions that have an aggregate value of $5,000 or less, and narrow the customer exemption from the inquiry provisions of the Rule to circumstances where a reporting institution receives securities certificates from a person to whom it previously had sold these certificates. These changes affect reporting institutions because these institutions will be obligated to report and inquire about more securities certificates.[29]

The Commission estimates in the Analysis that the total impact of the proposed amendments may result in approximately a 20% increase in the total number of loss reports and inquiries the Commission's designee receives. Based on 1984 Program statistics, a 20% increase in the number of certificates reported and inquired about would result in additional costs of approximately $122,300. While this figure is not insignificant, the Commission believes that this cost, which would be prorated among Program participants based on institution size and classification, would not unduly burden any specific group of participants. In addition, the Commission believes that the potential benefits derived from removing additional lost and stolen certificates from the flow of commerce may outweight the additional costs.

The Commission also notes that the proposed amendments would broaden the existing exemption from registration to include all reporting institutions that limit their activities to legally and functionally uncertificated securities. As the existing registration exemptions applies to broker-dealers that engage exclusively in the sale of variable contract and/or limited partnership interests, the number of reporting institutions exempt from registration may increase, though the Commission does not believe that any increase will be significant until a substantially greater number of securities issues become uncertificated.

A copy of the Analysis may be obtained by contacting Joseph M. Furey, Esq., Division of Market Regulation, U.S. Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

List of Subjects in 17 CFR Part 240

Reporting and Recordkeeping Requirements; Securities.

IV. Statutory Basis and Text of Amendments

The Commission proposes to amend Chapter II of Title 17 of the Code of Federal Regulations as follows:

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

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended, (15 U.S.C. 78w) * * * Section 240.17f–1 is also authorized under sections 2, 17 and 17A, 48 Stat. 891, 89 Stat. 137, 141 (15 U.S.C. 78b, 78q, 78q–1).

* * * * *

2. Section 240.17f–1 is amended by revising paragraphs (a), (b)(1), (b)(2), (c)(4), (d)(1), (e), and (f), amending paragraphs (c)(1)(i) (first sentence), (c)(1)(ii), (c)(2) introductory text (two places in first sentence), and (c)(3) by removing the word "security" and replacing it with the words "securities certificates," amending paragraphs (c)(2)(i), (ii), and (iii) by adding the word "certificates" after the first word "Securities" in each paragraph, and by amending paragraphs (c)(2)(iii)(A), (B), (C), and (D) by adding the word "certificates" after the word "securities" in the first phrase of each paragraph.

(Note: Arrows indicate text proposed to be added. Brackets indicate text proposed to be removed.)

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

(a) *Definition►s.* (1)◄ *Reporting institution.* For purposes of this section, the term "reporting institution" shall include every national securities exchange association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System and bank whose deposits are insured by the Federal Deposit Insurance Corporation.

►(2) Appropriate law enforcement agency. For purposes of this section, appropriate law enforcement agency shall mean: (i) the local police, sheriff, or similar authority in all cases involving the counterfeiting, theft, or loss of any security where there is a substantial basis for believing criminal activity was involved; and (ii) Federal Bureau of Investigation in all cases involving the counterfeiting, theft, or loss where there is a substantial basis for believing criminal activity was involved, of any security in excess of $5,000, or, regardless of market value, of any security from a federally insured bank

[28] The terms "uncertificated securities," and "global certificate securities issues" would be defined in Rule 17f–1(a). *See* discussion *supra* at notes 12–13.

[29] While the proposed amendments would make additional changes to the Rule, these changes would not increase the number of reports and inquiries that reporting institutions would be required to make and therefore would not affect compliance costs.

or of any security which is a direct obligation of, or guaranteed as to principal and interest by, the United States or any security issued or guaranteed by a corporation in which the United States has a direct or indirect interest regardless of value; and (iii) United States Secret Service in all cases involving the theft or counterfeiting of any security which is a direct obligation of, or guaranteed as to principal and interest by, the United States or any security issued or guaranteed by a corporation in which the United States has direct or indirect interest.

(3) *Uncertificated security.* For purposes of this section, uncertificated security shall have the meaning adopted in section 8–102(b) of the official 1977 version of the Uniform Commercial Code.

(4) *Global certificate securities issue.* For purposes of this section, global certificate securities issue shall mean a securities issue for which a single master certificate representing the entire issue is registered in the nominee name of a registered clearing agency and for which beneficial owners may not receive negotiable securities certificates.◄

(b) * * *

(1) A member of a national securities exchange who effects securities transactions exclusively on the floor of the exchange [solely for other members] and does not receive or hold customer securities; and

(2) A ►reporting institution that limits its securities activities exclusively to◄ [broker or dealer who is engaged exclusively in the sale or variable contracts and/or limited partnership interests] ►uncertificated securities, global certificate securities issues or any securities issues for which neither record nor beneficial owners can obtain negotiable securities certificates.◄ [and does not receive or hold securities that are subject to the provisions of paragraphs (c) and (d) herein.]

(c) *Reporting requirements* * * *

(4) *Recovery.* [Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this section to the Commission or its designee and to a registered transfer agent for the issue within one business day of such recovery or finding. If a report of stolen securities was made to the appropriate law enforcement agency, a report of such recovery shall also be made to such agency. Recovery may only be reported by the institution which reported the security as missing, lost or stolen.] ►Every reporting institution that originally reported a lost, missing or stolen securities certificate pursuant to this section shall report recovery of that securities certificate to the Commission or its designee and to a registered transfer agent for the issue within one business day of such recovery or finding. Every reporting institution that originally reported a securities certificate as stolen shall also notifiy each appropriate law enforcement agency it originally notified that the securities certificate has been recovered.◄

* * * * *

(d) *Required inquiries.* (1) Every reporting institution except a [registered transfer agent ►reporting institution acting in its capacity as transfer agent for an issue◄ shall inquire of the Commission or its designee with respect to every securit[y]►ies certificate◄ which comes into its possession or keeping, whether by pledge, transfer or otherwise, to ascertain whether such securit[y]►ies certificate◄ has been reported as missing, lost, counterfeit or stolen, unless

(i) The securit[y]►ies certificate◄ is received directly from the issuer or issuing agent at issuance;

(ii) The securit[y]►ies certificate◄ is received from another reporting institution or from a Federal Reserve Bank or Branch;

(iii) [The security is received from a customer of the reporting institution and

(A) Is registered in the name of such customer or its nominee, or

(B) Was previously sold to such customer, as verified by the internal records of the reporting institution;] ►The securities certificate presented was previously sold to the presentor by the reporting institution, as verified by the internal records of the reporting institution;◄

(iv) The securit[y]►ies certificate is received as a◄ [is] part of a transaction which has an aggregate value of [$10,000] ►$5,000◄; or

(v) The securit[y]►ies certificate◄ is received directly from a drop which is affiliated with a reporting institution for the purposes of receiving or delivering certificates on behalf of the reporting institution.

* * * * *

(e) *Permissive Reports and Inquiries.* Every reporting institution may report to or inquire of the Commission or its designee with respect to any securit[y]►ies certificate◄ not otherwise required by this section to be the subject of a report or inquiry►, except for the reportion of recovery of previously reported lost, missing or stolen certificates.◄ The Commission on written request or upon its own motion may permit reports to and inquiries of the system by any other person or entity upon such terms and conditions as it deems appropriate and necessary in the public interest and for the protection of investors.

(f) *Exemptions.* The following types of securities are not subject to paragraphs (c) and (d) [, above:]► of this section:◄

[(1) Registered securities of the United States Government, any agency or instrumentality of the United States Government, the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank, and counterfeit securities of such entities;

(2) Security issues not assigned CUSIP numbers;

(3) bond Coupons.]

►(1) Uncertificated securities;

(2) Global certificate securities issues; and

(3) Any securities issue for which record or beneficial owners cannot obtain a negotiable securities certificate.◄

* * * * *

By the Commission.

Dated: November 29, 1985.

John Wheeler,

Secretary.

[FR Doc 29274 Filed 12–10–85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Coverage of Employees of State and Local Government; Extension for State Assessments, etc.

Correction

In FR Doc. 85–28601, beginning on page 49397 in the issue of Monday, December 2, 1985, make the following correction:

On page 49398, first column, fourth line of § 404.1281(a)(2)(i), "or" should have read "on".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 800

Availability of Petition To Initiate Rulemaking; Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Liability Insurance; Bonding

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

ACTION: Notice of availability of a petition to initiate rulemaking and request for comment.

SUMMARY: The Office of Surface Mining (OSM) seeks comments regarding the rule change suggested in a petition, submitted pursuant to the Surface Mining Control and Reclamation Act (the Act), to amend OSM's existing liability insurance regulations.

The suggested change in the rules would allow the filing of the certificate of liability insurance at the time of filing of the bond rather than at the time of permit application. The comments on the rule change suggested in the petition will assist the Director of OSM in making the decision whether to grant or deny the petition.

DATES: OSM will accept written comments on the petition until 5:00 p.m. eastern standard time on January 27, 1986.

ADDRESS: Written comments must be mailed to the Office of Surface Mining, U.S. Department of the Interior, Division of Permit and Environmental Analysis, 1951 Constitution Ave., NW., Washington, DC 20240 or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Division of Permit and Environmental Analysis, Room 5111, 1100 L St., NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Frank Mancino at the Washington, DC, address listed above (telephone: 202–343–5143).

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures

Written Comments

Written comments on the suggested change should be specific, should be confined to issues pertinent to the petition, and should explain the reasons for the comment. Comments received after the close of the comment period (see "**DATES**") may not necessarily be considered or included in the administrative record on the petition. OSM cannot ensure that written comments received or delivered during the comment period to any location other than that specified under "Address" above will be considered and included in the administrative record on this petition.

Availability of Copies

Additional copies of the petition and copies of 30 CFR Part 800 are available for inspection and may be obtained at the location listed under "**ADDRESS**".

Public Meetings

OSM will not hold a public hearing on the proposed revision, but OSM personnel will be available to meet with the public during business hours, 9:00 a.m. to 5:00 p.m., during the comment period. In order to arrange such a meeting, call or write to the person listed above under "**FOR FURTHER INFORMATION CONTACT**".

II. Background and Substance of Petition

OSM received a letter dated October 2, 1984, from Mr. Terrance M. Toole, President of Geological Consultants, Inc., Fort Payne, Alabama as a petition for rulemaking to revise 30 CFR 800.60. The change suggested was to allow a coal mine operator to submit the certificate of liability insurance at the same time as an operator would submit a bond.

Pursuant to section 201(g) of the Act, any person may petition for a change in OSM's permanent program rules which appear in 30 CFR Chapter VII. The Act allows for a period of 90 days within which to decide to grant or deny a petition (Section 201(g)(4); 30 U.S.C. 1211(g)(4)). Under the applicable regulations for rulemaking petitions, 30 CFR 700.12(c), the Director first determines whether the petition may have a reasonable basis. The Director has determined that the petition for amendment of the regulations has a sufficient basis to seek comments on the proposed rule change. The text of the petition appears as an appendix to this notice.

This notice seeks public comments on the suggested amendment. At the close of the comment period, a decision will be made whether to grant or deny the petition. If the decision is made to grant the petition, rulemaking proceedings will be initiated in which public comment will again be sought before any final rulemaking notice appears. If the decision is made to deny the entire petition no further rulemaking action will occur pursuant to the petition.

III. Procedural Matters

Publication of this notice of the receipt of the petition for rulemaking is a preliminary step in the rulemaking process. If a decision is made to grant the petition, a formal rulemaking process will be initiated. Thus, no regulatory flexibility analysis is needed at this stage, nor is a regulatory impact analysis necessary under Executive Order No. 12291.

Publication of this notice does not constitute a major Federal action having a significant effect on the human environment for which an environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4322(2)(C), is needed.

List of Subjects in 30 CFR Part 800

Coal mining, Insurance, Reporting requirements, Surety bonds, Surface mining, Underground mining.

Dated: December 6, 1985.

Carson W. Culp,

Acting Director.

Appendix

The text of the petition dated October 2, 1984, from Mr. Terrance M. Toole, is as follows:

Petition to initiate rulemaking

30 CFR 700.12

Please accept this letter as a petition on behalf of myself and my clients under the above referenced rule to amend regulation 30 CFR 800.60. This regulation deals with the submittal of a certificate of liability insurance simultaneous to submittal of the permit application. It is requested this regulation be amended to allow the operator to submit this certificate at the same time as bonds. By requiring the certificate of liability insurance to be submitted at the time of permit application an undue and unnecessary hardship is being placed on the operator, since he will incur approximately six (6) months of premium cost needlessly. By allowing an amendment of this regulation (30 CFR 800.60) you will be saving the operators a great deal of expense without any disruption of the permitting process thus far established.

If it is felt a public hearing is needed, it will be requested. However, as this is such a trivial amendment I do not feel a hearing is warranted. If in your opinion it is felt this amendment can not be made without a public hearing then please accept this as a formal request.

Your cooperation in this matter is greatly appreciated.

[FR Doc. 85–29390 Filed 12–10–85; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 19

Appeals—General; Rules of Practice

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is proposing to amend its regulations to clarify that a response is not required to the Supplemental Statement of the Case provided that a timely response has been made to the Statement of the Case. The Board of Veterans Appeals is also amending its Rules of Practice to include an additional holiday as a result of recently passed legislation. The birthday of Martin Luther King, Jr., will be observed on January 20, 1986.

DATES: Comments must be received by January 10, 1986.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, DC 20420. All written comments received will be available for inspection in the Veterans Services Unit, Room 132, at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Donsbach, Special (Legal) Assistant to the Chairman, Board of Veterans Appeals, Veterans Administration, 810 Vermont Avenue, N.W., Washington, DC 20420 (202–389–2978).

SUPPLEMENTARY INFORMATION: The VA is proposing to amend 38 CFR 19.129(b), and add a new paragraph (c). This is necessary because the last sentence in 38 CFR 19.129(b) states that "Where a supplemental statement of the case is furnished, a period of 30 days will be allowed for response." This has been interpreted to mean that veterans are required to respond to the supplemental statement of the case. A new paragraph (c) to include the last sentence from 38 CFR 19.129(b) has been prepared to more clearly explain this rule of practice.

The VA is also amending 38 CFR 19.132 pursuant to Pub. L. 98–144 (Public Holiday—Birthday of Martin Luther King, Jr.). Pub. L. 98–144 was approved November 2, 1983, and shall be effective the third Monday in January 1986.

The Administrator has certified that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. It will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The Agency has also determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. They will not result in any significant effect on the economy, they will not have any significant impact upon private or governmental costs, and they will not affect business enterprises or otherwise have any adverse effect on the economy.

There is no Catalog of Federal Domestic Assistance number involved.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: November 21, 1985.

By direction of the Administration.

Everett Alvarez, Jr.,

Deputy Administrotor.

PART 19—[AMENDED]

38 CFR Part 19, Board of Veterans Appeals, is amended as follows:

1. Section 19.129 is amended by removing the last sentence in paragraph (b) and by adding a new paragraph (c) to read as follows:

§ 19.129 Rule 29; time limit for filing.

* * * * *

(c) *Response to supplemental statement of the case.* Where a supplemental statement of the case is furnished in accordance with Rule 22 (§ 19.122), a period of 30 days will be allowed for response. Response to a supplemental statement of the case is optional and is not required for the perfection of an appeal; provided, however, that nothing in this paragraph shall be construed as negating the requirement noted in paragraph (b) for an appropriate substantive appeal in response to the statement of the case. (38 U.S.C. 4005(d)(3))

2. Section 19.132 is amended by adding another holiday. The section is revised to read as follows:

§ 19.132 Rule 32, legal holidays.

For the purpose of Rule 31 (§ 19.131), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—January 20 of every fourth year or, if the 20th falls on a Sunday, the next succeeding day selected for public observance of the inauguration; Martin Luther King, Jr.'s Birthday—third Monday in January; Washington's Birthday—third Monday in February; Memorial Day—last Monday in May; Independence Day—July 4; Labor Day—first Monday in September; Columbus Day—second Monday in October; Veterans' Day—November 11; Thanksgiving Day—fourth Thursday in November; and Christmas Day—December 25. (5 U.S.C. 6103)

[FR Doc. 85–29357 Filed 12–10–85; 8:45 am]

BILLING CODE 8320–01–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Educational Assistance Test Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations, issued jointly by the VA (Veterans Administration) and the Department of Defense are designed to implement those provisions of the Department of Defense Authorization Act, 1981, which were codified as chapter 107, title 10, United States Code. These provisions established an Educational Assistance Test Program which is available to some individuals who enlisted or reenlisted in the Army, Navy, Air Force and Marine Corps after September 30, 1980 and before October 1, 1981. These regulations will implement this program.

DATES: Comments must be received on or before January 10, 1986. It is proposed that, in accordance with Pub. L. 96–342, these regulations be made effective September 8, 1980.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 27, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration,

Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: The proposed regulations show how the VA will administer the portion of the Educational Assistance Test Program dealing with the payment of educational assistance and subsistence allowance.

This program will be administered differently from programs administered by the VA under title 38 U.S.C. For example, the law does not provide for absence accounting, reporting fees, work study, tutorial assistance, or counseling for veterans. Also, there are no advance payments, payments for intervals between terms, 85–15% veteran-nonveteran ratio requirements, nor employment survey requirements. State approving agencies will not be involved in approving courses for the training of veterans.

Students will be allowed an unlimited number of changes of program of education. The law will not permit the VA to monitor a student's progress or conduct to see if they are satisfactory. Students will not have to report mitigating circumstances to justify withdrawals. No apportionments of benefits are permitted.

Some of the types of courses, e.g. bartending courses, which are not permitted under VEAP (Post-Vietnam Era Veterans' Educational Assistance Program), are permitted under the Educational Assistance Test Program. Branches and extensions do not have to have their own reporting capability.

The VA and the Department of Defense find that good cause exists for making these regulations, like the sections of the law they implement, retroactively effective on September 8, 1980. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

The VA and Department of Defense have determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no 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.

The information collection requirements contained in §§ 21.5810 and 21.5812 of these proposed regulations have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on the information collection requirements should be submitted to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Veterans Administration, 726 Jackson Place, NW, Washington, DC 20503 (202) 395–7316.

This is program for which there is no Catalog of Federal Domestic Assistance number.

The Administrator of Veterans Affairs and the Secretary of Defense have certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA, 5 U.S.C. 601–612). The regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that the proposed regulations contain few of the administrative requirements which the VA now requires of schools under other educational programs which the VA administers. Furthermore, since only 7,000 people qualified for this program, their total impact upon schools, both large and small, will be minimal.

This is a new program for which there is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education and vocational rehabilitation.

Approved: August 6, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Approved: September 9, 1985.

General E.A. Chavarrie,

Deputy Assistant Secretary of Defense.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by adding a new Subpart H containing §§ 21.5701 through 21.5901, intermittently, to read as follows:

Subpart H—Educational Assistance Test Program

Sec.

Authority: 10 U.S.C. ch. 107; Pub. L. 96–342.

Subpart H—Educational Assistance Test Program

§ 21.5701 Establishment of educational assistance test program.

(a) *Establishment.* The Departments of Army, Navy and Air Force have established an educational assistance test program.

(10 U.S.C. 2141(a); Pub. L. 96–342)

(b) *Purpose.* The purpose of this program is to encourage enlistments and reenlistments for service on active duty in the Armed Forces of the United States

during the period from October 1, 1980 through September 30, 1981.

(10 U.S.C. 2141(a); Pub. L. 96-342)

(c) *Funding.* The Department of Defense is bearing the costs of this program. Participants in the program do not bear any of the costs.

(10 U.S.C. 2141(a); Pub. L. 96-342)

§ 21.5703 Overview.

This program provides subsistence allowance and educational assistance to selected veterans and servicemembers and, in some cases, to dependents of these veterans and servicemembers.

(10 U.S.C. 2141(b); Pub. L. 96-342)

§ 21.5705 Transfer of authority.

The Secretary of Defense delegates the authority to administer the benefit payment portion of this program to the Administrator of Veterans' Affairs and his or her designees. See § 21.5901.

(10 U.S.C. 2141(b); Pub. L. 96-342)

General

§ 21.5720 Definitions.

For the purpose of regulations in the § 21.5700, § 21.5800 and § 21.5900 series and payment of benefits under the educational assistance and subsistence allowance program, the following definitions apply:

(a) *Veteran.* This term means a person who—

(1) Is not on active duty,

(2) Served as a member of the Air Force, Army, Navy or Marine Corps,

(3) Enlisted or reenlisted after November 30, 1980, and before October 1, 1981, specifically for benefits under the provisions of 10 U.S.C. 2141 through 2149; Pub. L. 96-342; and

(4) Meets the eligibility requirements for the program as stated in § 21.5740.

(10 U.S.C. 2141; Pub. L. 96-342)

(b) *Accredited institution.* This term means a civilian college or university or a trade, technical or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin Islands) that—

(1) Provides education on a postsecondary level (including accredited programs conducted at overseas locations, and

(2) Is accredited by—

(i) A nationally recognized accrediting agency or association, or

(ii) An accrediting agency or association recognized by the Secretary of Education.

(10 U.S.C. 2143(c); Pub. L. 96-342)

(c) *Dependent child.* This means an unmarried legitimate child (including an adopted child or a stepchild) who either—

(1) Has not passed his or her 21st birthday; or

(2) Is incapable of self-support because of a mental or physical incapacity that existed before his or her 21st birthday and is, or was at the time of the veteran's or servicemember's death, in fact, dependent on him or her for over one-half of his or her support; or

(3) Has not passed his or her 23rd birthday; is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be; and is, or was at the time of the veteran's or servicemember's death, in fact, dependent upon him or her for over one half of his or her support.

(10 U.S.C. 1072(E)(2), 2147(d)(1))

(d) *Surviving spouse.* This term means a widow or widower who is nor reemarried.

(10 U.S.C. 2147(d)(2), Pub. L. 96-342).

(e) *Servicemember.* This term means anyone who—

(1) Meets the eligibility requirements for the program, and

(2) Is on active duty in the Air Force, Army, Navy or Marine Corps.

(10 U.S.C. 2142;, Pub. L. 96-342).

(f) *Spouse.* This term means a person of the opposite sex who is the husband or wife of the veteran or servicemember.

(10 U.S.C. 2147; Pub. L. 96-342).

(g) *Divisions of the school year.* (1) "Standard academic year" is a period of 2 standard semesters or 3 standard quarters. It is 9 months long.

(2) "Standard quarter" is a division of the standard academic year. It is from 10 to 13 weeks long.

(3) "Standard semester" is a division of the standard academic year. It is 15 to 19 weeks long.

(4) "Term" is either

(i) Any regularly established division of the standard academic year, or

(ii) The period of instruction which takes place between standard academic years.

(10 U.S.C. 2142; Pub. L. 96-342).

(h) *Full-time training.* This term means training at the rate of 12 or more semester hours per semester, or the equivalent.

(10 U.S.C. 2144; Pub. L. 96-342).

(i) *Part-time training.* This term means training at the rate of less than 12 semester hours per semester or the equivalent.

(10 U.S.C. 2144; Pub. L. 96-342).

(j) *Enrollment period.* This term means an interval of time during which an eligible individual—

(1) Is enrolled in an accredited educational institution; and

(2) Is pursuing his or her program of education.

(10 U.S.C. 2142; Pub. L. 96-342).

§ 21.5725 Obtaining benefits.

(a) *Actions required of the individual.* In order to obtain benefits under the educational assistance and subsistence allowance program, and individual must—

(1) File a claim for benefits with the VA, and

(2) Ensure that the accredited institution certifies his or her enrollment to the VA.

(10 U.S.C. 2149; Pub. L. 96-342).

(b) *VA Action upon receipt of a claim.* Upon receipt of a claim from an individual the VA shall—

(1) Determine if the individual, or the veteran upon whose service the claim is based, has or had basic eligibility;

(2) Determine that the eligibility period has not expired;

(3) Determine that the individual has remaining entitlement;

(4) Verify that the individual is attending an accredited institution;

(5) Determine whether payments may be made for the course, and

(6) Make appropriate payments of educational assistance and subsistence allowance.

(10 U.S.C. 214-2149; Pub. L. 96-342).

Claims and Applications

§ 21.5730 Applications, claims and informal claims.

(a) *Applications.* An individual shall file all claims for benefits with the VA. The claim must be in the form prescribed by the Administrator.

(10 U.S.C. 2149; Pub. L. 96-342)

(b) *Informal claim.* The VA may consider any communication from an individual, an authorized representative or a member of Congress indicating an intent to apply for educational assistance or subsistence allowance to be an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, the VA will provide an application form to the claimant. If the VA receives the application from the claimant within one year from the date the VA provided it, the VA will consider the claim to have been filed as of the date the VA received the informal claim.

(10 U.S.C. 2141; Pub. L. 96-342)

(c) *Enrollment is not an informal claim.* The mere act of enrollment in an accredited institution does not constitute an informal claim to the VA.

(10 U.S.C. 2141; Pub. L. 96-342)

§ 21.5732 Time limits.

(a) *Completion of claim.* The VA will consider a claim to be abandoned when the VA requests evidence in connection with the claim, and the claimant does not furnish the evidence within one year after the date of the request. After the expiration of one year, the VA will not take further action unless a new claim is received.

(10 U.S.C. 2141; Pub. L. 96-342)

(b) *New claim.* When a claim has been abandoned, the VA will consider any subsequent communication which meets at least the requirements of an informal claim to be a new claim. The VA will consider the date of receipt of the subsequent communication to be the date of the new claim.

(10 U.S.C. 2141; Pub. L. 96-342)

(c) *Failure to furnish form or notice of time limit.* The time limits stated in this section will not be extended even if the VA fails to furnish—

(1) Any form or information concerning the right to file a claim, or

(2) Notice of the time limit for filing a claim, or

(3) Notice of the time limit for the completion of any other required action.

(10 U.S.C. 2141; Pub. L. 96-342)

Eligibility and Entitlement

§ 21.5740 Eligibility.

(a) *Establishing eligibility.* To establish eligibility to educational assistance under 10 U.S.C. ch. 107 an individual must—

(1) Enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force or Marine Corps after September 30, 1980 and before October 1, 1981 specifically for benefits under the provisions of 10 U.S.C. 2141 through 2149, Pub. L. 96-342,

(2) Have graduated from a secondary school,

(3) Meet other requirements as the Secretary of Defense may consider appropriate for the purpose of this chapter and the needs of the Armed Forces,

(4) Meet the service requirements stated in paragraph (b) of this section, and

(5) If a veteran, have been discharged under honorable conditions.

(10 U.S.C. 2142(b), 38 U.S.C. 3103A; Pub. L. 96-342; Pub. L. 97-306)

(b) *Service requirements.* (1) The individual must complete 24 continuous months of active duty of the enlistment or reenlistment described in paragraph (a)(1) of this section; or

(2) If the enlistment described in paragraph (a) of this section is the individual's initial enlistment for service on active duty, the individual must—

(i) Complete 24 continuous months of active duty, or

(ii) Be discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(iii) Be found by the VA to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in § 3.4(b) of this title. Once the VA makes this finding, the individual's eligibility will continue notwithstanding that the disability becomes noncompensable.

(2) In computing time served for the purpose of this paragraph, the VA will exclude any period during which the individual is not entitled to credit for service as specified in § 3.15 of this title. However, those periods will not interrupt the individual's continuity of service.

(10 U.S.C. 2142; 38 U.S.C. 3103A; Pub. L. 97-306)

§ 21.5741 Eligibility under more than one program.

(a) *Veterans and servicemembers.* A veteran or servicemember who is eligible for educational assistance under either 38 U.S.C. ch. 31 or 34, or subsistence allowance under 38 U.S.C. ch. 31 may also be eligible for the Educational Assistance Test Program. (See § 21.5824 for restrictions on duplication of benefits.)

(10 U.S.C. 2142; Pub. L. 96-342)

(b) *Spouse, surviving spouse or dependent child.* A spouse, surviving spouse or dependent child who is eligible to receive educational assistance under 38 U.S.C. chs. 31, 32, 34 and 35 may also be eligible for the Educational Assistance Test Program. (See § 21.5824 for restrictions on duplication of benefits.)

(10 U.S.C. 2142; Pub. L. 96-342)

(c) *Limitation on benefits.* (1) Before March 2, 1984 the 48-month limitation on benefits under two or more programs found in 38 U.S.C. 1795 does not apply to the Educational Assistance Test Program when taken in combination with any program authorized under title 38, U.S.C.

(2) After March 1, 1984 the aggregate period for which any person may receive assistance under the Educational Assistance Test Program and the provisions of any of the laws listed below may not exceed 48 months (or the part-time equivalent thereof):

(i) Parts VII or VIII, Veterans Regulations numbered 1(a) as amended,

(ii) Title II of the Veterans' Readjustment Assistance Act of 1952,

(iii) The War Orphans' Educational Assistance Act of 1956,

(iv) Chapters 32, 34, 35 and 36 of title 38 U.S.C., and the former chapter 33,

(v) Section 903 of the Department of Defense Authorization Act, 1981, (Pub. L. 96-342, 10 U.S.C. 2141 note),

(vi) The Hostage Relief Act of 1980.

(3) After October 19, 1984 the aggregate period for which any person may receive assistance under the Educational Assistance Test Program and any of the laws listed in paragraph (c)(2) of this section, may not exceed 48 months (or the part-time equivalent thereof):

(i) Chapter 30 of title 38, U.S.C., and

(ii) Chapter 106 of title 10, U.S.C.

(38 U.S.C. 1795; Pub. L. 98-525)

§ 21.5742 Entitlement.

(a) *Educational assistance.* A veteran or servicemember shall be entitled to one standard academic year (or the equivalent) of educational assistance for each year of service following the first enlistment beginning after November 30, 1980 (up to a maximum of four years). If the veteran or servicemember completes two years of active duty in the term of enlistment, but fails to complete the enlistment or fails to complete four years of active duty in an enlistment of more than four years, his or her entitlement to educational assistance shall be calculated as follows:

(1) The VA shall determine the number of years, months and days in the veteran's qualifying period of service by subtracting the entry on duty date from the release from active duty date. Any deductible time under § 3.15 of this chapter (during the period of service on which is based) will be excluded from the calculation.

(2) The VA shall convert the number of years determined in paragraph (c)(1) of this section to months by multiplying them by 12.

(3) The VA shall convert the number of days determined in paragraph (a)(1) to 0 months if there are 14 days or less, and to 1 month if there are more than 14 days.

(4) The VA shall determine the number of total months by adding the number of months determined in paragraph (a)(1) of this section (exclusive of years and days) to the number of months determined in paragraph (a)(2), and the number of months in paragraph (a)(3).

(5) The VA shall multiply the number of months in paragraph (a)(4) of this section by .75.

(10 U.S.C. 2142(a)(2); Pub. L. 96-342)

(b) *Subsistence allowance.* A veteran or servicemember shall be entitled to nine months of subsistence allowance for each standard academic year of entitlement to educational assistance. For each period of entitlement to educational assistance which is shorter than a standard academic year, a veteran or servicemember will be entitled to one month of subsistence allowance for each month of entitlement to educational assistance. This entitlement shall not exceed nine months.

(10 U.S.C. 2144; Pub. L. 96-342)

§ 21.5743 Transfer of entitlement.

(a) *Entitlement may be transferred after reenlistment.* (1) A veteran or servicemember may transfer all or part of his or her entitlement to educational assistance and subsistence allowance to a spouse or dependent child. He or she may not transfer entitlement to more than one person at a time. No transfer may be made until the veteran or servicemember—

(i) Has completed the enlistment upon which his or her entitlement is based or has been discharged for reasons described in § 21.5740(b)(2), and

(ii) Has therefore reenlisted.

(2) The servicemember or veteran may revoke the transfer at any time.

(3) If a veteran attempts to transfer entitlement after 10 years have elapsed from the date he or she has retired, has been discharged or has otherwise been separated from active duty, the transfer shall be null and avoid.

(10 U.S.C. 2147(a), 2148; Pub. L. 96-342)

(b) *Transfer of entitlement upon death of veteran or servicemember.* (1) A veteran's or servicemember's entitlement to educational assistance and subsistence allowance shall be transferred automatically subject to provisions of paragraph (b)(2) of this section, provided he or she—

(i) Completed the enlistment upon which the entitlement is based;

(ii) Thereafter reenlisted;

(iii) Never elected not to transfer entitlement; and

(iv) Dies while on active duty or within 10 years from the date he or she retired, was discharged, or was otherwise separated from active duty.

(2) The veteran's or servicemember's entitlement will be transferred to—

(i) The veteran's or servicemember's surviving spouse, or

(ii) If the veteran or servicemember has no surviving spouse, the veteran's or servicemember's dependent children.

(3) A surviving spouse who receives entitlement under paragraph (b)(2) of this section may elect to transfer that entitlement to the veteran's or servicemember's dependent children.

(4) If a servicemember transfers entitlement and then dies, and the effective date of the transfer is more than 10 years from the date of his or her death, the transfer shall be void. The entitlement will be transferred automatically as provided in paragraph (b)(2) of this section.

(10 U.S.C. 2147(a); Pub. L. 96-342)

(c) *Effect of transfer upon educational assistance and subsistence allowance: veteran or servicemember living.* (1) A person to whom a veteran or servicemember transfers entitlement is entitled to educational assistance and subsistence allowance in the same manner and at the same rate as the person from whom entitlement was transferred.

(2) The total entitlement transferred to the veteran's or servicemember's spouse and children shall not exceed the veteran's or servicemember's remaining entitlement. The veteran or servicemember may transfer entitlement to only one person at a time.

(10 U.S.C. 2147; Pub. L. 96-342)

(d) *Effect of transfer upon educational assistance and subsistence allowance: veteran or servicemember deceased.* (1) A person to whom entitlement is transferred after the death of a veteran or servicemember is entitled to payment of educational assistance and subsistence allowance in the manner as the veteran or servicemember. The rate to educational assistance and subsistence allowance will be as stated in §§ 21.5820 and 21.5822.

(2) If entitlement is transferred to more than one person following the death of a veteran or servicemember, the total remaining entitlement to educational assistance and subsistence allowance of all is equal to the total entitlement of the person on whose service entitlement is based.

(10 U.S.C. 2147; Pub. L. 96-342)

(e) *Revocation of a transfer of entitlement.* A surviving spouse who has transferred entitlement to a dependent child may revoke the transfer by notifying the VA in writing. A veteran or servicemember who has transferred entitlement may revoke that transfer by notifying the VA in writing. The veteran, servicemember or surviving spouse may choose the effective date of the revocation subject to the following conditions.

(1) If the person to whom entitlement is transferred never enters training, the effective date of the revocation may be any date chosen by the veteran, servicemember or surviving spouse who transferred the entitlement.

(2) If the person to whom entitlement is transferred is not in training on the date the VA processes the revocation, but he or she has trained before that date, the effective date of the revocation may be no earlier than the last date that person was in training for which educational assistance and subsistence allowance were payable.

(3) If the person to whom entitlement is transferred is in training (for which educational assistance and subsistence allowance are payable) on the date the VA processes revocation, the effective date of the revocation may be no earlier than—

(i) The last date of the term, quarter, or semester at the accredited institution where that person is enrolled, or

(ii) If the accredited institution is not organized on a term, quarter or semester basis, the last date of the course or the last date of the school year, whichever is earlier.

(10 U.S.C. 2147; Pub. L. 96-342)

§21. 5744 Charges against entitlement.

(a) *Charges against entitlement to educational assistance.* (1) Except as provided in paragraph (a) (2) of this section the VA will make a charge against an individual's entitlement to educational assistance of—

(i) One month for each month of a term, quarter of semester—

(A) For which the servicemember receives educational assistance, and

(B) During which the servicemember is a full-time student; and

(ii) One-half month for each month of a term, quarter or semester—

(A) For which the individual receives educational assistance, and

(B) During which the servicemember is a part-time student.

(2) The VA will prorate the entitlement charge if the individual—

(i) Is a student for part of a month, or

(ii) The individual is a full-time rate for part of a month and a part-time student for part of the same month.

(3) The charge against entitlement to educational assistance should always

equal the charge against for the entitlement to subsistence allowance for the same enrollment period.

(10 U.S.C. 2142; Pub. L. 96-342)

(b) *Charges against entitlement to subsistence allowance.*

(1) For each individual, except servicemembers, the VA will make a charge against an individual's entitlement to subsistence allowance of—

(i) One month for each month the individual is a full-time student receiving subsistence allowance; and

(ii) One-half for each month the individual is a part-time student receiving subsistence allowance.

(2) Even though a servicemember may not receive subsistence allowance, the VA will make a charge against a servicemember's entitlement to subsistence allowance of—

(i) One month for each month of a term, quarter or semester—

(A) For which the servicemember received educational assistance and

(B) During which the servicemember is a full-time student; and

(ii) One-half month for each month of a term, quarter or semester—

(A) For which the servicemember received educational assistance, and

(B) During which the individual is a part-time student.

(3) The VA will prorate the entitlement charge as stated in paras. (b)(1) or (2) of this section during any month for which a servicemember receives educational assistance or for which the individual receives subsistence allowance—

(i) For less than a full month, or

(ii) At the full-time rate for part of a month and at the part-time rate for part of the same month.

(10 U.S.C. 2142; Pub. L. 96-342)

§ 21.5745 Period of entitlement.

(a) *Veterans.* The period of entitlement of a veteran expires on the first day following ten years from the date the vetaran retires or is discharged or otherwise separated from active duty.

(10 U.S.C. 2148; Pub. L. 96-342)

(b) *Spouses, surviving spouses, and dependent children.* If the veteran's or servicemember's entitlememt is transferred, the period of entitlement of the spouse, surviving spouse, or dependent child expires 10 years from—

(1) The date the veteran retires, is discharged or otherwise separated from active duty, or

(2) If the servicemember dies on active duty, the date of the servicemember's death.

(10 U.S.C. 2148; Pub. L. 96-342)

Courses

§ 21.5800 Courses.

(a) *Courses permitted.* An individual may receive educational assistance and subsistence allowance only while receiving instruction in a postsecondary course offered at any institution in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin Islands) that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

(10 U.S.C. 2142; Pub. L. 96-342)

(b) *Courses precluded.* An individual shall receive either educational assistance nor subsistence allowance while pursuing any of the following courses:

(1) A course offered at the secondary level or below:

(2) A course offered by an institution located outside the United States (except in Guam, the Commonwealth of Puerto Rico and the U.S. Virgin Islands);

(3) A course offered by a nonaccredited institution; and

(4) Courses which do not require the student to receive instruction at the institution. These include—

(i) Correspondence courses,

(ii) Combination correspondence—residence courses, and

(iii) Courses offered through independent study.

(10 U.S.C. 2143; Pub. L. 96-342)

Certifications

§ 21.5810 Certifications of enrollment.

(a) *Enrollment certifications.* An individual who wishes to receive educational assistance and subsistence allowance shall ensure that the accredited institution he or she is attending certifies the individual's enrollment to the VA.

(10 U.S.C. 2141; Pub. L. 96-342)

(b) *Content of certification.* The certification should include—

(1) The number of credit hours or clock hours in which the individuals is enrolled;

(2) The amount of the cost of tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction which the individual will incur during the period of enrollment; and

(3) The beginning and ending dates of the period of enrollment.

(10 U.S.C. 2142; Pub. L. 96-342)

(c) *Length of certification.* A school should not certify more than one term, quarter or semester at a time.

(10 U.S.C. 2141; Pub. L. 96-342)

§ 21.5812 Reports of withdrawals, and terminations of attendance and changes in training time.

(a) Reports of withdrawals and terminations of attendance. (1) An individual shall report to the VA field station of jurisdiction whenever he or she withdraws from school or terminates his or her attendance. He or she shall report the last day of attendance. The individual may request that the school verify this information.

(2) The report shall include—

(i) The date of withdrawal or last date of attendance, as appropriate; and

(ii) The amount or educational expenses actually incurred by the individual during the period of enrollment before the date of withdrawal, or if the individual does not formally withdraw when he or she stops attending the amount of educational expenses actually incurred by the individual during the period of enrollment before the last date of attendance.

(10 U.S.C. 2141; Pub. L. 96-342)

(b) *Reports of changes in training.* (1) An individual shall report to the VA field station of jurisdiction each time the individual increases or decreases the number of credit hours or clock hours of training in which he or she is enrolled or otherwise laters the duration of the enrollment.

(2) The report shall include—

(i) The new number of credit hours or clock hours in which the individual is enrolled;

(ii) the amount of educational expenses enumerated in §21.5810(b)(2), which the individual will incur during the revised period of enrollment; and

(iii) The effective date of the change in the number of credit hours or clock hours, including any revision in the term of the enrollment.

(3) The individual or the VA may ask the school to verify the individual's reports of changes in training.

(10 U.S.C. 2141; Pub. L. 96-342)

§ 21.5816 False or fraudulent claims.

Each individual, or school officer or official shall be subject to civil penalties or criminal penalties, or both, under applicable Federal law for submitting a false or fraudulent report, revision to a report, or verification of accuracy of a report used to support an individual's claim, even though the report or

verification is provided gratuitously or voluntarily to the VA.

(31 U.S.C. 3729–3731, 18 U.S.C. 1001)

Payments—Educational Assistance and Subsistence Allowance

§ 21.5820 Educational assistance.

(a) *Educational assistance.* Educational assistance will be paid to cover the educational expenses incurred by an eligible servicemember, veteran, spouse, surviving spouse or dependent child while attending an accredited institution. Educational assistance payments will be made to the eligible individual.

(1) The educational expenses are limited to—

(i) Tuition,

(ii) Fees,

(iii) Cost of books,

(iv) Laboratory fees, and

(v) Shop fees for consumable materials used as part of classroom or laboratory instruction.

(2) Educational expenses may not exceed those normally incurred by students at the same educational institution who are not eligible for benefits from the educational assistance test program.

(10 U.S.C. 2143(a); Pub. L. 96–342)

(b) *Amount of educational assistance.* The amount of educational assistance may not exceed $1470 per standard academic year, adjusted annually by regulation.

(1) The amount of educational assistance payable to a servicemember, veteran, spouse or dependent child of a living servicemember or veteran for an enrollment period shall be the lesser of the following:

(i) The total charges for educational expenses the eligible individual incurs during the enrollment period, or

(ii) An amount determined by—

(A) Multiplying the number of whole months in the enrollment period by $163.33 for a full-time student or by $18.67 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $5.44 for a full-time student or by $2.72 for a part-time student; and

(C) Adding the two results. If the enrollment period is as long or longer than a standard academic year, this amount will be increased by $.03 for a full-time student and decreased by $.03 for a part-time student; and

(2) The amount of educational assistance payable to each surviving spouse or dependent child of a deceased servicemenber or veteran for an enrollment period shall be the lesser of the following:

(i) The total charges for educational expenses the eligible individual incurs during the enrollment period, or

(ii) An amount determined by—

(A) Multiplying the number of whole months in the enrollment period by $163.33 for a full-time student or by $81.67 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $5.44 for a full-time student or by $2.72 for a part-time student; and

(C) Adding the two results. If the enrollment period is as long or longer than a standard academic year, this amount will be increased by $.03 for a full-time student and decreased by $0.3 for a part-time student; and

(D) Dividing the amount determined in paragraph (b)(2)(ii)(C) of this section by the number of the deceased veteran's dependents receiving educational assistance for that enrollment period. If one or more dependents is receiving educational assistance for part of the enrollment period, the amount calculated in paragraph (b)(2)(ii)(C) will be prorated on a daily basis. The amount for each day when more than one dependent is receiving educational assistance will be divided by the number of dependents receiving educational assistance on that day. The total amount for the days when only one dependent is receiving educational assistance will not be divided.

(10 U.S.C. 2143; Pub. L. 96–342)

(c) *Time of educational assistance payments.* The VA shall make payments of educational assistance at the end of the first month of each semester, quarter or term in which the individual is entitled to such a payment, provided the VA receives a timely enrollment certification. If the VA receives the enrollment certification so late that payment cannot be made at the end of the month in which the individual is enrolled, the VA shall make payment as soon as practicable.

(10 U.S.C. 2143; Pub. L. 96–342)

§ 21.5822 Subsistence allowance.

(a) *Subsistence allowance.* Except as provided in paragraph (a)(2) of this section, the VA will pay subsistence allowance to a veteran, spouse, surviving spouse or dependent child during any period for which he or she is entitled to educational assistance. No subsistence allowance is payable to

(1) A servicemember, even if he or she is entitled to educational assistance, or

(2) A spouse or dependent child of a servicemember, even if the spouse or dependent child is entitled to educational assistance.

(10 U.S.C. 2144(a); Pub. L. 96–342)

(b) *Amount of subsistence allowance.* (1) The following rules govern the amount of subsistence allowance payable to veterans and to spouses and dependent children of veterans who are alive during the period for which subsistence allowance is payable. As stated in paragraph (a) of this section, these amounts are payable only for periods during which the veterans, spouses or dependent children are entitled to education assistance.

(i) If a person is pursuing a course of instruction on a full-time basis, his or her subsistence allowance is $367 per month, adjusted annually by regulation.

(ii) If a person is pursuing a course of instruction on other than a full-time basis, his or her subsistence allowance is $183.50 per month.

(iii) If a person does not pursue a course of instruction for a complete month the VA will prorate the subsistence allowance for that month on the basis of 1/30th of the monthly rate for each day the person is pursuing the course.

(2) The following rules govern the amount of subsistence allowance payable to surviving spouses and dependent children of deceased veterans and servicemembers.

(i) The VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction full-time by dividing $367 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(ii) The VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction on other than a full-time basis by dividing $183.50 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(iii) The total amount of subsistence allowance payable to a person for a month is the sum of the person's daily rates for the month.

(10 U.S.C. 2144; Pub. L. 96–342)

(c) *Time of subsistence allowance payments.* The VA shall make payments of subsistence allowance on the first day of the month following the month for which subsistence allowance is due, provided that the VA receives a timely enrollment certification. If the VA receives the enrollment certification so late that payment cannot be made on the first day of the month following the month for which subsistence allowance is due, the VA shall make payment as soon as practicable.

(10 U.S.C. 2144; Pub. L. 96-342)

§ 21.5824 Nonduplication Federal programs.

(a) *Duplication of some benefits prohibited.* An individual who is receiving educational assistance under programs authorized by 38 U.S.C. chs. 30, 31, 32, 34, 35 or 36 may not receive concurrently either educational assistance or subsistence allowance under the § 21.5700, § 21.5800 and § 21.5900 series of regulations for the same program of education, may receive them sequentially.

(10 U.S.C. 2141; Pub. L. 96-342, 98-223)

(b) *Debts may result from duplication.* (1) If an individual receives benefits under 38 U.S.C. chs. 30, 31, 32, 34, 35 or 36 for training, and he or she has previously received educational assistance or subsistence allowance (or both) under § 21.5700, § 21.5800, § 21.5900 series of regulations the amount of the benefits received under 38 U.S.C. chs. 30, 31, 32, 34 or 35 shall not constitute a debt due the United States.

(2) If an individual receives benefits under 38 U.S.C. ch. 34, and had signed an agreement with the Department of Defense to waive those benefits in return for receiving benefits under the Educational Assistance Test Program:

(i) Any benefits already paid under the educational assistance test Program will constitute a debt due the United States, and

(ii) No further benefits under the educational assistance test program will be paid to the individual or the anyone to whom entitlement may be transferred.

(10 U.S.C. 2141; Pub. L. 96-342)

§ 21.5828 False or misleading statements.

(a) *False statements.* An individual who attempts to obtain educational assistance or subsistence allowance or both through submission of false or misleading statements is subject to civil penalties or criminal penalties or both under applicable Federal law.

(31 U.S.C. 3729-3731; 18 U.S.C. 1001)

(b) *Effect of false statements on subsequent payments.* A determination that false or misleading statements have been made will not constitute a bar to payments based on training to which the false or misleading statements do not apply.

(10 U.S.C. 2141, 2144; Pub. L. 96-342)

§ 21.5830 Payment of educational assistance.

(a) *Timing and release of payments.* The VA will pay educational assistance to the individual on the last day of the calendar month during which the individual enters or reenters training.

(10 U.S.C. 2143; Pub. L. 96-342)

(b) *Period covered by payments.* The payments cover those expenses, listed in § 21.5820(a) incurred for the period beginning on the commencing date of the individual's subsistence allowance and ending on the ending date of the individual's subsistence allowance. See § 21.5831.

(10 U.S.C. 2143; Pub. L. 96-342)

§ 21.5831 Commencing dates of subsistence allowance.

The commencing date of an award or increased award of subsistence allowance will be determined by this section.

(a) *Entrance or reentrance.* Latest of the following dates:

(1) Date certified by school or establishment under paragraph (b) or (c) (c) of this section.

(2) Date 1 year before the date of receipt of the application or enrollment certification.

(3) Date of reopened application under paragraph (d) of this section.

(4) In the case of a spouse, surviving spouse, or dependent child, the date that transfer of eligibility and entitlement to the individual was effective.

(10 U.S.C. 2144; Pub. L. 96-342)

(b) *Certification by the school-course leads to a standard college degree.* The date of registration or the date of reporting where the student is required by the school's published standard to report in advance of registration, but not later than the date the individual first reports for classes.

(10 U.S.C. 2144; Pub. L. 96-342)

(c) *Certification by school or establishment-course does not lead to a standard college degree.* First date of class attendance.

(10 U.S.C. 2144(a); Pub. L. 96-342)

(d) *Reopened application after abandonment.* Date of receipt in the VA of application or enrollment certification, whichever is later.

(10 U.S.C. 2144; Pub. L. 96-342)

(e) *Increase due to increased training time.* The date the school certifies the individual became a full-time student.

(10 U.S.C. 2144; Pub. L. 96-342)

(f) *Liberalizing laws and administrative issues.* In accordance with facts found, but not earlier than the effective date of the act or administrative issue.

(10 U.S.C. 2144; Pub. L. 96-342)

(g) *Correction of military records.* When a veteran becomes eligible following correction or modification of military records under 10 U.S.C. 1552 or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553; or other competent military authority, the commencing date of subsistence allowance will be in accordance with the facts found, but not earlier than the date the change, correction or modification was made by the service department.

(10 U.S.C. 2142; Pub. L. 96-342)

§ 21.5834 Discontinuance dates: general.

(a) *Educational assistance.* Although educational assistance is paid only once in a term, quarter, or semester, the VA may discontinue it under the circumstances stated § 21.5835. The descontinuance may cause an overpayment. (See also § 21.5838.) If the individual dies during an enrollment period, the provisions of § 21.5835(a) will apply, even if other types of discontinuances are involved. In all other cases where more than one type of reduction or discontinuance is involved, the earliest date found in § 21.5835 will control.

(10 U.S.C. 2143; Pub. L. 96-342)

(b) *Subsistence allowance.* The effective date of a reduction or discontinuance of subsistence allowance will be as specified in § 21.5835. If more than one type of discontinuance is involved, the earliest date will control.

(10 U.S.C. 2144; Pub. L. 96-342)

§ 21.5835 Specific discontinuance dates.

The following rules will govern reduction and discontinuance dates for educational assistance and subsistence allowance.

(a) *Death of individual.* If an individual dies—

(1) The VA will discontinue educational assistance effective the last day of the most recent term, quarter, semester or enrollment period for which the individual received educational assistance.

(2) The VA will discontinue subsistence allowance effective the individual's last date of attendance.

(10 U.S.C. 2143; Pub. L. 96-342)

(b) *Lump-sum payment.* When a servicemember accepts a lump-sum payment in lieu of educational assistance, the VA will discontinue educational assistance effective the date on which he or she elects to receive the lump-sum payment.

(10 U.S.C. 2146; Pub. L. 96-342)

(c) *Reduction due to decreased training time.* (1) If a decrease in an

individual's training time requires a decrease in educational assistance, the decrease is effective the end of the month in which the individual became a part-time student or the end of the term, whichever is earlier.

(2) When an individual decrease his or her training time from full-time to part-time, the VA will decrease his or her subsistence allowance effective the end of the month in which the individual became a part-time student, or to the end of the term, whichever is earlier.

(10 U.S.C. 2143, 2144; Pub. L. 96-342)

(d) *Course discontinued, interrupted, terminated or withdrawn from.* If an individual withdraws, discontinues, ceases to attend, interrupts or terminates all courses, the VA will discontinue educational assistance and subsistence allowance effective the last date of attendance.

(10 U.S.C. 2144 (d); Pub. L. 96-342)

(e) *False claim.* The VA will discontinue educational assistance and subsistence allowance effective the first day of the term for which the false claim is submitted.

(10 U.S.C. 2141; Pub. L. 96-342)

(f) *Withdrawal of accreditation.* If an accrediting agency withdraws accreditation from a course in which an individual is enrolled, the VA will discontinue educational assistance and subsistence allowance effective the end of the month in which the accrediting agency withdrew accreditation, or the end of the term whichever is earlier.

(10 U.S.C. 2143(c) 2144; Pub. L. 96-342)

(g) *Remarriage of surviving spouse.* The VA will discontinue educational assistance and subsistence allowance effective the last date of attendance before the date on which the surviving spouse remarries.

(10 U.S.C. 2147 (d); Pub. L. 96-342)

(h) *Divorce.* If entitlement has been transferred to the veteran's or sevvicemember's spouse, and the spouse is subsequently divorced from the veteran or servicemember, the spouse's award of educational assistance and subsistence allowance will end on the last date of attendance before the divorce decree becomes final.

(10 U.S.C. 2147(d); Pub. L. 96-342)

(i) *Revocation of transfer.* If a veteran or servicemember revokes a transfer of entitlement, the spouse's or dependent child's award of educational assistance will end on the effective date of the revocation. See § 21.5743(e).

(10 U.S.C. 2147; Pub. L. 96-342)

(j) *Depandent child ceases to be dependent: veteran or servicemember living.* If a veteran or servicemember is living and has transferred entitlement to his or her dependent child who is not incapable of self support due to physical or metal incapacity, the VA will discontinue the dependent child's award of educational assistance and subsistence allowance whenever the child does not meet the definition of a "dependent child" found in § 21.5720(c). The effective date of discontinuance is the earliest of the following:

(1) The child's 21st birthday, if on that date—

(i) The veteran or servicemember is not providing over one-half the child's support, or

(ii) The child is not enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(2) The date, following the child's 21st birthday, on which the veteran or servicemember stops providing over one-half the child's support;

(3) The date, following the child's 21st birthday, on which or she is no longer enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(4) The child's 23rd birthday;

(5) The date the child marries.

(10 U.S.C. 2147(d); Pub. L. 96-342)

(k) *Depandent child ceases to be dependent: veteran or servicemember deceased.* If a veteran or servicemember is deceased and his or her dependent child is not incapable of self support due to physical or mental incapacity, the VA will discontinue the dependent child's award of educational assistance whenevr the child does not meet the definition of a "dependent child" found in § 21.5720(c). The effective date of discontinuance is the earliest of the following:

(1) The day after the child's 21st birthday, if on that date the child is not enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(2) The date following the child's 21st birthday on which he or she is no longer enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(3) The child's 23rd birthday; or

(4) The date the child marries.

(10 U.S.C. 2147(d); Pub. L. 96-342)

§ 21.5838 Overpayments.

(a) *Educational assistance.* If an individual receives educational assistance but the educational assistance must be dicontinued according to § 21.5835, the amount of educational assistance attributable to the portion of the term, quarter or semester following the effective date of discontinuance shall constitute a debt due the United States.

(1) The amount of the debt is equal to the product of—

(i) The number of days the individual was entitled to receive subsistence allowance during the enrollment period for which educational assistance was paid, divided by the total number of days in that enrollment period, and

(ii) The amount of educational assistance provided for that enrollment period.

(2) Nothing in this method of calculation shall change the fact that the number of months of educational assistance to which the individual remains entitled shall always be the same as the number of months of subsistence allowance to which the individual is entitled.

(10 U.S.C. 2143 (d); Pub. L. 96-342)

(b) *Subsistence allowance.* If an individual receives subsistence allowance under any of the following conditions, the amount of that subsistence allowance shall constitute a debt due the United State unless the debt is waived as provided by §§ 1.955 through 1.970 of this chapter.

(1) Subsistence allowance received for courses pursued while on active duty;

(2) Subsistence allowance received for courses which are precluded under § 21.5800(b);

(3) Subsistence allowance received by a person who is not eligible for educational assistance under § 21.5740;

(4) Subsistence allowance received by an individual who has exhausted all entitlement provided under § 21.5742;

(5) Subsistence allowance received by an individual for a period before the commencing date determined by § 21.5831.

Measurement of Courses

§ 21.5870 Measurement of courses.

(a) *Credit hour measurement: undergraduate, standard term.* An individual who enrolls in a standard quarter or semester for 12 undergraduate credit hours is a full-time student. An individual who enrolls in a standard quarter or semester for less than 12 undergraduate credit hours is a part-time student.

(10 U.S.C. 2144(c); Pub. L. 96-342)

(b) *Credit hour measurement: Undergraduate, nonstandard term.* (1) If an individual enrolls in a nonstandard term, quarter or semester, and the school measures the course on a credit-hour basis, the VA will determine whether that individual is a full-time student by—

(i) Multiplying the credits earned in the term by 18 if credit is granted in semester hours, or by 12 if credit is granted in quarter hours, and

(ii) Dividing the product by the number of whole weeks in the terms.

(2) In determining whole weeks the VA will—

(i) Divide the number of days in the term by 7;

(ii) Disregard a remainder of 3 days or less, and

(iii) Consider 4 days or more to be a whole week.

(3) If the number obtained by using the formula in paragraph (b) (1) and (2) of this section is 12 or more, the individual is a full-time student. If that number is less than 12, the individual is a part-time student.

(10 U.S.C. 2144(c); Pub. L. 96-342)

(c) *Credit hour measurement: graduate.* (1) If it is the established policy of a school to consider less than 12 credit hours to be full-time for graduate students, the VA will accept the statement of a responsible school official as to whether the student is a full-time or part-time student. If the school does not have such a policy, the VA will meaure the student's enrollment according to the provisions of paragraphs (a) and (b) of this section.

(2) The VA will measure undergraduate courses required by the school according to the provisions of paragraphs (a) and (b) of this section, even though the individual is enrolled as a graduate student. If the individual is taking both graduate and undergraduate courses, the school will report the credit-hour equivalent of the graduate work. The VA will first measure the undergraduate courses according to the provisions of paragraphs (a) and (b) of this section and combine the result with the credit-hour equivalent of the graduate work in order to determine the extent of training.

(10 U.S.C. 2144(c); Pub. L. 96-342)

(d) *Clock hour measurement.* (1) If an individual enrolls in a course measured in clock hours and ship practice is an integral part of the course, he or she is a full-time student when enrolled in 22 clock hours or more per week with not more than a 2½ hour rest period allowance per week. For all other enrollments the individual is a part-time student. The VA will exclude supervised study in determining the number of clock hours in which the individual is enrolled.

(2) If an individual enrolls in a course measured in clock hours and theory and class instruction predominate in the course, he or she is a full-time student enrolled in 18 clock hours or more per week. He or she is a part-time student when enrolled in less than 18 clock hours per week. Customary intervals not to exceed 10 minutes between classes will be included in measuring net instruction. Shop practice, rest periods, and supervised study are excluded. Supervised instruction periods in schools' shops and the time involved in field trips and individual and group instruction may be included in computing the clock hour requirements.

(10 U.S.C. 2144(c); Pub. L. 96-342)

Administrative

§ 21.5900 Administration of benefits program—chapter 107, title 10, United States Code.

In administering benefits payable under chapter 107, title 10, United States Code, the VA will be bound by the provisions of the § 21.5700, § 21.5800 and § 21.5900 series of regulations.

(10 U.S.C. 2141; Pub. L. 96-342)

§ 21.5901 Delegation of authority.

(a) *General delegation of authority.* Except as othewise provided, authority is delegated to the Chief Benefits Director of the VA and to supervisory or adjudication personnel within the jurisdiction of the Education Service of the VA, designated by him or her to make findings and decisions under 10 U.S.C. ch. 107 and the application regulations, precedents and instructions concerning the program authorized by these regulations.

(10 U.S.C. 2141; Pub. L. 96-342)

(b) *Delegation of authority concerning the Civil Rights Act of 1964.* The Chief Benefits Director is delegated the responsibility to obtain evidence of voluntary compliance with title VI of the Civil Rights Act of 1964 from educational institutions and from recognized national organizations whose representatives are afforded space and office facilities under his or her jurisdication. See Part 18 of this title.

(42 U.S.C. 2000)

[FR Doc. 85-29358 Filed 12-10-85; 8:45 am]
BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Assuring Compliance With Civil Rights Laws

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulations set forth the responsibilities the State approving agencies have regarding implementation of the nation's equal opportunity laws. State approving agencies have been carrying out their responsibilities in regard to Title VI, Civil Rights Act of 1964 under contract with the VA (Veterans Administration). The VA intends to modify the contract to cover the other equal opportunity laws. This proposal will better inform the public of State approving agency actions with regard to civil rights.

DATES: Comments must be received on or before January 10, 1986.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comment received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until January 27, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389-2092.

SUPPLEMENTARY INFORMATION: 38 CFR 21.4258 is amended to state the State approving agencies' responsibility in assuring compliance with the nation's equal opportunity laws. State approving agencies may obtain assurances of compliance with those laws only from those organizations listed in the proposed regulation. The VA is proposing to cancel § 21.4303 which contains some of these responsibilities.

The VA has determined that these proposed regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no 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.

The Administrator of Veterans' Affairs has certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this proposal primarily affects State approving agencies. States do not come within the RFA definition of small entities (5 U.S.C. 601(5)). Although some schools are small entities, and all schools must comply with equal opportunity laws in order to receive Federal funds, this compliance is based upon statutes, not this proposal. The additional requirement that a school give written assurance of this compliance to obtain approval is an infrequent, simple administrative task which is not in itself economically significant.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 18, 1985.

By direction of the Administration.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR part 21, VOCATIONAL REHABILITATION AND EDUCATION, is amended to read as follows:

1. In § 21.4258, paragraph (d) is added to read as follows:

§ 21.4258 Notice of approval.

* * * * *

(d) *Compliance with equal opportunity laws.*

(1) The State approving agency shall solicit assurance of compliance with:

(i) Title VI, Civil Rights Act of 1964,

(ii) Title IX, Education Amendments of 1972, as amended,

(iii) Section 504, Rehabilitation Act of 1973,

(iv) The Age Discrimination Act of 1975, and

(v) All Veterans Administration regulations adopted to carry out these laws.

(2) The State approving agency shall solicit this assurance from:

(i) Proprietary vocational, trade, technical, or other institutions and such schools not a part of a public elementary or secondary school,

(ii) All other educational institutions which the Department of Education has not determined to be in compliance with the equal opportunity laws listed in paragraph (d)(1) of this section.

(3) Whenever a State approving agency forwards to the VA a Notice of Approval for a course offered by an institution described in paragraph (d)(2) of this section, it shall also forward the institution's signed statement of compliance with these equal opportunity laws.

(42 U.S.C. 2000 et seq., 20 U.S.C. 1681 et seq., 29 U.S.C. 794, 42 U.S.C. 6101 et seq.)

§ 21.4303 [Removed]

2. Part 21 is amended by removing § 21.4303.

[FR Doc. 85–29356 Filed 12–10–85; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 21

Veterans Education; Limit on Reimbursement of Wages Under the Emergency Veterans' Job Training Act

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: A few employers hae been circumventing the intent of EVJTA (Emergncy Veterans' Job Training Act) in order to receive more than 50% of the wages paid to veterans training under the Act. This proposal contains an additional limitation on the amount payable on behalf of a single veteran. The limitation will prevent this abuse.

DATES: Comments must be received on or before January 10, 1986.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until January 27, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: 38 CFR 21.4632 is amended to impose a limitation on the amount that may be paid to an employer on behalf of a veteran who is training under the Emergency Veterans' Job Training Act, Pub. L. 98–77.

This proposal also clarifies that any VA payment to an employer in excess of, or contrary to, payment limitations shall constitute an overpayment for which the employer will be liable.

The VA has determined that this proposal does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no 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.

The Administrator of Veterans' Affairs certifies that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Purusant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this clarification of VA regulations is required to make them consistent with, and to carry out the intent of the EVJTA.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.121.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

By direction of the Administrator.

Approved: November 7, 1985.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

1. Section 21.4632, is amended by adding paragraph (e)(3) to read as follows:

§ 21.4632 Payments.

* * * * *

(e) *Limitations on payments.* * * *

(3) If an employer reduces the wages paid to a trainee for a training period so that the trainee is paid at a rate which is less than the starting wage rate, the VA shall not pay the employer an amount in excess of 50 percent of the wages (exclusive of overtime and premium pay) paid to the trainee for the training period. (Sec. 8, Pub. L. 98–77)

2. In § 21.4634, paragraphs (d) and (e) are revised and new paragraph (f) is added to read as follows:

§ 21.4634 Overpayments.

* * * * *

(d) *Payment contrary to limitations.* Whenever the VA finds that payment has been made to an employer, on behalf of a veteran, in an amount which exceeds or is otherwise contrary to the limitations set forth in § 21.4632(e), such amount shall constitute an overpayment for which the employer shall be liable to the United States. (Sec. 8, Pub. L. 98–77; 97 Stat. 443)

(e) *Waivers of overpayments.* Any overpayment established under this section may be waived, entirely or partly, as provided by §§ 1.955 through 1.970 of this chapter. (Sec. 8, Pub. L. 98–77; 97 Stat. 443)

(f) *Recovery of overpayments.*

(1) Any overpayment referred to in paragraph (a), (b), (c), or (d) of this section may be recovered in the same manner as any other debt due the United States.

(2) If both the veteran and employer are found liable to the United States under paragraph (a), (b), (c) or (d) of this section for all or part of the overpayment, they shall be considered to be jointly and severally liable to the extent of their respective liabilities.

(Sec. 8, Pub. L. 98–77, 97 Stat. 443)

[FR Doc. 85–29355 Filed 12–10–85; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP–250071; FRL–2935–7]

Notification to Secretary of Agriculture of a Final Regulation on Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final regulation that exempts Federal and State agencies for use of pesticides under emergency conditions. This action is required by section 25(a)(2)(B) of the Federal Insectide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Franklin Gee, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1120B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the **Federal Register,** with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 15-day period.

As required by FIFRA section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

As required by FIFRA section 25(d), a copy of this final rule has also been forwarded to the Scientific Advisory Panel.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 25, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–29122 Filed 12–10–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300125; FRL–2936–1]

Revocation of Heptachlor Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document (1) proposes the revocation of the tolerances for residues of the insecticide heptachlor (1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-4, 7-methanoindene) and its oxidation product heptachlor epoxide (1,4,5,6,7,8,8-heptachloro-2,3-epoxy-2,3,3a,4,7,7a-hexahydro-4,7-methanoindene) in or on various raw agricultural commodities; (2) lists the action levels which EPA will recommend that the Food and Drug Administration (FDA) and the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA) establish to replace the tolerances once the rule revoking the tolerances is final; and (3) lists EPA's recommendation that FDA and FSIS retain or replace the various existing action levels for food and feed commodities for which no tolerances were established. This proposed regulatory action was initiated by the Environmental Protection Agency to remove tolerance regulations on the pesticide for which registered uses have been cancelled.

DATE: Written comments, identified by the document control number [OPP–300125], must be received on or before February 10, 1986.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, deliver comments to: Rm. 236 CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Fridcay, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: James Tompkins, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 716 CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a Notice, published in the **Federal Register** of November 26, 1974 (39 FR

41298), of Intent to Cancel registrations of pesticide products containing heptachlor. In addition, applications for federal registration of intrastate products containing heptachlor were subjected to the terms of a Notice of Intent to Deny Registration, published in the **Federal Register** of May 21, 1975 (40 FR 22587).

A Final Order issued by the Administrator and published in the **Federal Register** of March 24, 1978 (43 FR 12372), cancelled all the uses which were subject to the Notice of Intent to Cancel and the Notice of Intent to Deny Registration. The Order was effective on March 6, 1978, with the exception of certain registrations which were to be phased out over specified periods of time, ranging from December 31, 1979, to July 1, 1983. All food uses of heptachlor were cancelled except for uses on citrus, corn, small grains (wheat, oats, barley, rye), pineapples, and sorghum, all of which were phased out during the period of December 31, 1979, to July 1, 1983.

The tolerances established for the residues of heptachlor and its oxidation product heptachlor epoxide were not revoked concurrently with the cancellation of the pesticide registrations because of the pesticide's slow rate of degradation and its persistence in the environment. Also, FDA and FSIS had established action levels, based on EPA recommendations, to cover unavoidable residues of this pesticide occurring in food and feed commodities for which no tolerances had been established. These action levels are currently in effect.

To deal with the issue of persistent pesticide chemicals which have been cancelled, the EPA published a "Policy Statement on Revocation of Tolerances For Cancelled Pesticides" in the **Federal Register** of September 29, 1982 (47 FR 42956). This statement, which was a joint agreement among the EPA, FDA, FSIS and the Agricultural Marketing Service of USDA, sets forth the procedure for replacing formal tolerances for residues of persistent pesticides with action levels at the time the tolerances are revoked. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from past legal usage of the pesticides. The policy statement described the factors which EPA would consider when determining appropriate action levels to recommend to FDA or FSIS. These same factors also would be used to recommend that FDA and FSIS lower the action levels as subsequent surveillance data, reviewed periodically, indicated that the residue levels found in the environment has dissipated further.

Based on the above facts and the guidance provided in the policy statement, the Agency now proposes to revoke the existing tolerances for residues of heptachlor and heptachlor epoxide listed in 40 CFR 180.104 and the interim tolerances listed in 40 CFR 180.319 specifically for residues of heptachlor in or on various raw agricultural commodities.

The Agency has reviewed heptachlor residue monitoring data from FDA and FSIS resulting from their surveillance of domestic and imported food and feed commodities during the years 1979 to 1983. Based on its evaluation of these data, its estimate of the levels of heptachlor residues occurring in food from environmental sources, and the capability of FDA's and USDA's monitoring/enforcement analytical capabilities, the Agency will recommend that FDA and FSIS establish the following action levels for residues of heptachlor and heptachlor epoxide, expressed in parts per million (ppm), to replace the existing heptachlor tolerances when they are revoked. For consistency with existing FDA action levels, all recommended action levels will be for "the sum of residues of heptachlor and heptachlor epoxide."

TABLE 1—RECOMMENDED ACTION LEVELS

Commodities	Existing tolerances (ppm) Heptachlor	Recommended action levels (ppm) Heptachlor
Alfalfa	0	0.02
Apples	[1] 0 (0.02)	0.02
Barley	[1] 0 (0.02)	0.02
Beans, lima	[1] 0 (0.02)	0.02
Beans, snap	0.1	0.02
Beets	[1] 0 (0.02)	0.02
Beets, sugar	[1] 0 (0.02)	0.02
Blackeyed peas	[1] 0 (0.02)	0.02
Brussels sprouts	[1] 0 (0.02)	0.02
Cabbage	0.1	0.02
Carrots	[1] 0 (0.02)	0.02
Cauliflower	[1] 0 (0.02)	0.02
Cherries	[1] 0 (0.02)	[2] 0.02
Clover	0	0.02
Clover, sweet	0	0.02
Corn	[1] 0 (0.02)	0.02
Cottonseed	0	0.02
Cowpeas	[1] 0 (0.02)	0.02
Grapes	[1] 0 (0.02)	[2] 0.02
Grass (pasture)	0	0.02
Grass (range)	0	0.02
Kohlrabi	[1] 0 (0.02)	0.02
Lettuce	0.1	[4] 0.02
Meat	0	[5] 0.02 (fat basis)
Milk	[1] 0 (0.1)	0.1 (fat basis)
Oats	[1] 0 (0.02)	0.02
Onions	[1] 0 (0.02)	0.02
Peaches	[1] 0 (0.02)	[3] 0.02
Peanuts	[1] 0 (0.02)	0.02
Peas	[1] 0 (0.02)	0.02
Pineapple	[1] 0 (0.02)	0.02
Potatoes	[1] 0 (0.02)	0.02
Radishes	[1] 0 (0.02)	0.02
Rutabagas	0.1	0.02
Rye	[1] 0 (0.02)	0.02

TABLE 1—RECOMMENDED ACTION LEVELS—Continued

Commodities	Existing tolerances (ppm) Heptachlor	Recommended action levels (ppm) Heptachlor
Sorghum, grain (milo)	[1] 0 (0.02)	0.02
Sugarcane	0	0.02
Sweet potatoes	[1] 0 (0.02)	0.02
Tomatoes	[1] 0 (0.02)	0.02
Turnips (incl. tops)	[1] 0 (0.02)	0.02
Wheat	[1] 0 (0.02)	0.02

[1] Residues of heptachlor and/or heptachlor epoxide. Based on FDA's monitoring and enforcement analytical capabilities (0.02 ppm) and expected background levels; refer to FDA Compliance Policy Guide 7120.23, October 1, 1982.
[2] Stone fruits; see TABLE 3.
[3] Small fruits; see TABLE 3.
[4] Leafy vegetables; see TABLE 3.
[5] Fat of meat from cattle, goats, hogs, horses, sheep, poultry, and rabbits; see TABLE 3.

The Agency will recommend that FDA establish the following action levels for the sum of residues of heptachlor and heptachlor epoxide, expressed as ppm, to replace the existing interim tolerances for residues of heptachlor, listed in 40 CFR 180.319, when they are revoked.

TABLE 2—RECOMMENDED ACTION LEVELS (INTERIM TOLERANCES)

Commodities	Existing tolerances (ppm) Heptachlor	Recommended action levels (ppm) Heptachlor
Blackberries	0.01	[1] 0.02
Blueberries	0.01	[1] 0.02
Boysenberries	0.01	[1] 0.02
Dewberries	0.01	[1] 0.02
Peppers	0.1	0.02
Raspberries	0.01	[1] 0.02
Tomatoes	0.02	0.02

[1] Small fruits; see Table 3.

The multi-residue analytical methodology used by FDA in its enforcement programs, which are broad in scope and involve analyses for numberous pecticiles simultaneously, would not be appropriate for enforcement of a tolerance below 0.02 ppm for heptachlor. Therefore, so that tolerance enforcement can be maintain throughout a large sampling program, covering many foods, the heptachlor action levels can be no lower that 0.02 ppm.

On revocation of U.S. tolerances for persistent pesticides, the action levels recommended to replace them are estimated from U.S. monitoring data or in some cases are based on the limit of determination of the analytical procedure. The particular analytical procedure chosen for enforcement defines the limit of determination.

The multi-residue analytical methodologies used by FDA in its enforcement programs are broad in scope and involve analyses for

numerous pesticides simultaneously. These multi-residue methods may not always permit the determination of residues at the lowest level technically feasible if pesticides were analyzed individually. However, experience has shown the multi-residue methodologies to be the most cost-effective and practical way to protect the public health with generally a minimum sacrifice in analytical sensitivity. Action levels based on these limits of determination are also easier to confirm by other procedures as is frequently necessary in enforcement situations. It is for these reasons that "method sensitivity" action levels are generally based on multi-residue method sensitivity where possible. If public health concerns dictate, more sensitive and specific methodologies may be used for enforcement.

EPA will recommend action levels for blackberries, blueberries, boysenberries, dewberries, and raspberries which are higher than the existing interim tolerances for these commodities but consistent with the recommended action level for small fruits.

There are currently two existing tolerances for residues of heptachlor in tomatoes, a permanent tolerance of zero and an interim tolerance of 0.02 ppm. Because of the transitory nature of an interim tolerance, the permanent tolerance was not repealed when the interim tolerance was established at a higher level for the same commodity. The recommended action level for tomatoes is consistent with Codex Maximum Residue Limits.

EPA will recommend to FDA that it establish the following action levels for the sum of residues of heptachlor and heptachlor epoxide, expressed in ppm, to replace existing action levels for residues of heptachlor in these commodities. In addition, EPA will advise FSIS/USDA that it would be appropriate to utilize a residue level of 0.2 ppm in the fat of meat from cattle, goats, hogs, horses, sheep, poultry, and rabbits; this would be consistent with the Codex Residue Limit.

TABLE 3—ACTION LEVELS TO BE REPLACED

Commodities	Existing action levels (ppm) Heptachlor	Recommended action levels (ppm) Heptachlor
Artichokes	0.05	0.02
Asparagus	0.05	0.02
Beans, except snap beans	0.05	0.02
Citrus fruits	0.05	0.02
Cucumbers	0.05	0.02
Eggs	0.03	0.02
Eggplant	0.05	0.02

TABLE 3—ACTION LEVELS TO BE REPLACED—Continued

Commodities	Existing action levels (ppm) Heptachlor	Recommended action levels (ppm) Heptachlor
Fat of meat from cattle, goats, hogs, horses, sheep, poultry, and rabbits	0.3	0.02
Figs	0.05	0.02
Leafy vegetables (except brassica)	0.05	0.02
Melons	0.05	0.02
Okra	0.05	0.02
Pears	0.05	0.02
Pimentos	0.05	0.02
Pumpkins	0.05	0.02
Quinces	0.05	0.02
Rice, grain	0.03	0.02
Small fruits	0.05	0.02
Squash (summer or winter)	0.05	0.02
Stone fruits	0.05	0.02

EPA will recommend to FDA that it retain the existing action level for the sum of residues of heptachlor and heptachlor epoxide for the commodity listed below.

TABLE 4—ACTION LEVEL TO REMAIN IN EFFECT

Commodity	Existing and Recommended action levels (ppm) Heptachlor
Fish and shellfish	0.3

All recommended action levels will be lower than the Codex Maximum Residue Limit for the same commodity, except those recommended for citrus fruits and pineapples which are higher than the Codex level and for fat of meat from cattle, goats, hogs, horses, sheep, poultry and rabbits which is the same as the Codex level.

EPA is committed to harmonizing U.S. limits for pesticide residues with Codex where reasonable and practical. This commitment applies to the establishment of action levels when tolerances are revoked for persistent pesticides. However, of necessity, U.S. action levels are based, as appropriate, on U.S. monitoring or the limit of determination of U.S. enforcement analytical methodologies. Similar environmental contamination data or other relevant information for discontinued pesticides in other countries are generally unavailable or inadequate. Consequently, some of the action levels recommended by EPA may be lower than the corresponding Codex Extraneous Residue Limits.

Because of its commitment to Codex principles, the EPA has committed itself to providing **Federal Register** notices proposing action levels to Codex contact points to permit member countries an opportunity to comment on or document potential trade problems which could be created by the proposed action levels. On the basis of comments, data, health considerations, and other information received, the EPA will decide on an individual pesticide basis whether proposed action levels may be revised to accommodate the agricultural needs of other countries.

Any person who has registered or submitted an application under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the registration of a pesticide which contains heptachlor may request within 30 days after publication of this document in the **Federal Register** that this proposal to revoke the heptachlor tolerances in various raw agricultural commodities be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposal to revoke the tolerance for residues of heptachlor and heptachlor epoxide listed in 40 CFR 180.104 and 180.319. Comments must bear a notation indicating the document control number, [OPP–300125]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of the tolerances for heptachlor should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises may

have gained through the continuance of these tolerances.

This proposed regulatory action has been submitted to the office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this regulatory action is intended to prevent the sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impact would occur at any level of business enterprises.

Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 2, 1985.

J. A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Sections 180.104 and 180.319 are amended as follows:

§ 180.104 [Removed]

a. By removing § 180.104.

b. By amending § 180.319 by removing the entries under "Heptachlor" to read as follows:

§ 180.319 Interim tolerances.

* * * * *

Substances	Use	Tolerance in parts per million	Raw agricultural commodities
*	*	*	*
Heptachlor [Removed].	[Removed]	[Removed]	[Removed]
*	*	*	*

[FR Doc. 85-29116 Filed 12-10-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status With Critical Habitat for Glaucocarpum Suffrutescens (Toad-flax Cress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. The Service held such a public hearing in Vernal, Utah, on the proposed determination of endangered status with designation of critical habitat for *Glaucocarpum suffrutescens* (toad-flax cress), and the comment period on the proposal was extended. As a consequence of that public hearing, a request was made from an agent of the private landowner, whose real property had been proposed as a portion of the critical habitat, for additional time to comment on the proposed determination of endangered status with the designation of critical habitat for *Glaucocarpum suffrutescens* (toad-flax cress).

DATES: Comments on the proposal must be received by December 31, 1985.

ADDRESS: Written comments and materials should be sent to the Field Supervisor, Endangered Species Office, U.S. Fish and Wildlife Service, Room 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104-5110. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John L. England, Staff Botanist, Endangered Species Office, U.S. Fish and Wildlife Service, Room 2078, Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104-5110 (801/524-4430; FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

Glaucocarpum suffrutescens (toad-flax cress) is an herbaceous perennial plant, commonly 8 to 12 inches tall with a deep woody root that forms an above-ground clump of several slender simple stems with an elongated loose inflorescence of yellow flowers. *Glaucocarpum suffrutescens* is in the mustard family and is the only member of its genus. The species is one of several endemics limited to the Green River Formation in the Uinta Basin of eastern Utah. It survives mostly on one calcareous shale stratum, marked by a highly erosion-resistant layer of water deposited volcanic tuft. The species has experienced a significant population and range reduction since its discovery 50 years ago and appears to be threatened with habitat destruction associated with the collection of building stone on the ground surface of its habitat. The species may be vulnerable to heavy grazing. The species has lost at least two stands to oil and gas exploration and development and is potentially threatened by continued oil and gas development and oil shale development. The Service proposed a determination of endangered status with designation of critical habitat for *Glaucocarpum suffrutescens* in the **Federal Register**, September 5, 1985 (50 FR 36118). The period for submission of public comments on the proposal was originally scheduled to end on November 4, 1985.

By October 21, 1985, the Service had received several letters requesting a hearing on the proposal to determine endangered status with critical habitat designation for *Glaucocarpum suffrutescens* (toad-flax cress). On November 4, 1985, the Service published a notice in the **Federal Register** extending the comment period and announcing a public hearing on the proposed rule. The Service held this hearing on November 21, 1985, in Vernal, Utah. The Service also extended the public comment period on the proposal to December 1, 1985. By December 1, 1985, the Service received a request from Mr. Tom Jepperson, an agent for the private landowners whose real property had been proposed as critical habitat, to extend the comment period on the proposed rule to allow them, and others, adequate time to formulate recommendations to the Service concerning the proposed rule to list *Glaucocarpum suffrutescens* as an endangered species and designate its critical habitat under the Endangered Species Act of 1973, as amended (see 50 FR 36118 and 50 FR 45846).

Author: The primary author of this notice is Mr. John L. England, Botanist, at the above address.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: December 6, 1985.

Frank Dunkle,

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

[FR Doc. 85-29443 Filed 12-9-85; 11:23 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 238
Wednesday, December 11, 1985

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

Forms Under Review by Office of Management and Budget

December 6, 1985.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250 (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn.: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promply, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• *Forest Service*

Free Use Permit—Timber
FS 2400–8
Recordkeeping; On occasion; Annually
Individuals or households; Federal agencies or employees; 210,000 responses; 42,000 hours; not applicable under 3504(h)
Steve Paulson, (202) 475–3755

• *Rural Electrification Admininstration*

Engineers' Monthly Report of Substation Progress
REA 457
Monthly
Small businesses or organizations; 500 responses; 500 hours; not applicable under 3504(h)
Archie W. Cain, (202) 382–9082

Jane A. Benoit,

Departmental Clearance Office.

[FR Doc. 85–29393 Filed 12–10–85; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Plate From Korea; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Antidumping Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act of 1930, of the antidumping duty order on carbon steel plate from the Republic of Korea. The review covers the period from October 1, 1984. ARMCO Inc., Bethlehem Steel Corp., LTV, National Steel Corp., and United States Steel Corp., all of which are domestic interested parties to this proceeding, have notified the Department that they are no longer interested in the antidumping duty order. These affirmative statements of no interest and a Voluntary Restraint Agreement that imposes restrictions on imports of carbon steel plate from Korea provide a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the interested parties' notifications, the revocation will apply to all carbon steel plate entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 1984, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order on carbon steel plate from the Republic of Korea (49 FR 33298).

ARMCO Inc., Bethlehem Steel Corp., LTV, National Steel Corp., and United States Steel Corp., domestic interested parties to this proceeding, have notified the Department that they are no longer interested in the order and stated their support of revocation of the order. Collectively, these companies constitute a substantial majority of the U.S. industry producing carbon steel plate. In their letters, these companies stated their opinion that the May 2, 1985, Voluntary Restraint Agreement with Korea, which imposes restrictions on imports of carbon steel plate from Korea, provides relief from unfairly traded imports of carbon steel plate from Korea that is at least equal to that which could be obtained through continuation of the antidumping duty order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping order that is no longer of interest to domestic interested parties.

Scope of the Review

The merchandise covered by this review is carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not

corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad, 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the Tariff Schedules of the United States Annotated. Semi-finished products of solid rectangular cross-sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the antidumping duty order on carbon steel plate from Korea and a Voluntary Restraint Agreement that imposes restrictions on imports of carbon steel plate from Korea provide a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of carbon steel plate from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: December 4, 1985.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-29338 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-503]

64K Dynamic Random Access Memory Components (64K DRAMs) From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of 64K DRAMs from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by February 17, 1986.

EFFECTIVE DATE: December 11, 1985.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Paul Tambakis, or Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3965, 377,4136, or 377-3963.

Preliminary Determination

We have preliminarily determined that 64K DRAMs from Japan are being, or likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(b)) the (the Act). Except in the instances where we used the best information available, we made fair value comparisons on all sales of the class or kind of merchandise to the United States by the respondents during the period of investigation. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On June 24, 1985, we received a petition from Micron Technology, Inc., on behalf of the domestic merchant manufacturers of 64K DRAMs. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a United States industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on July 15, 1985 (50 FR 29458). On August 8, 1985, the ITC determined that there is reasonable indication that imports of 64K DRAMs from Japan are materially injuring, or are threatening material injury to, a U.S. industry (50 FR 32778).

On August 19, we presented antidumping duty questionnaires to NEC Corporation (NEC), Hitachi Ltd. (Hitachi), Oki Electric Industry Co., Ltd. (Oki), and Mitsubishi Electric Corporation (Mitsubishi). Respondents were requested to answer the questionnaire in 30 days. However, at the requests of the companies and the Japanese Ministry of International Trade and Industry, we granted two extensions of time for response submissions for two weeks and one week respectively. We received incomplete responses from the companies on October 10-11, 1985. In letters dated November 6, 12, and 13 the Department requested supplemental information from each of the respondents. Additional information was submitted by the respondents on November 21, 1985.

Products Under Investigation

The products covered by this investigation are all 64K dynamic random access memory components of the N-channel metal oxide semiconductor type (64K DRAMs) from

Japan. This merchandise is currently provided for in item 687.7441 of the

Tariff Schedules of the United States, Annotated

We investigated sales of 64K DRAMs during the period January 1 through June 30, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value for NEC, Hitachi and Oki using data provided in their responses, as explained in the "Foreign Market Value" section of this notice, except where otherwise noted. For purposes of this preliminary determination, we used the U.S. and home market sale dates provided in the responses. We will continue to evaluate whether these are the appropriate dates at verification and for the final determination.

For Mitsubishi, we made our fair value comparison using the best information available for both United States price and foreign market value. With respect to United States price, Mitsubishi did not provide usable U.S. sales information on computer tape. Because the computer tape submitted by Mitsubishi was incorrectly formated and omitted charges and adjustments, we have been unable to fully analyze the U.S. sales data pertaining to that company.

Similarly, with respect to foreign market value, Mitsubishi did not provide usable home market sales and home market cost information. Home market sales deficiencies included incorrectly formated computer tapes and sales listings, with charges and adjustments omitted. Also, Mitsubishi's response did not contain cost adjustments for similar merchandise. Additionally, we were unable to use Mitsubishi's home market cost of production response because this submission was not responsive to the Department's questionnaire, did not contain complete financial data and did not contain adequate explanation for the data which were presented.

United States Price

As provided in section 772(b) of the Act, for Hitachi, we used the purchase price of the subject merchandise to represent United States price in those instances where the merchandise was sold to unrelated purchasers prior to its importation into the United States. For other Hitachi sales and sales of all other respondents, in accordance with section 772(c) of the Act, we used exporter's sales price (ESP) to represent United States price, as the merchandise was sold after the date of importation.

We calculated purchase price and ESP based on the packed, duty paid, C.I.F. prices to unrelated purchasers in the United States.

For purchase price, we made deductions for foreign inland freight and insurance, ocean or air freight, marine insurance, brokerage charges in Japan and the U.S., and U.S. duty. For ESP, where appropriate, we made deductions for brokerage charges in Japan and the U.S., foreign inland freight and insurance, ocean freight and insurance, U.S. duty, U.S. freight and insurance, unrelated U.S. commissions, U.S. selling expenses, credit expenses, warranties, technical services, advertising, discounts, and rebates in the U.S. market.

For Oki, for purposes of this preliminary determination, we calculated the U.S. selling expense and credit deductions using the best information available, since Oki did not supply complete information on its U.S. selling credit expenses. We based the required deduction for expenses generally incurred in selling the merchandise in the United States on the experience of other respondents. As Oki did not provide the number of days payment was outstanding for each U.S. sale or a usable U.S. interest rate, we used OKi's actual payment terms and the U.S. prime rate to represent the missing information.

With respect to Mitsubishi, for purposes of our preliminary determination, we have used the United States price information set forth in the petition as the best information available, in accordance with section 776(b) of the Act. The petitioner used the average price at which Japanese manufacturers were selling or offering to sell 64k DRAMs in the most widely used speed grades as United States price. It adjusted this price for shipping, insurance, packing, and distribution expenses.

Foreign Market Value

The petitioner alleged that sales in the home market by all the respondents were at prices below the cost of producing the merchandise.

In accordance with section 773(a) of the Act, for all companies except Mitsubishi, we calculated foreign market value based on home market prices where there were sufficient home market sales at or above the cost of production to determine foreign market value. We used constructed value as the basis for calculating foreign market value where there were no sales of such or similar merchandise in the home market or where there were not sufficient sales above the production, as defined in section 773(b) of the Act.

As Oki did not provide the number of days payment was outstanding for each home market sale, we calculated home market credit based on U.S. payment terms.

Where foreign market value was based on home market prices, we calculated a foreign market value for each product group for each month of the period of investigation, due to sharp declines in monthly prices. Where foreign market value was based on constructed value we used a quarterly constructed value for each product group. Since the production of 64K DRAMs was not in the developmental stage but rather in a mature stage of production, the Department used quarterly costs as a basis for the constructed value.

Cost of Production

The Department analyzed the as yet unverified cost submissions of the respondents to determine the sufficiency of such data for the purposes of calculating the cost of production for the preliminary determination. Where the Department determined that a submission was substantially complete and sufficient, it used the submission for the preliminary determination. Where the Department determined that a submission, as presented, was not complete and sufficient it used petitioner's data as the "best information available." In addition, adjustments to respondents' data were made when it appeared from the explanation provided in the response that certain costs necessary for the production of 64K DRAMS were not included or were not appropriately quantified or valued.

1. The following adjustments were made to the cost of production information presented in NEC's response:

For the cost of manufacturing:

(1) The cost for the assembly operation was revised because there was no clear explanation of such costs, information could not be reconciled to other supporting data included in the response and certain cost elements, e.g. factory overhead, did not appear to include all necessary expenses.

(2) The cost for product-specific research and development was included for the purposes of the preliminary determination because the cost of manufacturing presented in the response did not include product-specific research and development.

For the general expenses:

(1) General and administrative expenses were revised because the response did not explain or appear to include general expenses incurred by the headquarter's operation.

(2) Interest expenses were revised based on the interest expenses of the consolidated company because the expense in the response was based only on the interest expenses of the subsidiaries involved in the manufacturing.

(3) The amount of direct and indirect selling expenses were changed to reflect the charges which were enumerated as those related to the home market, in lieu of general expenses.

(4) General and product-line research and development expenses were included because these expenses had not been included as part of the general expenses in the response.

2. The following adjustments were made to the cost of production information presented in Oki's response:

For the cost of manufacturing:

(1) Depreciation was restated to reflect the depreciation expenses as recorded by Oki in the ordinary course of business. Adjustments made by Oki in the response to decrease such expenses, changing its normal accounting methods for depreciation and for under-utilization of production facilities, were not accepted.

(2) The cost for product-specific research and development was included for the preliminary determination because the cost of manufacturing presented in the response did not include the product-specific research and development.

For the general expenses:

(1) The amount which was included in the response for general research and development was revised because this amount, as presented in the response, was based upon sales revenue, not the cost of sales, and did not approximate the average amount reflected in the audited consolidated financial statements.

(2) Interest expense was included for the preliminary determination based on the interest expense of the consolidated company because no interest expense was included in the response.

(3) General, administrative and selling expenses were revised because the financial data in the response did not appear to include general and administrative expenses of the headquarters operations. They were allocated on a sales, as opposed to a cost of sales, basis and did not appear to include the indirect expense incurred for the home market but rather those expenses related to the international operations.

3. The following adjustments were made to the cost of production information presented in Hitachi's response:

For the cost of manufacturing:

(1) Depreciation expense was revised because such expense did not represent the depreciation of equipment specifically used in the production of 64K DRAMs, and was derived from an undefined pool of depreciation which was allocated on a basis which did not appropriately represent the production process of the 64K DRAMs.

(2) An amount for product-specific research and development was included because the "cost of manufacturing" presented in the response did not include product-specific research and development.

For the general expense:

(1) General research and development expenses were revised because the amount in the submission did not reconcile to that amount reflected in the company's annual report for the average research and development of the consolidated financial statements.

(2) Interest expenses was revised based on the interest expenses of the consolidated company.

(3) General, administrative and selling expenses were revised because the lack of explanation, detail and support in the response did not permit a conclusion that all the appropriate expenses had been included.

Price to Price Comparisons

For each company examined, we found sufficient sales above the cost of production for certain product groups to allow use of home market prices in accordance with section 773(a)(1)(A) of the Act to determine foreign market value. Where we used home market prices as the basis for foreign market value, we calculated the home market price on the basis of the F.O.B. price to unrelated purchasers. We made deductions, where appropriate, for foreign freight and insurance, discounts, and rebates in the home market. We made adjustments for differences in circumstances of sale for credit terms, technical services, and warranty, in accordance with section 353.15 of our regulations. We deducted home market packing costs and added U.S. packing costs. We offset commissions paid on U.S. sales with indirect selling expenses in the home market, in accordance with § 353.15(c) of our regulations, where appropriate.

When we compared ESP with foreign market value, we also used indirect selling expenses to offset United States selling expenses, in accordance with § 353.15(c) of our regulations.

Where our comparisons involved similar merchandise, we made adjustments for physical differences in the merchandise in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the cost of materials, direct labor, and directly related factory overhead.

Constructed Value

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value when there were not sufficient home market or third country sales above the cost of production of such or similar merchandise for the purpose of comparison. For constructed value, the Department used the materials, fabrication, general expenses, and profit based on the respondents submissions, revised, as detailed under the "Foreign Market Value-Cost of Production" section of this notice. The actual general expenses were used, since in all cases, such expenses exceeded the statutory minimum of 10 percent of materials and fabrication.

Where a respondent submitted the actual profit for products of the same general class of kind of merchandise, the Department used such amount since in all cases it exceeded that 8 percent statutory minimum for profit. When such information was not provided by the respondent, the Department used, as the best information available, the average profit from information submitted during this investigation, which also exceeded the statutory minimum. We made adjustments under section 353.15 of the regulations for differences in circumstances of sale between the two markets.

Where there were commissions in one market and not in the other, we offset the commissions with indirect selling expenses in the other market.

Best Information Available

Since we are unable to fully analyze the home market sales data and production costs pertaining to Mitsubishi, we used information from the petition for foreign market value information as the best information available, in accordance with section 776(b) of the Act. As petitioner alleged that home market sales of 64K DRAMs were made at prices below cost of production, it constructed a value for Japanese 64K DRAMs. Constructed value was based on both a 1982–83 Integrated Circuit Engineering Corporation (ICE) report, as adjusted to take into account progress in the industry, and petitioner's actual costs since the ICE report and a 1983 report by

the semiconductor industry concluded that Japanese costs of production do not vary significantly from those of U.S. manufacturers. Adjustments were made as necessary to account for general expenses, cost of capital, and the statutory minimum for profit.

Currency Conversion

In calculating foreign market value, we made currency conversions from Japanese yen to United States dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates for comparisons involving purchase price. For comparisons involving ESP, we used the official exchange rate for the date of purchase since the use of that exchange rate is consistent with section 615 of the Tariff and Trade Act of 1984 (1984 Act). We followed section 615 of the 1985 Act rather than § 353.56(a)(2) of our regulations because the later law supersedes that section of the regulations.

Verification

We will verify all the information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of the company.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of 64K DRAMs from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Margin percentage
NEC Corporation	8.93
Hitachi Ltd	18.49
Oki Electric Industry Co. Ltd	12.52
Mitsubishi Electric Corporation	94.00
All others	38.83

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry, before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m., on January 8, 1986, at the U.S. Department of Commerce, Room B841, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 3, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Dated: December 2, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-29340 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-549-503]

Rice From Thailand; Postponement of Preliminary Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Countervailing Duty Determination.

SUMMARY: The Department of Commerce is postponing its preliminary determination in the countervailing duty investigation of rice from Thailand. We intend to issue this determination no later than January 17, 1986.

EFFECTIVE DATE: December 11, 1985.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0167.

SUPPLEMENTARY INFORMATION: On October 15, 1985, the Department initiated a countervailing duty investigation on rice from Thailand. The notice stated that we would issue our prelimarinary determination on or before December 18, 1985 (50 FR 42581).

As detailed in the notice of initiation, petitioner alleged that the producers and exporters in Thailand of rice benefit from numerous programs conferred by the government of Thailand. The alleged subsidy practices are numerous and raise complex issues. The number of producers whose activities must be investigated is exceptionally large; it is estimated that there are about three and a half million rice growers and tens of thousands of millers of rice. We have determined that the government of Thailand and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination.

For these reasons, we determine that this investigation is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Act, and that additional time is necessary to make this preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than January 17, 1986.

This notice is published pursuant to section 703(c)(2) of the Act.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-29333 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-599-502]

Initiation of Antidumping Duty Investigations; Small Diameter Welded Carbon Steel Standard, Light-Walled Rectangular and Heavy-Walled Rectangular Pipe and Tube From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating antidumping duty investigations to determine whether imports of small diameter welded carbon steel standard, light-walled rectangular and heavy-walled rectangular pipes and tubes from Singapore are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determinations on or before December 30, 1985. If these investigations proceed normally, we will make our preliminary determinations on or before April 22, 1986.

EFFECTIVE DATE: December 11, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3464.

SUPPLEMENTARY INFORMATION:

The Petition

On November 13, 1985, we received a petition filed in proper form by the Standard Pipe and Tube Subcommittee, the Structural Tubing Subcommittee and the Mechanical Tubing Subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of the individual manufacturers of these products that are members of each respective subcommittee on behalf of the U.S. industry producing small diameter carbon steel standard, light-walled rectangular and heavy walled-rectangular pipes and tubes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of small diameter welded carbon steel standard, light-walled rectangular and heavy-walled rectangular pipes and tubes from Singapore are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry. The petition also alleges that the subject merchandise is being sold at prices below the cost of production in the home market.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on small diameter welded carbon steel standard, light-walled rectangular heavy-walled rectangular pipes and tubes from Singapore and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating antidumping duty investigations to determine whether small diameter welded carbon steel standard, light-walled rectangular and heavy-walled rectangular pipes and tubes from Singapore are being, or likely to be, sold in the United States at less than fair value. We will also determine whether there are sales in the home market at less than the cost of production. If our investigations proceed normally we will make our preliminary determinations on or before April 22, 1986.

Scope of Investigations

The products covered by these investigations are small diameter welded carbon steel standard pipes and tubes of circular cross-section, 0.375 inch or more but not over 16 inches in outside diameter as provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258,and 610.4925, of the *Tariff Schedule of the United States, Annotated* (TSUSA).

The light-walled rectangular pipes and tubes are mechanical pipes and tubes or welded carbon steel pipes and tubes of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch as provided for in item 610.4928 of the *Tariff Schedule of the United States, Annotated* (TSUSA).

The heavy-walled rectangular pipes and tubes are structural pipe and tube or welded carbon steel pipes and tubes of rectangular (including square) cross-section having a thickness not less than 0.156 inch as provided for in item 610.3955 of the *Tariff Schedule of the United States, Annotated* (TSUSA).

United States Price and Foreign Market Value

Petitioners based United States price on the average FAS value of imported pipe in each category from Singapore for September 1985.

Petitioners based foreign market value on home market price quotes for October 1985.

Based on the comparison of United States price and foreign market value, petitioners allege dumping margins of 5.2 percent for standard pipe, 21.2 percent for heavy-walled rectangular products, and 7.4 percent for light-walled rectangular products.

Petitioners also allege that sale of the subject merchandise in Singapore are being made at less than the cost of production. This allegation is based on a comparison of information developed regarding the cost of producing the subject merchandise in Singapore to net home market prices.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by December 30, 1985 whether there is a reasonable indication that imports of small diameter welded carbon steel standard, light-walled rectangular and heavy-walled rectanglar pipes and tubes from Singapore materially injure, or threatened material injury to, a U.S. industry. If any of its determinations are negative, those investigations will terminate; otherwise, they will proceed according to the statutory and regulatory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-29343 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Embassy of the Republic of Korea; Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1986 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

1. Embassy of the Republic of Korea, Washington, D.C. has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 200 pinnipeds and 50 cetaceans in the Bering Sea and Gulf of Alaska.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, DC. 20235.

Dated: December 5, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85–29367 Filed 12–10–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permit Modification; Southwest Fisheries Center Modification No. 2 to Permit No. 482

Notice is hereby given that Pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the regulations governing endangered species permits (50 CFR Part 222), Scientific Research Permit No. 482 (49 FR 36899) issued to the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038 on September 12, 1984, as modified on October 29, 1985 (50 FR 46150) is further modified as follows:

Section B–5 is modified by substituting the following:

5. "This Permit is valid with respect to the activities authorized herein until December 31, 1987."

This modification became effective on December 4, 1985.

As required by the Endangered Species Act of 1973 issuance of this modification is based on a finding that such modification (1) was applied in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of the modification, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This modification was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 6, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85–29366 Filed 12–10–85; 8:45 am]

BILLING CODE 3510-22-M

Coastal Zone Management; Federal Consistency Appeal by Cities Service Oil and Gas Corporation From an Objection by the California Coastal Commission to Development and Production Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On October 23, 1985, Cities Service Oil and Gas Corporation appealed to the Secretary of Commerce under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(B), and implementing regulations at 15 CFR Part 930, Subpart H. The appeal was filed from an objection by the California Coastal Commission, which found that Cities Service's proposed Development and Production Plan for Outer Continental Shelf Lease Tract P409 was inconsistent with the California Coastal Management Program. Cities Service has been granted a 60-day extension of time to December 18, 1985, to file supporting information. After this date, the Commission will be given an opportunity to respond to Cities Service's arguments. Following receipt of the Commission's response, a schedule for public comments will be published in the **Federal Register** and in appropriate California newspapers.

FOR FURTHER INFORMATION CONTACT: L. Pittman, Attorney-Advisor, Office of the Assistant General Counsel for Ocean Services, Room 270, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235 (202) 254–7512.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: December 4, 1985.

Robert J. McManus,

General Counsel National Oceanic and Atmospheric Administration.

[FR Doc. 85–29190 Filed 12–10–85; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limits for Certain Wool and Man-Made Fiber Apparel Products Produced or Manufactured in Taiwan

Correction

In FR Doc. 85–24518 appearing on page 41724 in the issue of Tuesday, October 15, 1985, make the following correction: In the table in the first column, second figure in the second column, "37,000 dozen" should read "37,100 dozen".

BILLING CODE 1505-01-M

Adjusting the Import Limits for Certain Apparel Products Produced or Manufactured in the Philippines

December 6, 1985.

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 12, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50231 established limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1985. Under the terms of the Bilateral

Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, the 1985 limits for Categories 336T, 347, 635T, 635NT, 641T, 641NT, and 646T are being adjusted, variously, by the application of swing, carryover and carryforward. To the extent the carryforward is used in 1985, it will be deducted from the category limits established for the affected categories in 1986. The limits for Categories 336T and 635NT are being reduced to account for swing applied to increase the other category limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on 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), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 6, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.[1]

Effective on December 12, 1985, paragraph 1 of the directive of December 21, 1984 is hereby further amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo restraint limit [2] (dozen)
336T	354,984
347	305,148
635T	163,554
635NT	144,850
641T	90,662
641NT	222,612
646T	313,800

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated precentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-29383 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Restraint Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Singapore

December 6, 1985.

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 12, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, swing is being added to the restraint limits established for cotton and mad-made fiber textiles and textile products in Categories 340, 341, 348, 604 and 641, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. The letter to the Commissioner of Customs which follows this notice further amends the directive of December 21, 1984 to adjust these limits. The adjusted limit for Category 338/339 also includes a reduction for carryforward used in 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on 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), November 9, 1984 (49 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

December 6, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made filber textiles and textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1985.

Effective on December 12, 1985, the directive of December 21, 1984 is hereby further amended to include the following adjusted restraint limits for Categories 340, 341, 338/339, 348, 604 and 641:

Category	Adjusted 12 mo limit [1]
340	526,960 dozen.
341	98,906 dozen.
338/339	663,348 dozen.
348	292,650 dozen.
604	1,394,360 pounds.
641	136,128 dozen.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-29384 Filed 12-10-85; 8:45 am]

BILLING CODE 3510-OK-M

COMMODITY FUTURES TRADING COMMISSION

Affiliation of the MidAmerica Commodity Exchange With the Chicago Board of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes and request for public comment.

SUMMARY: The MidAmerica Commodity Exchange ("MidAm") has submitted a

proposal to amend its rules in order to become affiliated with the Chicago Board of Trade ("CBT"). The Commodity Futures Trading Commission ("Commission") has determined that publication of the proposal will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act ("Act"). The Commission invites comment, in particular, on the specific issues set forth below.

DATE: Comments should be received on or before January 10, 1986.

ADDRESS: Interested persons should submit their comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, DC 20581. Reference should be made to MACE–CBT affiliation.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letter dated October 21, 1985, MidAm submitted for Commission approval pursuant to section 5a(12) of the Act, proposed rule amendments designed to implement a Plan of Affiliation ("Plan") between MidAm and the CBT. Under the plan, MidAm nominally would remain a separate corporation and a separate exchange, but the CBT would become the sole holder of all equity interest and voting rights in MidAm. Current MidAm memberships would be converted to transferable trading permits which would allow the holders access to MidAm markets, but no equity or voting interest in MidAm.

Full CBT members and Associate Members would have access to the MidAm trading floor and MidAm markets under governance of MidAm rules. (In the case of CBT Associate Members, access would be limited to MidAm contracts that are based on the same commodities as the CBT contracts to which the Associate Member has access).

MidAm contracts would be cleared by the Board of Trade Clearing Corporation ("BTCC") or a subsidiary thereof. Rights and liabilities accruing prior to the transfer with respect to the MidAm Clearing House would be preserved.

Copies of the proposed rule amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

The Commission invites comments from interested persons concerning the proposed MidAm—CBT affiliation. In particular, commenters are encouraged to address the following topics and questions:

1. Under section 15 of the Act, the Commission is required in approving any rule of a contract market to take into consideration the public interest to be protected by the antitrust laws, and to endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. What would be the competitive effect of the proposed affiliation? In light of Section 15 of the Act, what objectives, policies or purposes of the Act would be advanced by the affiliation, and what antitrust considerations, if any, are of concern in this proposed merger?

2. What are the possible ramifications of the proposed structure of the affiliation, as compared to a merger in which only one corporation would survive? In which regulatory contexts, if any, should the two exchanges be treated as a single entity?

3. Would the affiliation increase the potential for market manipulation, corners, or squeezes in commodities which are traded on both exchanges? If so, please explain the ways in which the manipulation, corner, or squeeze could be accomplished.

4. Would the affiliation increase the potential for trade practice abuses? If so, please describe those trade practice abuses and explain how they would be accomplished.

5. Should the CBT and MidAm maintain separate market surveillance and trade practice surveillance programs or should they be combined? Please explain the advantages and disadvantages of combined and separate programs.

6. Which exchange will have disciplinary responsibility for rule violations that take place in the trading of MidAm contracts? To what extent does it matter whether the person violating MidAm rules is a CBT member or a MidAm permit holder?

7. What are the implications of the elimination of the MidAm clearing organization? What are the advantages and disadvantages of MidAm trades clearing directlty through the BTCC as compared to clearing through a subsidiary of the BTCC? What adverse impact, if any, would there be on the BTCC if MidAm trades clear directly through BTCC?

8. MidAm has a unique trading mechanism, the changer operation, whereby members who are unable to obtain execution of orders of the MidAm floor may place such orders with certain authorized members ("changers") for execution. Each changer firm has representatives stationed at various locations on the MidAm floor who, once they agree to do a trade with a MidAm member, transmit an equal but opposite order via direct phone link to the changer's desk on the floor of the primary market.[1] After execution at the primary market, the changer finalizes the transaction with the MidAm broker or trader on the MidAm floor. Thus, the changer is evenly spread between the MidAm and the primary market, while the individual who initially placed the order holds a position on MidAm at the price of the transaction on the primary market plus a changer fee. What are the implications of the proposed affiliation for the changer operation?

9. Would the proposed affiliation between MidAm and CBT violate any provision of the Act or any Commission regulation?

Any person interested in submitting written comments, including any data on the proposed amendments, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 by January 10, 1986.

Issued in Washington, DC on December 6, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–29365 Filed 12–10–85; 8:45 am]

BILLING CODE 6351–01–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 83–2/84–2 83 JD]

Final Determination of the Distribution of the 1982 (Remand) and the 1983 Jukebox Royalty Funds

Correction

In FR Doc. 85–27478, beginning on page 47577 in the issue of Tuesday, November 19, 1985, make the following corrections:

(1) On page 47577 in the second column, in the first paragraph under **This Proceeding**, in the fourth line, "remained" should read "remanded".

(2) On page 47579, in the second column, in the first complete paragraph,

[1] MidAm has changer relationships with the CBT, the Chicago Mercantile Exchange, the Commodity Exchange, Inc., and the New York Mercantile Exchange. These exchanges, which are the "primary markets," trade contracts which are two to five times the size of MidAm contracts.

in the eighteenth line, "udner" should read "under".

(3) On page 47580, in the third column, in the first complete paragraph, the first sentence is corrected by inserting the following phrase in the fourth line between "ASCAP," and "BMI": "stated that together ASCAP,". And in the eighth line from the bottom of the page, "Socied" should read "Sociedad.

(4) On page 47582, in the second column, in the twelfth line, "promarily" should read "primarily.

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals

Correction

In FR Doc. 85-27642 beginning on page 47799 in the issue of Wednesday, November 20, 1985, make the following correction:

On page 47800, first column, under "Funds Available", in the fourth line, "$91,635,000" should read "$9,635,000".

BILLING CODE: 1505-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 10, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate state or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available form Margaret Webster at the address specified above.

Dated: December 6, 1985.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

Office of Postsecondary Education

Type of Review Requested: New
Title: Guaranteed Student Loan Program Quality Control Study
Agency Form Number: E40-8P
Frequency: On occasion
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
Reporting Burden, Responses: 1,440; Burden Hours: 540
Recordkeeping Burden, Recordkeepers: 0; Burdern Hours: 0
Abstract: The Guranteed Student Loan Program is the largest student aid program and has significant economic and social impacts. This project will determine statistically reliable nationwide error rates. Data will be drawn from lenders, guarantee agencies, universities and the Department of Educaiton.

Office of Postsecondary Education

Type of Review Requested: Extension
Title: Request for Institutional Eligibility for Program under theHigher Education Act of 1965, as Amended
Agency Form Number: ED 1059
Frequency: On occasion
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions;
Reporting Burden, Responses: 1,000; Burden Hours: 1,000
Recordkeeping Burden, Recordkeepers: 0; Burdern Hours: 0
Abstract: The Secretary of Education must determine whether postesecondary educational institutions meet the statutory and regulatory requirements for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965, as amended. the Secretary uses the information collected on this form to determine the eligibility of these institutions.

[FR Doc. 85-29370 Filed 12-10-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Law School Clinical Experience Program; Application Notice for New Awards for Fiscal Year 1986

This notice invites applications for new awards under the Law School Clinical Experience Program.

Authority for this program is contained in Part E of Title IX of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134n-1134p)

This program issues awards to accredited law schools, or combinations or consortiums of accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by February 28, 1986.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.097, 400 Maryland Avenue, SW., Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m., (Washington, DC time), daily except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds

Fiscal year 1986 funds have not yet been appropriated for the Law School Clinical Experience Program. We estimate, however, that $1,500,000 will be available for this program once a final fiscal year 1986 appropriation bill is enacted.

Applications are invited to allow for sufficient time to evaluate them and complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for this program.

The program legislation permits the Secretary to pay up to 90 percent of the cost of projects at law schools. (20 U.S.C. 1134n(a)). The program regulations at 34 CFR 639.40(a)(2) permit the secretary to establish annually a lower maximum Federal share. In fiscal year 1985, with a $1,500,000 appropriation, the maximum Federal share was 50 percent. The same percent will be set for fiscal year 1986. A major objective of this program is to increase the financial commitment of a law school to clinical legal education. Support of clinical legal education is not a permanent Federal responsibility. The setting of the Federal share at 50 percent supports the program's objective.

If the Congress appropriates funds for this program, the Secretary expects to make about 30 awards, averaging approximately $50,000, for fiscal year 1986. The awards will be for a period of one year in duration.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms

Application forms and program information packages are expected to be ready for mailing by December 13, 1985, and may be obtained by writing to the Division of Higher Education Incentive Programs (Law School Clinical Experience Program), U.S. Department of Education, (Room 3022, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

(Approved Under OMB No. 1840-0041)

Applications must be prepared and submitted in accordance with the regulations, funding criteria, instructions, and forms included in the program information package.

However, the program information package is intended to aid applicants applying for a grant under this competition. Nothing in the program information package is intended to impose any paperwork application content, reporting or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations

The regulations applicable to this program include the following:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, and 78.

(2) The regulations governing the Law School Clinical Experience Program in 34 CFR Part 639.

Further Information

For further information contact Charles H. Miller/Barbara J. Harvey of the Division of Higher Education Incentive Programs (Law School Clinical Experience Program), U.S. Department of Education, (Room 3022, ROB-3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-3253 or 245 2511.

(Catalog of Federal Domestic Assistance Number 84.097, Law School Clinical Experience Program)

(20 U.S.C 1134n-1134p)

Dated: December 5, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-29371 Filed 12-10-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council; U.S. Refinery Capability Task Group; Meeting

Notice is hereby given that the U.S. Refinery Capability Task Group will meet in December 1985. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The U.S. Refinery Capability Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups

The U.S. Refinery Capability Task Group will hold its tenth meeting on Tuesday, December 17, 1985, Starting at 8:30 a.m., in the Lubbock Room of the Houston Airport Marriott Hotel, 18700 Kennedy Boulevard, Houston, Texas.

The tentative agenda for the U.S. Refinery Capability Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review the work of the Task Group.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Refinery Capability Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Refinery Capability Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the

hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 3, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85-29342 Filed 12-10-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-195-000 et al.]

Electric Rate and Corporate Regulation Filings; Florida Power & Light Co. et al.

December 6, 1985.

Take notice that the following filings have been made with the Commission:

1. Florida Power and Light Company

[Docket No. ER86-195-000]

Take notice that on December 2, 1985, Florida Power & Light Company (FPL or Company) tendered for filing "Amendment Number Two to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Seminole Electric Cooperative, Inc. (SECI)", and a "Letter of Agreement to Revise Page 9 of the Agreement to Provde Specified Transmission Service between FPL and Seminole".

FPL states that under this Amendment Number Two to Agreement, FPL will transmit power and energy for SECI as is required by SECI in the implementation of its interchange agreement with Ft. Pierce Utilities Authority.

FPL also states that the revised page 9 of the Agreement corrects an inadvertent omission of the date of commencement of the term of the Agreement.

FPL requests that waiver of § 35.3 of the Commission's Regualtions be granted and that the proposed Amendment Number Two to Agreement become effective immediately.

FPL further requests that the revised page 9 attached to the Letter of Agreement supercede and replace in its entirety page 9 as originally submitted to FERC in Docket No. ER85-328-000.

Copies of this filing were served upon Seminole Electric Cooperative, Inc.

Comment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Electric Light and Power Company

[Docket No. ER86-197-000]

Take notice that Iowa Electric Light and Power Company, (Iowa Electric) on December 2, 1985, tendered for filing proposed changes in its FERC Electric Service Tariff original Volume No. 1. The proposed changes would create a new tariff option (RES-3 Rate Schedule) for customers owning or contracting or generating capacity on Iowa Electric's system. The new tariff option gives the customers greater capacity credits on their bills in exchange for 10-year contracts. Current contracts are primarily 4 years. The Resale Power Group of Iowa, (RPGI), which represents the complete class of Iowa Electric's jurisdictional companies concurs in the request for approval of the new rate schedule.

Copies of the filing were served upon the public utility's jurisdictional customers, and the Iowa State Commerce Commission.

Comment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Middle South Services, Inc.

[Docket No. ER86-127-000]

Take notice that on December 2, 1985, Middle South Services, Inc. (MSS), as agent for Mississippi Power & Light Company (MP&L), tendered for filing a correction letter and an information letter as a supplement to the filing of an Interchange Agreement between MP&L and Alabama Electric Cooperative, Inc. The Interchange Agreement had previously been filed in Docket No. ER86-127-000.

Comment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Ohio Edison Company

[Docket No. ER86-181-000]

Take notice that Ohio Edison Company (Ohio Edison) on December 2, 1985, tendered for filing proposed changes in its FERC Electric Tariff Schedule No. 150 and Supplements 1 through 4, applicable to sales and service to American Municipal Power—Ohio (AMP-Ohio). The proposed changes would increase revenues from jurisdictional sales and service by $878,961, based on the twelve months ending October 31, 1985.

Ohio Edison proposes an effective date of November 5, 1985.

Ohio Edison states that the reason for the proposed increase is to conform its rates for Regulation Capacity and Energy to rates, effective November 5, 1985, for retail General Service Large customers in the manner provided for and as directed in schedule 150 and its supplements.

Comment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this document.

5. Portland General Electric Company

Docket No. ER86-199-000

Take notice that on December 2, 1985, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during August of 1985, along with a cost justification for the rates charged. This filing also includes new service agreement with the City of Riverside, California.

Portland General Electric Company requests an effective date of September 30, 1985 and threrfore requests a waiver of the Commission's notice requirements.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77-131 and the Oregon Public Utility Commissioner.

Comment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER86-198B-000]

Take notice that on December 2, 1984, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during October of 1985, along with a cost justification for the rates charged.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77-131 and the Oregon Public Utility Commisssioner.

7. The Washington Water Power Company

[Docket No. ER86-196-000]

Take notice that on December 2, 1984, The Washington Water Power Company (WWP) tendered for filing copies of an Energy Exchange Agreement dated November 13, 1985, with Seattle City Light. Washington states that this Agreement is for the period December 1, 1985 through February 28, 1986, and that the Agreement supercedes Washington's FERC Rate Schedule No. 138, a similar Agreement which ended February 29, 1984.

Washington requests that the requirements of prior notice be waived

and the effectve date be December 1, 1985, stating that there will be no effect upon purchasers under other rate schedules.

Coment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. American Municipal Power-Ohio,Inc. and Central Illinois Public service Company

[Docket No. ER86-190-000]

Take notice that on November 29, 1985, American Municipal Power-Ohio, Inc. (AMP-O) and Central Illinois Public Service Company (Central) tendered for filing a short term power agreement between the two effective December 1, 1985 through December 31, 1990.

Comment date: December 17, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Baltimore Gas & Eclectric Co.

[Docket No. ER86-194-000]

Take notice that on December 2, 1985, Baltimore Gas & Electric Company (BG&E) tendered for filing as an initial rate schedule an agreement (the Agreement) between Consolidated Edison Company of New York, Inc. (Con ED) and BG&E. The Agreement, dated as of December 2, 1985 provides for sales by BG&E Of energy from its system ("system energy") to Con Ed on a daily or weekly basis (a "transaction"). BG&E states that the timing of transactions cannot be accurately estimated but that BG&E would offer to sell such system energy to Con Ed only when it was economical to do so. Con Ed would only accept such offer if it was economical to do so.

Con ED will pay an Energy Reservation charge to BG&E for each transaction in an amount equal to the megawatthours of system energy reserved for Con Ed by BG&E during a transaction multiplied by an Energy Reservation Charge Rate negotiated prior to each transaction. the Energy Reservation Charge will, howerver, be subject to a cost justified ceiling designated the Maximum Energy Reservation Charge. Con Ed will pay an Energy Charge for each transaction in an amount equal to the megawatthours delivered by BG&E during such transaction multiplied by an Energy Charge rate. The Energy Charge rate is the weighted average forecasted Energy Charge rate for the generating unit(s) which BG&E determines to be available to provide such energy at the time of a transaction.

BG&E requests that the Commission wave its customary notice period and allow the Agreement to become effective on December 2, 1985.

The Agreement has been executed by Con Ed and by BG&E and copies have been mailed or delivered to each of them.

BG&E further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Coment date: December 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Centel Corporation

[Docket No. ER86-375-006]

Take notice that on Decemer 3, 1985 Centel Corporation tendered for filing a report of refunds made to the wholesale customers affiliated with the rate filing Docket No. ER86-375-000 in compliance with Comission letter dated October 24, 1985.

Comment date: December 19, 1985, in accordance with Standard Paragraph H at the end of this notice.

Standard Paragraphs

E. 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 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. 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 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.

Seretary.

[FR Doc. 85-29379 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER84-541-004 et al.]

Electric Rate and Corporate Regulation Filings; Oklahoma Gas & Electric Co. et al.

December 5, 1985.

Take notice that the following filings have been made with the Commission:

1. Oklahoma Gas and Electric Company

[Docket No. ER84-541-004]

Take notice that on November 26, 1985 Oklahoma Gas & Electric (OG&E) tendered for filing a report of refunds made to applicable customers in response to letter order dated September 27, 1985. The Commission indicated in the order that no refunds were required. OG&E, nevertheless recognized that a refund obligation would be created from September 12, 1984 through February 11, 1985, and accordingly made such refund.

Comment date: December 16, 1985, in accordance with Standard Paragraph H at the end of this notice.

2. Ohio Edison Company

[Docket No. ER86-193-000]

Take notice that on November 29, 1985, Ohio Edison Company (Ohio Edison) tendered for filing a letter agreement dated November 12, 1985 adjusting the facilities use charge under an Agreement of June 20, 1968, as supplemented and amended, between it and Ohio Power Company designated Ohio Edison Rate Schedule FERC 67 and Ohio Power Company Schedule FERC No. 71.

Ohio Edison requests an effective date of December 1, 1985, and therefore has requested waiver of the Commission's notice requirements.

Comment date: December 17, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. The Montana Power Company

[Docket No. ER86-191-00]

Take notice that on November 29, 1985, The Montana Power Company (Montana) tendered for filing a revised Index of Purchasers, identified as Eighth Revised Sheet No. 10 under FERC Electric Tariff, 2nd Revised Volume No. 1, which has been revised to show the addition of the California Department of Water Resources. Also tendered for filing were summaries of sales made under the Company's FERC Electric Tariff, 2nd Revised Volume No. 1, during July 1984 through June 1985 with cost justifications for the rates charged.

Montana requests an effective date of November 1, 1984 for the service agreement between Montana and the

California Department of Water Resources, and therefore requests waiver of the Commission's notice requirements.

Comment date: December 17, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Power and Light Company

[Docket No. ER86-192-000]

Take notice that Iowa Power and Light Company ("Iowa Power") on November 29, 1985, tendered for filing Amendment No. 1 ("Amendment No. 1") dated November 8, 1985 to the Council Bluffs Generating Station Unit 3 Electric Transmission and Substation Facilities Operating Agreement ("Operating Agreement"), between: Atlantic Board of Waterworks and Electric Light and Power Plant Trustees, Cedar Falls Municipal Electric Utility, Central Iowa Power Cooperative, Inc., Corn Belt Power Cooperative, Inc., Eastern Iowa Light and Power Cooperative, Inc., Iowa-Illinois Gas and Electric Company, and Iowa Power.

Reflecting the transfer, effective as of August 30, 1982, of Eastern Iowa Light and Power Cooperative's 3.8% ownership interest in Unit 3 to Central Iowa Power Cooperative, Inc., Amendment No. 1 correspondingly reflects the transfer of interests in Unit 3 Electric Transmission and Substation Facilities and in the Operating Agreement.

Waiver of the notice requirement is requested, such that the effective date of Amendment No. 1 is August 30, 1982. No facilities, additions or modifications are required to effect Amendment No. 1, which does not otherwise alter jurisdictional rates or services, it is stated.

Copies of this filing were served upon each affected party, the Iowa State Commerce Commission and the Illinois Commerce Commission.

Comment date: December 17, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. 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 the comment date. 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. 86-29380 filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-194-000]

Panhandle Eastern Pipe Line Co.; Informal Conference

December 5, 1985.

Take notice that a second informal conference will be held to discuss the remaining issues raised by Panhandle Eastern Pipe Line Company's filing in the above-captioned proceeding. The conference will be held on Wednesday, December 18, 1985 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29327 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9096-001]

Rustic Hydro, Inc.; Surrender of Preliminary Permit

November 29, 1985.

Take notice that Rustic Hydro, Inc., Permittee for the proposed East Branch Pemigewasset Project No. 9096, requested by letter dated November 5, 1985, that its preliminary permit be terminated. The preliminary permit was issued on September 13, 1985, and would have expired on August 31, 1988. The project would be located on the East Branch of the Pemigewasset River in Grafton County, New Hampshire.

The Permittee filed the request on November 5, 1985, and the preliminary permit for Project No. 9096 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-29328 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-7-000, 001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

Take notice that Southern Natural Gas Company (Southern) on November 26, 1985, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, with a proposed effective date of January 1, 1986:

Sixth Revised Volume No. 1

Sixty-Eighth Revised Sheet No. 4A, First Revised Sheet No. 30F, First Revised Sheet No. 30G;

Original Volume No. 2

First Revised Sheet No. 785, First Revised Sheet No. 865.

Southern states that its revised tariff sheets reflect an increase in the GRI surcharge to 1.35¢ per Mcf in accordance with the Commission's Opinion No. 243.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 12, 1985. 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. 85-29329 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-42-000, 001]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 5, 1985.

Take notice that Transwestern Pipeline Company (Transwestern) on November 27, 1985, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Revised 1st Alternate Twenty-ninth Revised Sheet No. 5
Revised Original Sheet No. 5A

The above mentioned tariff sheets are being filed pursuant to Opinion No. 243 issued on September 26, 1985 in Docket No. RP85-154-000 by the Federal Energy Regulatory Commission (Commission) approving Gas Research Institute's (GRI) 1986 Research and Development (R&D) Program and 1986-1990 Five Year Plan. In Opinion No. 243, the Commission approved an R&D funding unit of 1.35 cents per Mcf and authorized the jurisdictional members of GRI to include this funding unit in their rates effective from January 1, 1986 through December 31, 1986.

Since Transwestern is on a dekatherm billing basis, the GRI funding unit of 1.35 cents per Mcf converts to 1.27 cents per dekatherm.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 12, 1985. 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. 29330 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-10-001]

Williston Basin Interstate Pipeline Co.; Proposed Change in FERC Gas Tariff

December 5, 1985.

Take notice that Williston Basin Interstate Pipeline Company, on November 27, 1985, tendered for filing a proposed change in its FERC Gas Tariff, Original Volume No. 2. Substitute Third Revised Sheet No. 10 includes a proposed storage capacity charge for service under Rate Schedule X-5. Williston Basin states this charge was inadvertently omitted from Third Revised Sheet No. 10 filed October 31, 1985.

Williston Basin has requested waiver of 18 CFR 154.22 to permit Substitute Third Revised Sheet No. 10 to become effective December 2, 1985, the proposed effective date of the tariff sheets filed October 31, 1985. Williston Basin asserts that the sole purchaser under Rate Schedule X-5, Colorado Interstate Gas Company, already has addressed the proposed charge in its pleading with respect to the original filing of October 31, 1985.

Copies of the filing were served upon Williston Basin's jurisdictional customers and interested state regulatory agencies.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 12, 1985. 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. 85-29331 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-785-000]

Wisconsin Electric Power Co; Order Accepting for Filing and Suspending Rates, Noting Intervention, Inviting Further Interventions, Granting Waiver of Notice, Denying Motion for Summary Disposition, and Establishing Hearing Procedures

(Issued December 4, 1985).

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On September 23, 1985, Wisconsin Electric Power Company (WEPCO) submitted for filing Supplement Nos. 2 through 6[1] to the Service Agreement for Transmission Service between WEPCO and Wisconsin Public Power, Inc. System (WPPI).[2] The supplements provide for transmission of four purchases made by WPPI from Cliffs Electric Service Company (Cliffs). Three of the purchases are to be delivered to WPPI member municipals located in WEPCO's service area. The fourth purchase is to be transmitted to WPPI member municipals located in the Wisconsin Public Service Corporation's (WPS) load area or to member municipals in WEPCO's territory as needs dictate. Service will be provided at WEPCO's present tariff rates on file with the Commission.

WEPCO requests that Supplement Nos. 2, 3, and 5 become effective on June 1, 1985, and that Supplement Nos. 4 and 6 become effective on January 1, 1988, and January 1, 1986, respectively. WEPCO requests waiver of the notice requirements in order to allow the effective date of June 1, 1985, for Supplement Nos. 2, 3, and 5. Alternatively, if the waiver is not granted, WEPCO requests that Supplement Nos. 2, 3, and 5, be permitted to become effective sixty days after the date of filing.

Notice of WEPCO's filing was published in the **Federal Register**,[3] with comments due on or before October 8, 1985. WPPI filed a timely motion to intervene, requesting that the Commission accept the supplements for filing, suspend their requested effective dates for one day, and impose a refund condition. WPPI does not contest the level of WEPCO's rate. However, WPPI does contend that WEPCO's interpretation and implementation of its rate is unjust, unreasonable, unduly discriminatory, and anticompetitive.

First, WPPI alleges that WEPCO should not require WPPI to continue to pay for nonfirm transmission of a purchase from Madison Gas & Electric Co. (MG&E) at times when it is not fully utilizing its firm contract capacity under the proposed supplements. Second, WPPI maintains that WEPCO should not bill WPPI for a separate transmission transaction when it requests that power being transmitted to WPS be rescheduled for transmission to WPPI member municipals in WEPCO's

[1] *See* Attachment A for rate schedule designations.

[2] WPPI is the bulk power supply agent for 26 municipal electric utilities located in Wisconsin.

[3] 50 FR 40445 (1985).

territory. WPPI alleges that WEPCO's requirement that it continue to pay separate charges for the MG&E purchase and that any rescheduling of power from WPS to WEPCO be billed as a separate transaction will produce unreasonable charges. WPPI maintains that, if it substitutes MG&E energy for an equal amount of other energy, so that the peak demand on WEPCO's transmission system remains constant, it should not be charged for transmission from each source separately. With respect to the shifting of load from WPS to WEPCO member municipals, WPPI states that WEPCO is trying to limit transmission service without justification. WPPI states that it plans to use Cliffs energy under the proposed Supplement No. 6 for peak shaving in the WPS load area and whenever the energy is not needed at WPS, for peak shaving in the WEPCO load area. WPPI believes that a change in delivery point, like a change in source, should not affect transmission charges so long as the total capacity demanded is not altered. WPPI further argues that it needs to be able to choose among energy sources and delivery points in order to substitute less expensive energy, and that WEPCO, as the only possible transmitting utility in the area, should not be able to charge additional payments every time energy sources or delivery points are changed. WPPI states that, by doing this, WEPCO limits power sources and delivery points, making it more expensive for customers to peak shave. Finally, WPPI asserts that it is being billed by WEPCO for firm transmission service under proposed Supplement No. 4 when it is allegedly receiving nonfirm service.

On November 4, 1985, WEPCO filed an answer asserting that WPPI's interpretation of the transmission agreement is at odds with traditional transmission access and ratemaking principles. WEPCO states that it has not consented to provide transmission service on WPPI's terms, as to do so would put WEPCO in the status of a common carrier for any transmission transaction once WPPI has contracted with WEPCO for firm transmission service. WEPCO asserts that WPPI's purchase of such service does not give it the right to use WEPCO's system for nonfirm service at no additional charge when the firm service is not being fully utilized. Additionally, WEPCO states that in 1983, it agreed to provide nonfirm wheeling service of the MG&E power to WPPI only on the premise that WEPCO would be paid its nonfirm transmission rate, and that WPPI made no claims at that time that it was entitled to free transmission of the MG&E power. Accordingly, WEPCO denies that WPPI has a right to ask that WEPCO be compelled to provide this service at no charge, and argues that WEPCO has the right to provide service on a transaction by transaction basis and to consider transactions from various sources to alternate delivery points separately. WEPCO asserts that this policy is consistent with the principle that the rights of a transmission system's users are limited to those (1) that the transmitting utility grants by contract or rate schedule or (2) that the Commission orders under sections 211[4] and 212 [5] of the Federal Power Act (FPA).

With regard to ratemaking, WEPCO states that, under traditional ratemaking principles, firm customers are responsible for an allocated share of the fixed costs according to the demands each customer places on the system, while nonfirm customers bear all variable costs and contribute to fixed costs through revenue credits. WEPCO argues that WPPI is exploiting its dual role as a firm and nonfirm customer unfairly. Specifically, WEPCO states that WPPI, as a firm customer, will share in the receipt of revenues for nonfirm transmission, while seeking to avoid paying for the benefits it receives as a nonfirm customer.

Finally, WEPCO asserts that service under Supplement No. 6 does not provide for delivery to two distinct points as a single transaction. WEPCO argues that the creation of WPPI does not change the traditional view that movement of power from a municipal in WPS's service area to a municipal system in WEPCO's area, involves a distinct transaction, and that delivery to the Kaukauna-Menasha facility of unused power from the WPS area is such a distinct transaction.

WEPCO requests that the Commission grant summary disposition of the disputes in this proceeding on the ground that WPPI's position in each dispute is contrary to well established Commission principles and policy. In the alternative, WEPCO requests that the Commission set the case for hearing. If a hearing is ordered, WEPCO does not oppose a one day suspension of its filing. Finally, WEPCO suggests that the Commission consider inviting other interested parties to participate in any hearing ordered in this proceeding in light of the importance of the issues to the electric utility industry generally, as the Commission did regarding abandoned plant costs in *New England Power Co.*, 32 FERC ¶ 61,453 (1985).

On November 15, 1985, WPPI filed a response opposing WEPCO's motion for summary disposition and its suggestion that any hearing be opened to other parties. In support, WPPI contends that factual issues exist which have not been fully aired, and that the issues concern the specific application of WEPCO's tariff. WPPI notes that the Commission is examining broad questions of transmission access and ratemaking in its recent Notice of Inquiry,[6] and contends that the present proceeding should not be delayed by inquiries into those matters.

On November 26, 1985, WEPCO objected to WPPI's responsive pleading. WEPCO argues that the requests and suggestions contained in its November 4 answer were within the proper scope of an answer and were not motions which WPPI should be allowed to address in a further answer. According to WEPCO, WPPI's pleading is prohibited under Rule 213(a)(2) of the Commission's regulations.[7]

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), WPPI's timely, unopposed motion to intervene serves to make it a party to this proceeding.

We shall deny WEPCO's request for summary disposition as to the issues raised by the parties. We find that they present questions more appropriately resolved on the basis of a hearing.

WEPCO contends that the following issues are of broad interest to the electric utility industry generally: (1) Whether transmission service for firm power creates in the transmission customer a general right to use, without additional charge, the transmitting utility's transmission facilities for the purpose of transmitting nonfirm power, when not being used to transmit firm power; (2) whether a transmitting utility is entitled to treat the delivery of power from a single source to two destinations as separate transmission transactions and is therefore entitled to bill the transactions separately; and (3) whether a utility is entitled to limit the availability of nonfirm rates to nonfirm

[4] 16 U.S.C. 824j.

[5] 16 U.S.C. 824k.

[6] Docket No. RM85-17-000 (Phrases I and II).

[7] WEPCO's requests for summary relief and for expansion of this case to a generic investigation of transmission issues were raised for the first time in WEPCO's November 4 pleading. Under the circumstances, we have considered WPPI's responsive pleading as a matter of fairness and to ensure a full airing of the parties' positions.

purchases. As indicated, WEPCO has suggested that the Commission invite other interested parties to participate in any hearing in this proceeding in view of the importance of the issues to the industry. We agree with WEPCO that these issues transcend the impact on a single jurisdictional utility. To permit development of the fullest possible record, the Commission will afford the opportunity for other interested persons to participate in this proceeding. In addition, in order to focus attention on some specific questions of interest to the Commission, we ask the parties, during the course of this proceeding, to address the matters identified on Attachment B to this order.

In our Notice of Inquiry, transmission service and access were among a number of issues raised. We do not believe that the Notice of Inquiry limits in any way our policy review in this proceeding, nor that this proceeding will limit in any way our review of the issues in that Inquiry. Rather, as we stated in our recent order in *New England Power Co., supra*, we see the two processes as being essentially complementary. In this proceeding, we will have the benefit of focusing the parties on transmission access and ratemaking issues in the context of a specific filing by a specific company; in the Notice of Inquiry, we will have the benefit of reviewing the matters raised in the light of the broader range of cross-cutting issues that we have raised in that proceeding. We do not foresee any difficulty in utilizing what we have learned from one process in the other. In evaluating the issues on a broad basis, however, we do not intend to unnecessarily delay consideration of WEPCO's rate filing.[8] Also, in the interest of bringing the matter promptly to the Commission for consideration of the policy issues involved, we shall waive an initial decision and instruct the presiding judge to develop and certify the full record to the Commission for its attention.

Our preliminary feview of WEPCO's filing and the pleadings indicates that the proposed supplements have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we shall accept WEPCO's submittal for filing and suspend it as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that Supplement Nos. 2 through 6 may not yield substantially excessive revenues. Further, there is no dispute between the parties as to the rate level of WEPCO's tariff. Rather, the company is simply adding a new customer to an existing rate schedule, and the parties' dispute concerns the terms and conditions of service. In addition, each of the parties has requested a nominal suspension in the event WEPCO's filing is set for hearing. In the circumstances, we believe that a nominal suspension of WEPCO's rates is warranted. WEPCO has asked for waiver of the notice requirements and the affected customer has not objected to WEPCO's request. We find good cause to waive the notice requirements [9] and we shall therefore accept WEPCO's rates for filing and suspend them for one day, to become effective, subject to refund, respectively, on June 2, 1985 (Supplement Nos. 2, 3, and 5), January 2, 1988 (Supplement No. 4), and January 2, 1986 (Supplement No. 6).

The Commission orders:

(A) WEPCO's motion for summary disposition is hereby denied.

(B) Waiver of the notice and advance filing requirements is hereby granted.

(C) WEPCO's proposed supplements are hereby accepted for filing and are suspended, to become effective, subject to refund, respectively, on June 2, 1985 (Supplement Nos. 2, 3, and 5); January 2, 1988 (Supplement No. 4); and January 2, 1986 (Supplement No. 6).

(D) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WEPCO's rates and the transmission issues discussed in this order.

(E) Any person seeking to intervene in this proceeding for the purposes of participating in the development of a record on the issues presented in this proceeding shall file a motion to intervene within thirty (30) days of the date of this order pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. The designated judge shall have the authority to rule on any such motion that is not automatically granted.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately ten (10) days after the closing date for interventions in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) An initial decision in this docket is hereby waived; at the conclusion of this proceeding, the presiding judge shall certify the record directly to the Commission.

(H) Subdocket –000 of Docket No. ER85–785 is hereby terminated and Subdocket –001 shall be assigned to the hearing portion of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A

Rate Schedule Designations

Designation	Description/ Transmission Service
(1) Supplement No. 2 to Service Agreement No. 19 to FERC Electric Tariff, Original Volume No. 1.	10 MW delivery to Kaukauna-Menasha (K-M) (Transaction No. 1).
(2) Supplement No. 3 to Service Agreement No. 19 to FERC Electric Tariff, Original Volume No. 1.	5 MW delivery to K-M (Transaction No. 3).
(3) Supplement No. 4 to Service Agreement No. 19 to FERC Electric Tariff, Original Volume No. 1.	5 MW delivery to K-M (Transaction No. 3).
(4) Supplement No. 5 to Service Agreement No. 19 to FERC Electric Tariff, Original Volume No. 1.	15 MW delivery to K-M (Transaction No. 2).
(5) Supplement No. 6 to Service Agreement No. 19 to FERC Electric Tariff, Original Volume No. 1.	5 MW delivery to K-M or Wisconsin Public Service Corporation (Transaction No. 4).

[8] We encourage the parties to be as specific in their presentations as possible. However, insofar as the investigation encompasses issues of policy and judgment, we anticipate that some parties may be content to limit their participation to written briefs. Similarly, there should be no reason that parties with common positions cannot file joint briefs to avod duplication. The presiding administrative law judge should consider such options and establish procedures that will allow for prompt submission of this case to the Commission.

[9] For these reasons, we shall also waive the 120 day advance filing requirement, with respect to Supplement No. 4.

Attachment B

Questions be be Pursued at Hearing or in Written Submissions

1. Are there cost differences between allowing general access and allowing only transaction-specific access?

a. If so, can such cost differences be quantified?

b. Should rates reflect these costs differences?

2. Some commenters in Phase I of the NOI recommended that the opportunity costs of transmission service be considered in setting rates. Do you agree?

a. What are the opportunity costs of a general access firm transmission service?

b. What are the opportunity costs of a transaction-specific transmission service?

3. Are there technical reasons for limiting access to a transaction-specific basis?

a. What are they?

b. Could appropriate conditions that address these technical concerns be placed in a general access transmission rate schedule?

4. Are there any reasons for limiting access to a transaction-specific basis that are not addressed in the above questions?

5. What conditions would encourage general access firm transmission service? What is the associated rate?

6. What is the difference between firm and non-firm transmission service?

a. Is it technically possible for a utility to interrupt or curtail transmission service to a customer in its service territory/control area?

b. What factors must be considered in determining whether firm or non-firm transmission service is appropriate?

c. Why should the customer not decide which service is appropriate?

[FR Doc. 85-29332 Filed 12-10-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP80-82-006 et al.]

ANR Pipeline Co. et al.; Natural Gas Certificate Filings, November 29, 1985

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP80-82-006]

Take notice that on November 1, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP80-92-006 a joint petition to amend the order issued on April 16, 1980, in Docket No. CP80-82-000, pursuant to section 7(c) of the Natural Gas Act so as to authorize expansion of the area of interest for the exchange of natural gas to include all of offshore Louisana and to grant blanket authority to implement changes in receipt and delivery points, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

On April 16, 1980, in Docket No. CP80-82, ANR and Tetco were authorized to exchange up to 60,000 Mcf of natural gas per day at various delivery points in the West Cameron and South Marsh Island areas, offshore Louisana, it is stated. ANR and Tetco state that on March 26, 1985, they executed an amendment to the transportation agreement dated September 25, 1979, to expand the area of interest for the exchange and transportation of gas to include all of offshore Louisana. To obviate the need of amending the certificate each time changes occur in receipt and/or delivery points, ANR and Tetco request blanket authority to add or delete receipt and/or delivery points as such changes become necessary. Any such additions or deletions would be reported annually in a tariff sheet filing by January 31 of the year following the change in service, it is stated.

Comment date: December 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP86-189-000; Docket No. CP86-189-001]

November 29, 1985.

Take notice that on November 4, 1985, Algonquin Gas Transmission Company (Applicant), 1248 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP86-189-000 an application as amended on November 13, 1985, in Docket No. CP86-189-001 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render limited-term transportation service with pre-granted abandonment on a firm basis on behalf of three of its existing resale customers in lieu of sales on synthesized natural gas (SNG) sold under Applicant's existing Rate Schedule SNG-1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that due to the relatively high cost of its Rate Schedule SNG-1 service, the following Rate Schedule SNG-1 customers have requested Applicant to reduce deliveries pursuant to tariff flexibility provisions previously authorized by the Commission on September 17, 1976, in Docket No. CP69-41, *et al.*: (1) Commonwealth Gas Company (Commonwealth), (2) Bristol and Warren Gas Company (Bristol and Warren), and (3) South County Gas Company (South County). Applicant indicates that two of its existing resale customers, Providence Gas Company (Providence) and Boston Gas Company (Boston Gas) have agreed to provide natural gas supplies to the three customers to replace up to 24,388 million Btu equivalent of natural gas per day of their SNG supply purchased from Applicant. Applicant requests authority herein to render transportation services to Commonwealth, Bristol and Warren, and South County under proposed Rate Schedule X-29, X-30, and X-31, respectively, to move the SNG replacement volumes from Boston Gas and Providence.

Applicant requests authority to implement the proposed transportation services for a limited-term starting the later of November 15, 1985, or upon the date Applicant accepts the certificate authorizing the proposed services, with pre-granted authority to abandon each transporation service as of the termination date of each proposed rate schedule. The quantities proposed to be transported for the respective companies are as follows:

	Maximum daily quantity [1]	Rate Schedule	Rate schedule termination date
Commonwealth	19,648	X-29	Feb. 14, 1986.
Bristol and Warren	2,822	X-30	Feb. 28, 1987.
South County	1,918	X-31	Mar. 15, 1987.

[1] 1 million Btu per day.

Applicant states that the proposed transportation services are similar in concept to a transportation service previously provided to certain Rate Schedule SNG-1 customers, which permitted these customers to reduce their Rate Schedule SNG-1 purchases. Applicant proposes to charge a transportation charge of 14.74 cents per 1 million Btu equivalent of natural gas transported.

Applicant states that the subject application is one made solely under section 7(c) of the Natural Gas Act and is not intended to be an application for certificate authority under the Commission's Order No. 436, issued on October 9, 1985, in Docket No. RM85-1-000 (33 FERC ¶61,007), or under the revisions to Part 284 of the

Commission's Regulations. Accordingly, Applicant requests that the authorization requested herein be issued in such a form as not to qualify or identify Applicant as a "transporter" as described in Order No. 436.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Mississippi River Transmission Corporation

[Docket No. CP86-87-000]

Take notice that on October 30, 1985, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St Louis, Missouri 63124, filed in Docket No. CP86-87-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing MRT to transport natural gas on behalf of Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT proposes to transport up to 10,000 Mcf of gas per day on an interruptible basis for Texas Gas for a twenty-year term and year-to-year thereafter. It is stated that MRT would receive the gas at the outlet side of the Woodlawn field processing plant of Damson Gas Processing Company (Damson) in Harrison County, Texas, at an existing interconnection between MRT and Damson. It is further stated that the redelivery of gas would be effected by a reduction of deliveries of gas otherwise received by MRT from the plant of Union Texas Petroleum in Bossier Parish, Louisana, and the plant of Kerr-McGee Corporation in Lincoln Parish, Louisana, and an increase in deliveries to Texas Gas of equivalent volumes of gas at the outlet side of such plants.

It is asserted that MRT would charge Texas Gas 53.69 cents per Mcf for the transportation service. It is explained that MRT has been providing the transportation service for Texas Gas since May 12, 1982, under the self-implementing authorization of Part 284 of the Commission's Regulations.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Northern States Power Company (Wisconsin)

[Docket No. CP86-86-000]

Take notice that on October 30, 1985, Northern States Power Company, Wisconsin (Applicant), 100 North Barstow Street, P.O. Box 8, Eau Claire, Wisconsin 54702, filed in Docket No. CP86-86-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing liqufied natural gas (LNG) services to Northern States Power Company, Minnesota (NSP-Minn), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an LNG agreement (agreement), dated February 19, 1985, between Applicant and NSP-Minn, Applicant would liquefy and store up to 20,000 Mcf of NSP-Minn's natural gas at Applicant's LNG plant near Eau Claire, Wisconsin, during each liquefaction season. Applicant states that it would redeliver the volumes of natural gas to NSP-Minn by displacement during the heating season.

Applicant states that NSP-Minn would reimburse Applicant for the fixed and variable costs incurred in rendering the services. Applicant further states that fixed costs would be paid monthly, and the charges to NSP-Minn for these costs would be determined by formula using data from Applicant's monthly budget. Applicant states that such fixed charges would be adjusted after each year's actual fixed costs become available. Applicant also states that charges for operation and maintenance costs would be based upon Applicant's actual operations and maintenance expenses for the services rendered and would be billed to NSP-Minn in the month after a service has been rendered; such charges would also be adjusted after actual cost become available.

Applicant states that no new facilities would be required.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 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 and 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 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 filing 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 the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29309 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-2-000, 001]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 5, 1985.

Take notice on November 27, 1985, East Tennessee Natural Gas Company (East Tennessee) tendered for filing in Original Volume No. 1 of its FERC Gas Tariff, Sixteenth Revised Sheet No. 4 to be effective January 1986.

East Tennessee states that the purpose of this revised tariff sheets is to reflect PGA rate adjustments based on its anticipated cost of purchased gas and reflects (1) a rate change filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. in Docket No. TA86-2-9 and (2) purchases from various local suppliers. East Tennessee respectfully request that the Commission grant any waivers of its regulations required in order to make these tariff sheets effective as proposed.

East Tennessee 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 motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 12, 1985. 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. 29322 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-34-000, 001]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 5, 1985.

Take notice that Florida Gas Transmission Company (FGT) on November 27, 1985, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet.

Substitute 5th Revised Sheet No. 8

The above mentioned tariff sheet is being filed pursuant to Opinion No. 243 issued on September 26, 1985 in Docket No. RP85-154-000 by the Federal Energy Regulatory Commission (Commission) approving Gas Research Institute's (GRI) 1986 Research and Development (R&D) Program and 1986-1990 Five Year Plan. In Opinion No. 243, the Commission approved an R&D funding unit of 1.35 cents per Mcf and authorized the jurisdictional members of GRI to include this funding unit in their rates effective from January 1, 1986 through December 31, 1986.

Since FGT is on a dekatherm billing basis, the GRI funding unit of 1.35 cents per Mcf converts to 1.31 cents per dekatherm.

Copies of this filing were served on FGT's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 12, 1985. 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. 29323 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RI74-188-063, RI75-21-058]

Independent Oil & Gas Association of West Virginia; Notice Accepting Corrected Summary Schedules and Correcting Related Appendixes

December 5, 1955.

On September 30, 1985, the Commission approved certain offers of settlement in the above dockets, which correctly reflected the summary schedules, as amended July 16, 1985, that had been filed by Consolidated Gas Transmission Corporation (Consolidated) in the above dockets.

On October 18, 1985, Consolidated filed a letter submitting a corrected summary schedule "reflecting Lewis E. Smith as a seller to Consolidated of only 'old' gas (i.e., gas subject only to Docket No. RI74.188) and therefore as having entered into a Weva Oil Corporation type offer of settlement." Accordingly, Lewis E. Smith should have been listed on Appendix B of the Commission's order of September 30, 1985, rather than on Appendix A thereof.

By this notice Consolidated's corrected summary schedules [1] and cover letter filed October 18, 1985, are accepted for filing and Lewis E. Smith shall be listed under Appendix B of the Commission's September 30, 1985 order (32 FERC ¶ 61,491 at 62,126) rather than under Appendix A.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29324 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[1] In the corrected summary schedules filed on October 18, 1985, Consolidated has apparently inadvertently re-listed two producers (Cumberland Gas Company and Southeastern Gas Company) that it had previously asked to be removed from the settlement offer in its filing of July 16, 1985. These producers are still considered deleted from the summary schedules (and related Appendixes) pursuant to Consolidated's filing of July 16, 1985. Any party that believes this construction is incorrect should notify the Secretary of the Commission within 30 days of the date of issuance of this notice, and explain their position.

[Docket Nos. RP86-7-000, RP85-208-000 and CP80-274-011]

Mountain Fuel Resources, Inc.; Notice of Informal Conference

December 5, 1985.

An informal conference will be convened on Thursday, December 19, 1985 at 9:00 a.m. in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426.

All interested persons and Staff will be permitted to attend. Attendance, however, will not serve to make a person a party.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29325 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the NGPA; Notice of Petition for Waiver

[Docket No. RM83-53-003]

Issued December 5, 1985.

AGENCY: Federal Energy Commission, DOE.

ACTION: Notice of Petition for Waiver.

SUMMARY: On August 3, 1983, the Director of the Office of Pipeline and Producer Regulation granted Northwest Pipeline Corporation (Northwest) adjustment relief waiving the interest and repoting requirements in §§ 270.101(e), 273.302(e), (f) of the Commission's requlations to permit Northwest to recoup producer refunds associated with sales from unitized wells through the use of billing adjustments.[1] On May 30, 1985, the Commission issued Order No. 423 which, inpart, reaffirmed the interest requirement contained in § 270.101(e), and required a report to be submitted with each purchased gas adjutment filing setting forth information on refund recoupments made billing adjustments[2] on October 17, 1985, Northwest filed a request for continued waiver under under Order No. 423 to the extent necessary to keep the Director's order in effect.

DATE: Motions to intervene and protests are due or before thrity days after publication of this notice in the Federal Register.

[1] 24 FERC ¶ 62,151 (1983).

[2] 50 FR 23669 (June 5, 1985).

Notice of Petition for Waiver

In the matter of Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the NGPA; Docket No. RM83-53-003.

Issued December 5, 1985.

Take notice that on October 17, 1985, Northwest Pipeline Corporation (Northwest), filed a petition requesting the Director of the Commission's Office of Pipeline and Producer Regulation to grant such waivers as may be necessary to renew the adjustment previously granted Northwest to certain requirements of the Commission's regulations so that Northwest may continue the refund recoupment and reporting procedures previously permitted by such adjustment.

By order issued August 3, 1983, the Director of the Commission's Office of Pipeline and Producer Regulation (Director) granted Northwest's request for waiver of § 270.101(e) and 273.302(f) of the Commission's regulations to the extent necessary to permit Northwest to recoup producer refunds associated with sales from unitized wells through the use of billing adjustments, rather than by cash or check as required by the regulations, and to recoup such refunds without the need to calculate or collect interest. The Director also waived the reporting requirement set forth in § 273.302(f)(3) of the regulations, but required Northwest to file a monthly report containing certain information pertaining to the approved billing adjustments.

In Order 423, issued May 30, 1985, the Commission promulgated new regulations and amended existing regulations which restated the requirement that interest on refunds related to disallowed well determinations be calculated and recouped by pipeline purchasers, and required a report to be submitted with each purchased gas adjustment filing setting forth information on refund recoupments made by billing adjustments. Northwest is concerned that Order 423 could be interpreted as superseeding the Director's August 3, 1983 order. Accordingly, Northwest seeks waiver of the regulations promulgated by Order NO. 423 to the extent necessary keep the Director's order in effect.

Any person desiring to be heard or protest this petition should file motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practices and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, not later than 30 days, following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petiton are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29326 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-299-000 et al.]

Babcock & Wilcox et al; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standards Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Babcock & Wilcox

[Docket No. QF86-299-000]

November 29, 1985.

On November 1, 1985 Babcock and wilcox, (Applicant), of 20 South Van Buren Avenue, Barberton, Ohio 44203 submitted for filing an application for certification of a facility as a qualifying coogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located in Danville, Illinois. The facility will consist of a single circulating fluidized boilers and a controlled extraction condensing steam turbine-generator, the extracted steam will be used for processing and manufacturing food and non-food products by Lauhoff Grain Company. The net electrical power production capacity of the facility will be 17.84 MW. The primary energy source will be coal. The operation of the facility is expected to begin in July 1987.

2. Beechwood Energy, Inc.—Reading Anthracite Company—Beechwood Project

[Docket No. QF86-230-000]

November 29, 1985.

On November 1, 1985 Beechwood Energy, Inc., (Applicant) of 200 Mahantongo Street, pottsville, Pennsylvania 17901, 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 determinatin has been made that the submittal constitutes a complete filing.

The topping-cycle congeneration facility will be owned by a subsidiary of the Reading Anthracite Company and be located near the village of Dancott at the site of the New St. Nicholas fine coal preparation plant and the New St. Nicholas preparation plant in Cass Township, Schuylkill County, Pennsylvania. The facility will consist of a circulating fluidized bed boiler, extraction steam turbine generator, and related auxiliary equipment. The primary energy source for the facility will be "waste" in the form of anthracite culm. The useful thermal output in the form of process steram will be utilized in space heating of the preparation plant(s) and in an anthracite silt drying process. The net electric power production capacity of the facility will be 80 megawatts.

3. Northumberland Energy, Inc.—Reading Anthracite Company—Northumberland Project

[Docket No. QF86-225-000]

November 29, 1985.

On November 1, 1985, Northumberland Energy, Inc., (Applicant) of 200 Mahantongo Street, Pottsville, Pennsylvania 17901, 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 constitues a complete filing.

The topping-cycle congeneration facility will be owned by a subsidiary of the Reading Anthracite Company and be located near the Village of Treverton at the site of the Treverton fine coal preparation plant Zerby Township, Northumberland County, Pennsylvania. The facility will consist of a circulating fluidized-bed boiler, extraction steam turbine generator, and related auxiliary equipment. The primary energy source for the facility will be "waste" in the form of anthracite culm from the Treverton culm bank. The useful thermal output in the form of process steram will be utilized in space heating of the coal preparation plant and in an anthracite silt drying process. The net electric power production capacity of the facility will be 80 megawatts.

4. Schuylkill energy Resources, Inc.—Reading Anthracite Company—St. Nicholas Cogeneration Project

[Docket No. QF85-720-001]

November 29, 1985.

On October 30, 1985, Schuylkill Energy Resources, Inc., (Applicant) of 200 Mahantongo Street, Pottsville, Pennsylvania 17901, 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 constitues a complete filing.

The topping-cycle congeneration facility will be owned by a subsidiary of the Reading Anthracite Company and be located near the Village of Maple Hill at the site of the Old Saint Nicholas Breaker in North Mahonoy Township, Schuylkill County, Pennsylvania. The facility will consist of a circulating fluidized bed boiler, extraction steam turbine generator, and related auxiliary equipment. The primary energy source for the facility will be "waste" in the form of anthracite culm from the Ellen Gowan culm bank. The useful thermal output in the form of process steram will be utilized in space heating of the preparation plant and in an anthracite silt drying process. The net electric power production capacity of the facility will be 80 megawatts.

Standard paragraphs

E. 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-29308 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-196-000 et al.]

El Paso Natural Gas Company et al.; Natural Gas Certificate Filings

December 2, 1985.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

[Docket No. CP86-196-000]

Take notice that on November 8, 1985, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-196-000 an application pursuant to section 7(c) of the Natural Gas Act (Act) for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for the respective accounts of Shell California Production Inc. (Shell), Texaco Inc. (Texaco), and Berry Holding Company (Berry) and the delivery of such natural gas at existing points of delivery at the Arizona-California border, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

El Paso states that the transportation and delivery arrangements are set forth in transportation service agreements (transportation agreements), between El Paso and Shell dated October 28, 1985, El Paso and Texaco dated October 28, 1985, and El Paso and Berry dated October 31, 1985. El Paso states that the proposed transportation service would be accomplished through the utilization of existing capacity available from time to time in the daily operation of El Paso's interstate transmission pipeline system.

El Paso states further that Shell, Texaco and Berry are each engaged in heavy oil production utilizing steam for enchanced oil recovery (EOR) operations in central California. According to the application these oil producers currently burn crude oil, or locally produced natural gas, in boilers and/or cogeneration units and then inject the steam generated into oil bearing formations. The steam reportedly reduces the viscosity of the oil and acts as a water drive to increase oil production. It is stated that Shell, Texaco and Berry are each individually acquiring or currently own certain supplies of natural gas which each desires to utilize as fuel for EOR steam generation. El Paso states that these supplies of natural gas, to be used in EOR operations, can be made available to El Paso at various existing points on El Paso's interstate transmission pipeline system for transportation across El Paso's system to existing points of delivery at the Arizona-California border for ultimate delivery to the EOR operations of, respectively, Shell Texaco and Berry. In order to facilitate the transportation and delivery of these supplies of natural gas each party has entered into a transportation agreement with El Paso for the transportation and delivery by El Paso of certain quantities of natural gas on behalf of each producer from existing points of receipt located within the states of Colorado, New Mexico and Texas to existing points of delivery by El Paso to Southern California Gas Company and Pacific Gas and Electric Company on the boundary between Arizona and California.

El Paso states that pursuant to the terms and conditions of each of the transportation agreements, it has agreed to receive for transportation for the respective accounts of Shell, Texaco and Berry, such volumes as each of these shippers may cause to be tendered to El Paso on any day during the term of each transportation agreement. The primary term extends for five years from the date of commencement of deliveries and from year-to-year thereafter.[1] According to the application, El Paso's obligation to accept and transport natural gas for the shippers under each of the transportation agreements is limited to that volume of natural gas that El Paso determines, in its sole discretion, it has available existing capacity to receive, transport and deliver on that day. El Paso states that in no event would it be obligated to receive volumes of natural gas in excess of 150,000 Mcf per day for Shell, 200,000 Mcf per day for Texaco and 25,000 Mcf per day for Berry. It is explained that Paragraph 1.2 ARTICLE I, *Gas to be Transported*, further provides that if on any day should El Paso determine that the transportation capacity of its facilities after El Paso has moved system supply gas for its sales customers, and for those shippers with superior rights to transportation capacity, is insufficient to transport all volumes of natural gas tendered by the shippers under each of the transportation agreements and for other shippers under similar transportation agreements, El Paso would allocate the available transportation capacity *pro rata* among all such similarly situated shippers, according to the volumes scheduled to be rendered by such shippers. Accordingly, the shippers'

[1] El Paso requests that the certificate authorization requested be for a limited term of five years from the date of commencement of deliveries and year-to-year thereafter until terminated by either party pursuant to the provisions of the transportation agreements.

transportation service would be accorded transportation capacity after allocation of available capacity for El Paso's system supply gas and transportation for firm shippers, it is asserted.

In accordance with the terms and conditions of each of the transportation agreements, El Paso states it would accept the volumes of natural gas caused to be tendered by the shippers for transportation at the existing points of connection between the facilities of El Paso and others as set forth on Exhibit A to the transportation agreement. El Paso states that upon receipt of the volumes of natural gas for the accounts of the shippers, it would delivery equivalent volumes, on a thermal basis, after appropriate reductions, to the shippers at the existing delivery points at the Arizona-California border.

El Paso further states that Article III, *Rate(s), Rate Schedule(s) and General Terms and Conditions*, of each of the transportation agreements provides that as compensation for the use of El Paso's transmission facilities the shippers would pay El Paso for each dekatherm equivalent of natural gas transported and delivered under the transportation agreements in accordance with El Paso's Rate Schedule T-1 of its FERC Gas Tariff, Original Volume No. 1-A, or superseding tariff. It is explained that the charges set forth under Rate Schedule T-1 which apply to the proposed service to be rendered by El Paso for each shipper under their respective transportation agreement are: (1) For natural gas received at the Ignacio receipt point and delivered hereunder at the Pacific Gas and Electric Company or the Southern California Gas Company delivery point(s) the sum of the "Mainline Transmission Charge—California" and the "San Juan Triangle Facilities Commodity Charge;" and (2) for natural gas received at all other receipt points on El Paso's system and delivered hereunder at the Pacific Gas and Electric Company or the Southern California Gas Company delivery point(s), the "Mainline Transmission Charge—California."

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company

[Docket No. CP85-904-000]

Take notice that on September 24, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP85-904-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Jessop Steel Company (Jessop) under the certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, 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.

Applicants proposes to transport on an interruptible basis up to 3.3 billion Btu equivalent of natural gas per day for Jessop. Applicants request authorization to transport throught the later of any extension of the existing authority to transport under § 157.209 of the Commission's Regulations, and/or in the event Applicants file a statement of notification pursuant to new § 284.223(g) of the Commission's Regulations and thereafter files for a blanket certificate under § 284.221 of the Regulations, such period of time as may be established by the Commission in any final rule issued in Docket No. RM85-1-000, up to the end of the term of the transportation agreement (to July 10, 1986, and year-to-year thereafter).

It is stated that the gas to be transported would be purchased from Yankee Resources, Inc. (Yankee), and would be used as boiler fuel and process gas in Jessop's plant in Washington, Pennsylvania.

The gas purchase agreement between Yankee and Jessop indicates that Columbia has released certain gas supplies of Yankee. It is asserted that these supplies are subject to the ceiling provisions of sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978. It is indicated that Columbia Gulf would receive the gas at existing receipt points in Louisiana and redeliver to Columbia, which would redeliver to Columbia Gas of Pennsylvania, Inc. (CPA), the distributor serving Jessop in Washington, Pennsylvania.

Columbia Gulf states that it would charge one of the rates in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and retain 1.69 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky—12.76 cents per dt equivalent of gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cent per dt equivalent of gas and retain 0.75 percent.

Columbia states that it would charge one of the rates in its Rate Schedule TS-1 for its transportation service: gas received from Columbia Gulf at Leach, Kentucky—21.16 cents per dt equivalent and gas received from Columbia Gulf at receipt points other than Leach, Kentucky—29.93 cents per dt equivalent provided the volumes are within CPA's total daily entitlements (TDE). However, Columbia states it would charge 32.50 cents per dt equivalent for gas it receives from Columbia Gulf at Leach, Kentucky; and 41.27 cents per dt equivalent for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of CPA's TDE's. Columbia further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Comment date: December 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company

[Docket No. CP86-114-000]

Take notice that on October 31, 1985, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP86-114-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas on behalf of The Brewer Company (Brewer) under their blanket certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, 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.

Applicants propose to transport up to 2.5 billion Btu equivalent of natural gas per day on behalf of Brewer through the later of any extension of the existing authority to transport under § 157.209 of the Commission's Regulations, or in the event Applicants file for a blanket certificate under § 284.221 of the Regulations, such period of time as may be established by the Commission in any final rule issued in Docket No. RM85-1-000. Columbia Gulf would receive the quantities at existing points of receipt in Louisiana and redeliver to

Columbia Gas which would redeliver to Cincinnati Gas & Electric Company (CG&E) for ultimate delivery to Brewer.

Columbia Gulf states that it would charge one of the rates in its Rate Schedule T–2 of its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and retain 1.69 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky 12.76 cents per dt equivalent of gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of gas and retain 0.75 percent.

Columbia Gas states that it would charge one of the rates in its Rate Schedule TS–1 for its transportation service: gas received from Columbia Gulf at Leach, Kentucky-21.16 cents per dt equivalent and gas received from Columbia Gulf at receipt points other than Leach, Kentucky-29.93 cents per dt equivalent provided the volumes are within the CG7E's total daily entitlements (TDE). However, Columbia Gas states it would charge 32.50 cents per dt equivalent for gas it receives from Columbia Gulf at Leach, Kentucky; and 41.27 cents per dt equivalent for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of the CG&E's TDE. Columbia Gas further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. In addition, Columbia Gas states it would collect the General R &D Funding Unit of the Gas Research Institute for all quantities transported under the transportation arrangement.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

4. Columbia Gulf Transmission Company

[Docket No. CP86–149–000]

Take notice that on November 1, 1985, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP86–149–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of W.R. Grace and Company, Davison Chemical Division (W.R. Grace), under the certificate issued in Docket No. CP83–496–000 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.

Columbia Gulf proposes to transport up to 4.5 billion Btu equivalent of gas per day on behalf of W.R. Grace's Baltimore, Maryland, plant, through the later of any extension of the existing authority to transport under § 157.209 of the Commission's Regulations, and/or a period of the time established by the Commission in the final rule issued in Docket RM85–1, up to the end of the term of the transportation agreement. Columbia Gulf states that the natural gas to be transported would be purchased by W.R. Grace from Hadson Gas Systems, Inc. (Hadson), and would be used as boiler fuel and process gas in W.R. Grace's Baltimore, Maryland, plant.

It is explained that the natural gas purchased from Hadson would be transported by United Gas Pipe Line Company (United and delivered to Columbia Gulf's system at United's existing interconnection at Erath, Louisiana. Columbia Gulf would redeliver such natural gas to Columbia Gas Transmission Corporation (Columbia Transmission) for redelivery to Baltimore Gas and Electric Company, the distribution company serving W.R. Grace. It is indicated that Columbia Transmision is also participating in this transportation arrangement and has obtained Commission authorization to transport gas on behalf of W.R. Grace's Baltimore, Maryland, plant. Columbia Transmision proposes to utilize its flexible authority to add a receipt point from Columbia Gulf.

Columbia states that it would charge one of its rates in its Rate Schedule T–2 for its transportation service: offshore to Kentucky-23.92 cents per dt equivalent of natural gas and retain 1.69 percent; lateral onshore to Kentucky-14.28 cents per dt equivalent of natural gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky-12.76 cents per dt equivalent of natural gas and retain 1.50 percent and Corinth, Mississippi, to Kentucky-6.38 cents per dt equivalent of natural gas and retain 0.75 percent.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this Notice.

5. Columbia Gulf Transmission Company

[Docket No. CP86–154–000]

Take notice that on Novermber 1, 1985, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP86–154–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of W.R. Grace Co., Davison Chemical Division (W.R. Grace), under the certificate issued in Docket No. CP83–496–000 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.

Columbia Gulf proposes to transport up to 2 billion Btu equivalent of natural gas per day for W.R. Grace's Cincinnati, Ohio, plant through the later of any extension of the existing authority to transport under § 157.209 of the Commission Regulations, and/or such period of the time established by the Commission in the final rule issued in Docket No. RM85–1–000, up to the end of the term of the transportation. Columbia Gulf states that the gas to the transported would be purchased by W.R. Grace from Hadson Gas Systems, Inc. (Hadson), and would be used as proces gas and boiler fuel in W.R. Grace's Cincinnati, Ohio, plant.

It is stated that the gas purchased from Hadson would be transported by United Gas Pipe Line Company and delivered to Columbia Gulf at Erath, Louisiana. Columbia Gulf would redeliver the gas to Columbia Gas Transmission Corporation (Columbia Transmission) for redelivery to Cincinnati Gas & Electric Company (CG&E), the distribution company serving W. R. Grace, near Cincinnati, Ohio.

Columbia Gulf further states that it would charge one of the rates in its Rate Schedule T–2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and retain 1.69 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky—12.76 cents per dt equivalent of gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of gas and retain 0.75 percent.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gulf Transmission Company

[Docket No. CP86–153–000]

Take notice that on November 1, 1985, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP86–153–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for

authorization to transport natural gas for Locke Insulators, Inc. (Locke Insulators), under the certificate issued in Docket No. CP83-496-000 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.

Columbia Gulf proposes to transport up to 1.4 billion Btu equivalent of natural gas per day for Locke Insulators' Baltimore, Maryland, plant through the later of any extension of the existing authority to transport under § 157.209 of the Regulations, and/or in the event Columbia Gas Transmission Corporation (Columbia Gas) files a statement of notification pursuant to § 284.233(g) of the Commission's Regulations and thereafter files for a blanket certificate under § 284.221 of the Regulations, such period of time as may be established by the Commission in any final rule issued in Docket No. RM85-1-000, up to the end of the term of the transportation agreement dated July 1, 1985, among Locke Insulators, Baltimore Gas & Electric Company (BG&E) and Columbia Gulf, which term is for a period of one year and month-to-month thereafter. Columbia Gulf states that the natural gas to be transported would be purchased by Locke Insulators from Exxon Corporation (Exxon) and would be used as boiler fuel and process gas in Locke Insulators' Baltimore, Maryland, plant.

It is stated that the natural gas that Locke Insulators would purchase from Exxon would be delivered directly to Columbia Gulf at existing interconnections with Exxon onshore and offshore Louisiana. It is further stated that Columbia Gulf would redeliver the natural gas to Columbia Gas for redelivery to BG&E, the distribution company serving Locke Insulators, near Baltimore, Maryland.

Columbia Gulf indicates that it would charge one of the rates in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of natural gas and retain 1.69 percent of the total quantity of natural gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of natural gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky—12.76 cents per dt equivalent of natural gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of natural and retain 0.75 percent.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

7. Consolidated System LNG Company

[Docket No. CP83-75-001]

Take notice that on November 1, 1985, Consolidated System LNG Company (Consolidated LNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-75-001 an amendment to its application filed in Docket No. CP83-75-000 pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of facilities and services, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By its application filed in Docket No. CP83-75-000, Consolidated LNG seeks permission and approval to abandon certain facilities and services appurtenant to the liquefied natural gas (LNG) facilities at Cove Point, Maryland. By the instant amendment Consolidated LNG deletes from its appalication, its wholly-owned pipeline for transportation of regasified LNG for Loudoun, Virginia, to Perulack, Pennsylvania, known as Line No. PL-1, and related facilities.

The amendment states that Consolidated Gas Transmission Corporation (Consolidated Transmission), an affiliate of Consolidated LNG, has found a use to which these facilities can be put and that their abandonment no longer appears to be necessary. The amendment states that Consolidated Transmission proposes to utilize Line No. PL-1 and related facilities to effect deliveries of natural gas to Baltimore Gas & Electric Company and Washington Gas Light Company, as explained in its application filed in Docket No. CP85-756-000, on August 2, 1985, seeking certificate authorization to provide sales and transportation services for those companies. The amendment further states that contemporaneously with its filing, Consolidated LNG and Consolidated Transmission are filing an application seeking Commission approval of (1) the abandonment of Line No. PL-1 and related facilities by sale to Consolidated Transmission and (2) the acquisition by Consolidated Transmission if such facilities and the operation thereof in the transmission and sale for resale in interstate commerce of natural gas.

Consolidated LNG states further that it reserves the right to renew its application for abandonment authorization for Line No. PL-1 in the event its application in Docket No. CP85-756-000 is denied.

Comment date: December 20, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

8. El Paso Natural Gas Company

[Docket No. CP86-105-000]

Take notice that on October 31, 1985, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-105-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain miscellaneous minor gas sales facilities and the services rendered by means thereof under the authorization issued in Docket No. CP82-435-000 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.

El Paso states that a periodic review of the operating status of its miscellaneous minor gas sales facilities, together with the customer's advisements, indicates that there are fourteen sales taps eligible for abandonment (See Appendix). El Paso proposes to abandon such facilities, with associated appurtenances, and the related natural gas services heretofore rendered by means of such facilities.

El Paso proposes to abandon such facilities and thereafter to remove and place in stock the salvable materials and scrap the non-salvable items, without material change in its average cost of service.

El Paso further states that the proposed abandonments would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by El Paso to any of its customers.

Appendix

Sales Taps Proposed To Be Abandoned

Name and Location

1. Gerald Bond Tap—Luna County, New Mexico
2. Draper Brantley Tap—Eddy County, New Mexico
3. Rex Chaney Tap—Luna County, New Mexico
4. Francis M. Cooke Tap—Hidalgo County, New Mexico
5. Thomas M. Epperson Tap—Lea County, New Mexico
6. Gene Gardner Tap—Luna County, New Mexico
7. Fred W. Hassman Tap—Luna County, New Mexico
8. H. Jundt Tap—Hidalgo County, New Mexico
9. F.M. Payton Tap—Lea County, New Mexico

10. San Juan County, Fair Association Tap—San Juan County, New Mexico
11. Carl Shropshire P-4 Tap—Pinal County, Arizona
12. O.M. Slape Tap—El Paso County, Texas
13. E.A. Strout Tap—Dona Ana County, New Mexico
14. Ramon Viramontes Tap—Luna County, New Mexico

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

9. Midwestern Gas Transmission Company

[Docket No. CP86-206-000]

Take notice that on November 14, 1985, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-206-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish a new delivery point for its customer, The Peoples Gas Light and Coke Company (Peoples), and to construct and operate appurtenant facilities under Midwestern's blanket certificate issued in Docket No. CP82-414-000 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.

Midwestern states that Peoples and Midwestern have agreed to establish a new delivery point under Midwestern's Rate Schedule CD-1 gas sales contract with Peoples. It is explained that this new delivery point would be located near the intersection of Peoples' and Midwestern's facilities near Union Hill, Illinois. Midwestern, it is indicated proposes no increase or decrease in total daily or annual volumes delivered to Peoples. Further, Midwestern submits that the proposed Union Hill delivery point is not prohibited by Midwestern's currently effective Rate Schedule CD-1 and that it has sufficient capacity to accomplish the deliveries as proposed without detriment or disadvantage to any of Midwestern's other customers.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

10. Natural Gas Pipeline Company of America

[Docket No. CP86-136-000]

Take notice that on November 1, 1985, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86-136-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 20 billion Btu of natural gas per day on an interruptible basis for Northern Petrochemical Company (NPC) and for permission and approval to abandon such service, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests authorization to provide an interruptible transportation service for NPC from the date certificate authorization is granted through July 2, 1986. Applicant, it is said, would provide such service pursuant to the terms and conditions contained in an agreement dated June 28, 1985.

Applicant proposes to transport natural gas on behalf of NPC, an industrial end-user. The proposed end use of the gas is said to be for cracking furnaces, pollution control, heating and as boiler fuel in NPC's Morris, Illinois, plant.

Applicant, it is said, would receive volumes of natural gas for the account of NPC from a receipt point in Nacogdoches County, Texas, and would redeliver equivalent volumes to Northern Illinois Gas Company in DuPage and Livingston Counties, Illinois. Applicant states that no new facilities would be required for this service. Applicant, in addition, requests authorization to add additional receipt points in the future necessary to support this service.

Applicant proposes to change NPC 30.7 cents per million Btu for volumes delivered to DuPage County, Illinois, and 28.1 cents per million Btu for volumes delivered to Livingston County, Illinois. In addition, Applicant states that it would charge NPC for fuel used and lost and unaccounted-for gas and the currently effective GRI surcharge.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

11. Northwest Central Pipeline Corporation

[Docket No. CP86-200-000]

Take notice that on November 12, 1985, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-200-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment in place of approximately 0.6 mile of pipeline and appurtenant facilities all in Lawrence County, Missouri, and the transportation of gas through these facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to abandon in place approximately 0.6 mile of 3-inch and 4-inch pipeline and appurtenant facilities which were installed in 1930 to serve the town of Aurora, Missouri. Aurora is now served by a 6-inch pipeline and the facilities proposed to be abandoned are no longer necessary.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

12. Northwest Central Pipeline Corporation

[Docket No. CP86-168-000]

Take notice that on November 1, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-168-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to replace and enlarge measuring, regulating, and appurtenant facilities at the Kansas Power and Light Company's (KPL Gas Service) Brock tap in Bourbon County, Kansas, under the certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central states that KPL Gas Service has requested this replacement of facilities in order to serve a new industrial customer, DAYCO Corporation, through the Brock tap and that the natural gas volumes currently flowing through the tap are 2,270 Mcf annually and 18 Mcf on a peak day. Estimated requirements are an additional 51,888 Mcf annually with a peak day requirement of 216 Mcf, increasing to 53,976 Mcf annually with a peak day requirement of 232 Mcf by the fifth year.

The estimated cost of the new facilities is $13,800, which would be paid from treasury cash.

Northwest Central states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

13. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-128-000]

Take notice that on November 1, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant),

P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-128-000 an application pursuant to section 7(b) of the Natural Gas Act for permission to abandon an M-1 compressor facility located at Eugene Island Block 257, Platform C, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that its M-1 compressor facility, certificated in Docket No. CP77-293-000, is presently in need of extensive repairs to maintain a safe operable working condition. Applicant states that an estimate on the cost to repair the unit, approximately $85,000 to $113,000 depending on the condition of the crankshaft, is in excess of the depreciated book value, $82,726 as of September 1, 1985. Applicant states that Canadian Oxy Offshore Production Company (Canadian) and Conoco, Inc. (Conoco), owners of the Eugene Island Platform 257C, have proposed, pursuant to letter agreement dated July 9, 1985, to purchase the unit for $1,000. Applicant further states that the proposed abandonment and sale would save Applicant the cost of removing the unit and Canadian and Conoco would restore, operate and maintain the unit at their sole cost, expense and liability.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

14. Tennessee Gas Pipeline Company; Southern Gas Pipe Line Company

[Docket No. CP86-124-000]

Take notice that on November 1, 1985, Tennessee Gas Pipeine Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Southern Gas Pipe Line Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, (Applicants) filed in Docket No. CP86-124-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicants request authorization to exchange natural gas pursuant to the terms of a Gas Exchange Agreement dated January 21, 1985 (Agreement). Applicants state that they are currently transporting and exchanging natural gas pursuant to the provisions of former § 284.221 of the Commission's Regulations. Reports of this transaction have been filed by Tennessee in Docket No. ST85-618-000 and by Southern in Docket No. ST85-803-000.

Applicants request authority to implement the Agreement between Tennessee and Southern to transport and exchange gas at the following existing exchange and transportation points:

Southern's Exchange/Transportation Points

- The existing point of interconnection between pipeline facilities, jointly-owned by Southern and others, and Tennessee's pipeline facilities located in Lot 45, Section 16, Township 15 South, Range 5 West, Cameron Parish, Louisiana (Block 34 Exchange Point).
- The existing point of interconnection between pipeline facilities, jointly-owned by Southern and others, and Tennessee's pipeline facilities located in East Cameron Area Block 97, offshore Louisiana (Block 104 Exchange Point).

Tennessee's Exchange/Transportation Point. The proposed point of interconnection between Southern's pipeline facilities and Tennessee's pipeline facilities located in Main Pass Area Block 298, offshore Louisiana (Block 298 Exchange Point).

Mutual Redelivery Point. The existing point of interconnection between Southern's pipeline facilities and Tennessee's pipeline facilities at or near the outlet of the Placid Oil Company's Patterson Gasoline Plant in Section 48, Township 15 South, Range 11 East, St. Mary Parish, Louisiana (Patterson Redelivery Point).

Pursuant to the Agreement, Southern seeks authorization herein to accept and receive up to 6 billion Btu equivalent of natural gas per day for the account of Tennessee at the Block 298 Exchange Point. Tennessee seeks authorization to receive up to 6 billion Btu equivalent of natural gas per day made available by Southern at the Block 34 Exchange Point.

Applicants also request authority to transport quantities of natural gas (not to exceed 6 billion Btu equivalent of natural gas per day) which may be greater than the quantity of gas available to one of the parties pursuant to the exchange arrangement. In the event any excess quantity is transported by either party, Applicants propose that such gas would be redelivered at the Patterson Redelivery Point.

Applicants state that they would charge no fee for the exchange service as proposed herein. For the transportation service, Tennessee states that it would charge Southern 10.57 cents per Mcf for gas transported from the Block 34 Exchange Point and 12.05 cents per Mcf for gas transported from Block 104 exchange point to the Patterson Redelivery Point. Tennessee states that it would pay Southern 43.4 cents per Mcf for gas transported and delivered by Southern to the Patterson Redelivery Point.

In the event that Southern transports gas pursuant to the Agreement, Southern states that it would be entitled to retain at no cost to Southern two percent of the quantity of gas delivered by Tennessee and accepted by Southern at the Block 298 Exchange Point for the transportation of Southern's company-use gas, compressor fuel, and system unaccounted-for losses in the performance of the transportation service. It is stated that Tennessee would be entitled to retain one and two-tenths percent of the transportation quantity of gas transported for Southern for its fuel and company-use purposes, and system unaccounted-for gas losses.

Applicants state that the transportation service proposed herein would be performed on an interruptible basis, and such transportation service is conditioned upon the availability of capacity on each party's pipeline system.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

15. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-126-000]

Take notice that on November 1, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-126-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necesity authorizing a transportation service for Texas Eastern Transmission Corporation (Texas Eastern) purusant to a gas transportation agreement between Tennessee and Texas Eastern, dated November 29, 1984 (agreement), all as more fully set forth in its application which is on file with the Commission and open to public inspection.

Tennessee states that it is currently transporting natural gas for Texas Eastern under its Order No. 60 blanket certificate issued February 21, 1980, in Docket No. CP80-132 pursuant to former § 284.221 of the Commission's Regulations. Reports of this transaction have been filed by Tennessee in Docket No. ST85-254-000. It is explained that the agreement provides that Tennessee would receive, on an interruptible basis, up to 20,000 Mcf of natural gas per day at an existing sub-sea side valve on its

Line No. 524X-200 located in Eugene Island Block 330 for the account of Texas Eastern and that Tennessee would transport and deliver a thermal equivalent of such gas at an existing point of interconnection between the facilitie of Tennessee and Texas Eastern located near Kinder, Allen Parish, Louisiana.

It is explained that plant volume reductions (PVR) attributable to processing of gas received in Eugene Island Block 330, including, but not limited to plant fuel, shrinkage and flare, if any, would be delivered by Tennessee at a point at the inlet side of the Ysoloskey processing plant in St. Bernard Parish, Louisiana. Pursuant to the agreement, Tennessee states that it has agreed to transport excess quantities on any day that such excess is made available to Tennessee by Texas Eastern. In addition, Tennessee states that it has agreed to accept the associated liquid hydrocarbons (exclusive of oil) produced with the transportation quantity on each day, and any excess transportation quantity, and to transport and deliver such liquid hydrocarbons for the the account of Texas Eastern's producers to the Cocodrie separation facility located in Terrebonne Parish, Louisiana.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

16. Trunkline Gas Company

[Docket No. CP86-204-000]

Take notice that on November 14, 1985, Trunkline Gas Company (Trunkline), Post Office Box 1642, Houston, Texas 77001, filed in Docket No. CP86-204-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to construct a new sales delivery point to Northern Indiana Public Service Company (NIPSCO), an existing customer, under the certificate issued in Docket No. CP83-84-000 purusant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline states that the proposed tap would be located in Elkhart County, neary Vistula, Indiana, at NIPSCO's request to help alleviate pressure problems in the Vistula area.

Trunkline states that it has executed a new service agreement with NIPSCO dated October 10, 1985, replacing the existing service agreement dated June 3, 1982. Trunkline asserts that the only change in the new service agreement is the addition of the proposed delivery point and that the total authorized maximum daily contract volume of 30,000 Mcf for the combined delivery points there under would remain unchanged and sales would continue to be made pursuant to Trunkline's Rate Schedule P-2.

Trunkline further states that it would be reimbursed by NIPSCO for the estimated $34,000 cost of constructing the facilities.

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

17. Trunkline Gas Company

[Docket No. CP86-37-000]

Take notice that on October 15, 1985, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-37-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport and deliver up to 8,000 Mcf of natural gas per day on behalf of Sun Exploration and Production Company (Sun), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant reports that Sun has separately contracted to sell natural gas to E. I. Du Pont de Nemours and Company (Du Pont), for ultimate use in Du Pont's Beaumont, Victoria, and Sabine plants in Texas. In order to transport this gas to Du Pont's plants, Applicant continues, Sun has made concomitant arrangements with a number of pipeline companies.

Under a transportation agreement concluded by Sun and Applicant on January 18, 1985, Applicant states, it would receive gas for Sun's account at existing points of interconnection between Stingray Pipeline Company (Stingray) and Sun, located in Vermilion Block 320, West Cameron Block 639, and East Cameron Block 338 (all in the offshore Louisiana area), and at existing interconnections between High Island Offshore System (HIOS) and Sun, located in High Island Block 327/332, High Island Block 369/370, and High Island Block 511 (all in the offshore Texas area).

Applicant states that it would use its contractual capacity in the Stingray and HIOS systems, and in U-T Offshore System (UTOS), to deliver the gas for Sun's account to Natural Gas Pipeline Company of America (NGPL), at the interconnection between Stingray, UTOS, and NGPL, in Cameron Parish, Louisiana, and to Transcontinental Gas Pipe Line Corporation (Transco), at the interconnections between UTOS and Transco in Cameron Parish.

For Applicant's transportation service, Sun would reportedly pay it $50,356 per month. The contract between Sun and Applicant would be in effect until January 18, 1990, and continue for year-to-year thereafter, unless either party terminates by giving the other one year's prior written notice, states Applicant.

According to Applicant, Transco would subsequently deliver Sun's gas to Florida Gas Transmission Company (Florida Gas), which would, in turn, deliver volumes to Longhorn Pipeline Company (Longhorn), for ultimate transmission to Du Pont's Beaumont plant.

Appliant states that NGPL would separately deliver gas to Transco at the UTOS terminus, for delivery to Longhorn and ultimately to Du Pont's Victoria plant.

Finally, NGPL would also deliver gas to Sabine Pipe Line Company (Sabine) at Texaco Inc.'s Henry Plant in Louisiana. Sabine, in turn, would deliver it to Neches Gas Distribution Company, for subsequent delivery to Longhorn and then Du Pont at its Sabine plant.

Applicant states that Sabine, Florida Gas, NGPL, and Transco have already filed related applications with the Commission in Docket Nos. CP85-655-000, CP85-776-000, CP85-841-000, and CP85-865-000, respectively, requesting authorization under section 7(c) of the Natural Gas Act to undertake their respective transportation on behalf of Sun and Du Pont.

Comment date: December 20, 1985, in accordance with Standard Paragraph F at the end of this notice.

18. United Gas Pipe Line Company

[Docket No. CP86-74-000]

Take notice that on October 28, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86-74-000 a request pursuant to § 157.205 of the Regulations (18 CFR 205), for authorization to install a 2-inch sales tap on United's leased 6-inch line in DeRidder, Louisiana, under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the proposed sales tap would enable United to sell and deliver to Entex, Inc., the local distributor, an estimated daily average of 55 Mcf of gas per day for resale to the Sandy Hills Trailer Park located in Entex's DeRidder, Louisiana, service area, under United's Rate Schedul DG-S. It is explained that the effective

service agreement for such service is dated July 1, 1981. United advises it has sufficient capacity to render proposed service without detriment or disadvantage to United's other customers

Comment date: January 16, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 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 and 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 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 filing 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the 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 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. 85-29311 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-1-000, 001]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

December 5, 1985.

Take notice that on November 27, 1985, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Eighth Revised Sheet No. 4
and
Third Revised Sheet No. 5

These tariff sheets are proposed to become effective January 1, 1986. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers, Tennessee Gas Pipeline Company (Tennessee), a Division of Tenneco, Inc., and Sun Exploration and Production Company. Alabama-Tennessee states that the changes in its rates have been made in conformity with the PGA and related provisions of its tariff.

The tariff sheets submitted herewith provide for the following rates:

Rate schedule	Rate after current adjustment
G-1:	
Demand (cents)	D, $7.32 D, 08.26
Commodity (cents)	12.85
Gas (cents)	.282.46
SG-1:	
Commodity (cents)	21.41
Gas (cents)	327.38
I-1:	
Commodity (cents)	16.71
Gas (cents)	303.35

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion 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 Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 12, 1985. Protests will be considered by the Commission 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 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. 85-29316 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-4-000]

American Pipeline Co; Petition for Adjustment

Issued: December 5, 1985.

On November 6, 1985, American Pipeline Company (APC) filed with the Commission a petition for relief under section 502(c) of the Natural Gas Policy Act on 1978 (NGPA). APC seeks an adjustment that will allow the company to collect a noncity-gate intrastate transportation rate for section 311 transportation transactions. The proposed rate is presently on file with the Railroad Commission of Texas.

APC, an intrastate pipeline, states in its petition that it currently is providing transportation services for American Distribution Company, Inc. under section 311(a)(2) of the NGPA. Ladd Petroleum Corporation (Ladd), the producer of the natural gas transported by APC for American Distribution, pays the transportation charges. APC is seeking an adjustment so that it can charge Ladd a noncity-gate rate for these transportation services. APC feels the proposed adjustment is warranted since the transportation service APC provides under section 311(a)(2) is the same service APC provides under its intrastate tariff. APC asserts that granting the adjustment will avoid dual regulation by the Railroad Commission and the Commission. If the adjustment is denied, a § 284.123(b)(2) rate proceeding will be required for each NGPA section 311(a)(2) transaction. APC states that since it is already subject to cost-of-service scrutiny by a state regulatory agency, a similar Commission proceeding would be inequitable, unnecessary, duplicative and impose special hardships.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure (18 CFR 385.1101 *et seq.*

(1985)). Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of Subpart K within 15 days after publication of this notice in the **Federal Register**. APC's petition is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29317 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-22-000]

ANR Pipeline Co.; Petition To Waive Tariff Provisions

December 5, 1985.

Take notice that on November 22, 1985, ANR Pipeline Company (ANR) petitioned for waiver of sections 4.2 and 8.5 of Rate Schedule CD-1, section 4 of Rate Schedule MC-1, and section 1(a) of Rate Schedule SGS-1, all of which Rate Schedules are part of ANR's FERC Gas Tariff, original Volume No. 1.

Any person desiring to be heard or to protest ANR's petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 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 12, 1985. 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 inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29318 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA86-1-48-003, TA86-2-48-000, 001]

ANR Pipeline Co.; GRI Rate Change Filing

December 5, 1985.

Take notice that on November 27, 1985, ANR Pipeline Company ("ANR"), pursuant to the Commission's Opinion No. 243, tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to Original Volume No. 1 and Original Volume No. 2 of its F.E.R.C. Gas Tariff to be effective January 1, 1986:

Original Volume No. 1

Fourth Revised Sheet No. 18

Original Volume No. 2

First Revised Sheet No. 20
First Revised Sheet No. 21
First Revised Sheet No. 1698
First Revised Sheet No. 1707
First Revised Sheet No. 1751
First Revised Sheet No. 1769
First Revised Sheet No. 1784

Fourth Revised Sheet No. 18 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1, reflects a net increase of .10¢ per dekatherm in one-part rates and the commodity components of the two-part rates. This increase is the result of an increase in the GRI Adjustment to 1.35¢ per dekatherm, as approved by the Commission in its Opinion No. 243, issued at Docket No. RP85-154-000 on September 26, 1985. First Revised Sheet Nos. 20, 21, 1698, 1707, 1751, 1769 and 1784 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 2, reflect narrative and footnote changes to refer the reader to Sheet No. 18 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1, for the currently effective GRI Surcharge.

ANR has also tendered for filing Substitute Third Revised Sheet No. 18 to be effective November 1, 1985. Substitute Third Revised Sheet No. 18 reflects the correction of an inadvertent clerical error on Third Revised Sheet No. 18, filed Sepember 30, 1985, in ANR's November 1, 1985 PGA filing, Docket No. TA86-1-48-000. The nature of the clerical error involved a transposition of the current adjustment between the SGS-1 and LVS-1 rate billings under the schedules, with the correction thereof having a minor effect on SGS-1 and LVS-1 rates schedules. As the error was discovered prior to actual billing, the rates to be billed effective November 1, 1985 are those reflected on Substitute Third Revised Sheet No. 18. ANR believes that this course of action is appropriate and, unless otherwise advised by the Commission, will proceed in this manner.

Pursuant to ordering paragraph (B) of the Commission's October 28, 1985 Order at Docket No. TA86-1-48-000, ANR was ordered to file revised tariff sheets within 30 days of the date of the Order to reflect the elimination of the effect of concurrent exchange imbalances from Account No. 191. On November 20, 1985, ANR filed its "Motion Of ANR Pipeline Company For Extension Of Time To Comply With Order" with the Commission requesting deferral of compliance with ordering paragraph (B) of the aforementioned Order. Therefore, Substitute Third Revised Sheet No. 18 does not reflect the elimination of such imbalances. Pending the results of the Commission Staff's review of proposals for an acceptable methodology for dealing with transportation and exchange imbalances, ANR requests that the Commission accept Substitute Third Revised Sheet No. 18.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 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 motions or protests should be filed on or before December 12, 1985. 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 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. 85-29319 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-9-000]

Consolidated Gas Transmission Corp.; Petition for Waiver of Regulations

Issued: December 5, 1985.

Take notice that on November 7, 1985, Consolidated Gas Transmission Corporation (Consolidated) filed pursuant to Rule 207 of the Commission's rules of practice and procedure a petition for waiver of Parts 271, 273 and 274 of the Commission's regulations and any other relief necessary to permit the retroactive collection of rates pursuant to Section 108 of the Natural Gas Policy Act of 1978 (NGPA) for gas produced from approximately 385 "old" wells. These wells are company-owned wells drilled before January 1, 1973, on leases acquired before October 8, 1969. Consolidated states that the relief it seeks would implement the Supreme Court's decision in *Public Service Commission of the State of New York v. Mid-Louisiana Gas Company*, 463 U.S. 319 (1983) *aff'g Mid-Louisiana Gas Co. v. FERC*, 664 F.2d 530 (5th Cir. 1981).

Consolidated states that a waiver of Parts 271, 273, and 274 of the Commission's regulations is necessary in order to enable it to seek to qualify its "old" wells as stripper wells pursuant to NGPA Section 108. Consolidated proposes to file well category determination applications with state jurisdictional agencies in order to qualify its wells for section 108 prices retroactive to December 1, 1978, the effective date of the NGPA. Consolidated states that it will charge its deferred purchased gas cost account No. 191 with the difference between the NGPA section 108 price and the price actually collected for sales of gas from the wells in question. This procedure would enable Consolidated to recover the increased prices through future purchased gas adjustment charges.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intevene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29320 Filed 12-10-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. CP83-403-008]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 3, 1985.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on November 27, 1985, filed Substitute Original Sheet Nos. 83 through 86, inclusive, to Original Volume No. 1 of its FERC Gas Tariff. The tariff sheets are filed to revise a June 28, 1985, filing which was filed in compliance with a condition of the Commission's order in *Consolidated Gas Supply Corporation*, Docket Nos. CP83-403-001, *et al.* issued June 18, 1984, which approved a settlement agreement dated March 16, 1984, and issued a certificate of public convenience and necessity permitting Consolidated to serve its CONTEAL customers. Consolidated asks for appropriate waivers permitting the substitute tariff sheets, comprising Rate Scheduled CD, to become effective on January 1, 1986, consistent with the terms of the settlement agreement.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 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 10, 1985. 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. 85-29321 Filed 12-10-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. WH-003]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver from Water Heater Test Procedures to Ford Products Corp.

AGENCY: Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order [Case No. WH-003] granting Ford Products Corporation a waiver for its Models CF and FG oil-fired water heaters from the existing DOE water heater test procedures.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9127;

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-12, Forrestal Building, 1000 Independence Avenue, SW Washington, DC 20585, (202) 252-9513

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Ford Products Corporation has been granted a waiver for its Models CF and FG oil-fired water heaters, permitting the company to use a "simulated use" test method in lieu of the "coldstart recovery" test method in the existing test procedure.

Issued in Washington, DC, November 22, 1985.

Donna R. Fitzpatrick,

Acting Assistant Secretary, Conservation and Renewable Energy.

Decision and Order of the Department of Energy Office of Conservation and Renewable Energy

In the Matter of Ford Products Corporation; Case No. WH-003.

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including water heaters. The entent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decision. These test procedures appear at 10 CFR Part 430, Subpart B.

Section 430.27 allows the Department of Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inadequate comparative data. 45 FR 64108 (September 26, 1980).

Pursuant to § 430.27(g), the Department shall publish in the Federal Register notice of each waiver granted, and any limiting conditions of each waiver.

Ford Products Corporation (Ford), filed a "Petition for Waiver" in accordance with § 430.27 of 10 CFR Part 430. DOE published in theFederal Register the Ford petition and solicited comments, data, and information respecting the petition. 50 FR 32614 (August 13, 1985). No comments were

received. DOE consulted with the Federal Trade Commission on August 20, 1985, concerning the Ford petition.

Assertions and Determinations

Ford filed a petition for waiver from the DOE test procedure for oil-fired water heaters. The Ford peition essentially asks for the allowance to rate its heaters in the same manner that would be allowed to a previous petitioner, Bock Water Heaters, Inc.

Ford offers that its CF and FG Model series oil-fired water heaters have high thermal mass which leads to unrepresentative values of recovery efficiency, and consequently, Ford seeks relief from the DOE "cold-start" recovery efficiency test methodology.

In the Bock Decision and Order, DOE allowed Bock to determine the recovery efficiency of its oil-fired water heaters by use of a "simulated use" test method (50 FR 47106, November 14, 1985). Accordingly, in the interest of consistency, and since DOE determined that the existing test method is inappropriate with regard to high thermal mass water heaters, today's Decision and Order allows Ford the use of the "simulated use" test method for its oil-fired models.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Ford Products Corporation (WH-003), is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix E of 10 CFR, Part 430, Subpart B, Ford Products Corporation shall be permitted to test its Models CF and FG oil-fired water heater on the basis of the test procedure specified in 10 CFR, Part 430, with the modifications set forth below.

(i) Section 3.3.1 of Appendix E of 10 CFR, Part 430, is waived for Ford Products Corporation, and the company is permitted to use the following provision.

Recovery Efficiency for Oil Water Heaters by the Simulated Use Methods

The simulated use test involves withdrawing water from the hot water outlet of the water heater in three separate consecutive water draws. For both the first and second water draws, 21.4 gallons ±0.5 gallon of water shall be withdrawn from the water heater. The third water draw shall be of a sufficient volume to bring the total volume of water withdrawn from the water heater by means of these three water draws to 64.3 gallons ±0.5 gallon. Water shall be withdrawn at a rate of 3.0± 0.25 gallons per minute for each of the three water draws. All water volume measurements shall be made using the water flow meter specified in section 2 of Appendix E of 10 CFR Part 430.

Begin the simulated use test immediately after a cutout by recording the mean tank temperature (T_{TS}), in degrees F, recording the time, recording the water meter reading, commencing measurement of electrical and fossil fuel energy consumption by the water heater and starting the first water draw. During this draw and during all subsequent draws measure the temperature of the inlet and outlet water every minute commencing one minute after the start of the draw until the draw is complete. Immediately upon the conclusion of the first water draw record the water meter reading. Determine the first draw average inlet and outlet water temperatures (T_{ID1} and T_{TD1} respectively) by averaging the measured temperatures during the first draw. Immediately after the cutout following the recovery of the first water draw begin the second water draw. Immediately upon the conclusion of the second water draw record the water meter reading. Determine the second draw average inlet and outlet water temperatures (T_{ID2} and T_{TD2} respectively) by averaging the measured temperatures during the first draw begin the second water draw. Immediately upon the conclusion of the second water draw record the water meter reading. Determine the second draw average inlet and outlet water temperatures (T_{ID2} and T_{TD2}) respectively by averaging the measured temperatures during the second draw. Immediately after the cutout following the recovery of the second water draw begin the third water draw. Immediately upon the conclusion of the third draw record the water meter reading and determine the third draw average inlet and outlet water temperatures (T_{ID3} and T_{TD3} respectively) by averaging the measured temperatures during the third draw. Immediately after the cutout following the recovery of third draw, record the total amount of energy consumed by the water heater since the start of the test (Z_R), in Btu's (where 3,412 Btu equals 1 kilowatt-hours). Determine the mean of the three outlet water temperature averages (T_{TWD}) and the mean of the three inlet water temperature averages (T_{IWD}), in degrees F. Determine the total amount of water withdrawn from the water heater over all three water draws (V_{WD}), in gallons, from the appropriate recorded water meter readings.

(ii) Section 4.1.1. of Appendix E of 10 CFR, Part 430, is waived for Ford Products Corporation, and the company is permitted to use the following provision:

Calculation of Recovery Efficiency Using the Results of the Simulated Use Test Method

Calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R = \frac{(K)\,(V_{WD})(T_{TWD} - T_{IWD})}{(Z_R 1)}$$

where:

K = 8.25 Btu per gallon * F, the nominal specific heat of water.

V_{WD} = volume of water withdrawn from the water heater over all three water draws of the simulated use test, determined in accordance with subparagraph (i) above expressed in gallons.

T_{TWD} = mean of the outlet water temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with subparagraph (i) above expressed in degrees F

T_{IWD} = means of the inlet water temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with subparagraph (i) above expressed in degrees F.

Z_R = total amount of energy consumed by the water heater over the period of the three water draws of the simulated use test, determined in accordance with subparagraph (i) above expressed in Btu's.

(iii) With the exception of the modifications regarding the determination of recovery efficiency set forth in subparagraphs (i) and (ii) above, Ford Products Corporation shall comply in all respects with the test procedures specified in Appendix E of 10 CFR Part 430, Subpart B.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes a final rule with regard to the testing of oil-fired water heaters with high thermal mass.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by applicant. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, DC, November 22, 1985.

Donna R. Fitzpatrick,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 85-29226 Filed 12-10-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-425; FRL-2936-3]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and/or withdrawal of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-425] and the petition number, attention Product Manager (PM-16), at the following address: Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Emvironmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legel holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, (PM-16), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), and food additive (FAP) petitions relating to the establishment and/or withdrawal of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filing

1. *PP 5F3278.* Rhone-Poulenc Inc., P.O. Box 125, Monmouth Junction, NJ 08852. Proposes amending 40 CFR 180.262 by establishing a tolerance for residues of the nematocide and insecticide, ethoprop in or on the commodity grapes at 0.02 part per million (ppm). The proposed analytical method for determining residues is a gas chromatograpic procedure utilizing a microcoulometric detector.

2. *PP 5F3298.* Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide [*O,O*-dimethyl *O*-(4-nitro-*m*-tolyl)phosphorothioate] and its metabolite; the oxygen analog [*O,O*-dimethyl *O*-(4-nitro-*m*-tolyl)phosphate] in or on the commodities as follows:

Commodity	Part per million (ppm)
Eggs	0.05
Fat, meat, and meat-by-products (mbyp) of cattle, goats, hogs, horses, poultry and sheep	0.05
Milk	0.01
Whole grains (barley, corn, milo (grain sorghum), oats, rice, rye and wheat)	15

The proposed analytical method for determining residues is gas chromatographic method utilizing either a flame photometric detector or an alkali flame detector in the phosphorus specific mode.

3. *FAP 5H5476.* Sumitomo Chemical America, Inc. Proposes amending 21 CFR 193.156 by establishing a regulation permitting residues of the above insecticide (PP 5F3298) and its metabolite in or on the following commodities: Milled fractions of barley, corn, milo (grain sorghum), oats, rice, rye and wheat at 25 ppm.

II. Petition Withdrawal

1. *PP 3F2799 & FAP 3H5380.* EPA issued a notice, published in the **Federal Register** of March 16, 1983 (48 FR 11155), which announced that Chevron Chemical Co., 940, Hensley St., Richmond CA 94804, had submitted pesticide petition (PP) 3F2799 and feed additive petition (FAP) 3H5380 to the Agency proposing to amend 40 CFR 180.108 (PP 3F2799) and 21 CFR 561.20 (FAP 3H5380) by establishing tolerances for residues of the insecticide acephate in or on potatoes (PP 3F2799) at 1.0 ppm, and potato waste (FAP 3H5380) at 4.0 ppm.

Chevron Chemical Co. has withdrawn these petitions without prejudice to future filing in accordance with 40 CFR 180.8.

2. *PP 0F2356 & FAP 0H5259.* EPA issued a notice published in the **Federal Register** of July 9, 1980 (45 FR 46201) which announced that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, had submitted PP 0F2356 and FAP 0H5259 to the Agency proposing to amend 40 CFR 180.320 [PP 0F2356] and 21 CFR 561.175 (FAP 0H5259) by establishing tolerances for residues of the insecticide/bird repellent 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on grapes (PP 0F23256) at 10 ppm, and raisin trash (FAP 0H5259) at 50 ppm.

Mobay Chemical Corp. has withdrawn these petitions as amended (47 FR 54159, December 1, 1982 and 49 FR 48376, December 12, 1984) without prejudice to future filing in accordance with 40 CFR 180.8.

Authority: 21 U.S.C. 346a and 348.

Dated: November 29, 1985.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-29117 Filed 12-10-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-429; FRL-2936-2]

Withdrawal of Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the withdrawal by Chevron Chemical Co., of pesticide and feed additive petitions proposing tolerances for residues of the insecticide acepthate in or on certain commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-429] and the petition number, attention Product Manager (PM-16), at the following address: Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA withoug prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section Office at the address given above, from 8 a.m., to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, (PM–16), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2600.)

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of April 18, 1984 (49 FR 15267) which announced that Chevron Chemical Co., 940 Hensley St., Richmond, CA, 94804–0036, had submitted pesticide petition (PP) 4F3051 to to the Agency proposing to amend 40 CFR 180.108 by establishing a tolerance for residues of the insecticide acephate and its cholinesterase-inhibiting metabolite in or on sunflower seeds at 0.1 part per million (ppm), and feed additive petition (FAP) 4H5429 proposing to amend 21 CFR 561.20 by establishing a regulation permitting tolerances for residues of acephate and its cholinesterase-inhibiting metabolite in or on sunflower hulls at 0.2 ppm.

Chevron Chemical Co. has withdrawn these petitions without prejudice to future filing in accordance with 40 CFR 180.8.

Authority: 21 U.S.C. 346a and 348.

Dated: November 29, 1985.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–29118 Filed 12–10–85; 8:45 am]

BILLING CODE 6560–50–M

[PP 5G3268/T506; FRL–2936–6]

E.I. du Pont de Nemours and Co., Inc.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide Methyl 2[[[[[(4,6-dimethoxy-pyrimidin-2-yl] amino]carbonyl]amino]-sulfonyl] methyl]benzoate in or on the raw agricultural commodity rice. This temporary tolerance was requested by E.I. du Pont de Nemours and Co., Inc.

DATE: This temporary tolerance expires February 1, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1830).

SUPPLEMENTARY INFORMATION: E.I. du Pont de Nemours and Co., Inc., Agricultural Chemicals Department, Walkers Mill Building, Barley Mill Plaza, Wilmington, DE 19898, has requested in pesticide petition PP 5G3268 the establishment of a temporary tolerance for residues of the herbicide Methyl 2[[[[[(4,6-dimethoxy-pyrimidin-2-yl]amino]carbonyl]amino]-sulfonl]methyl]benzoate in or on the raw agricultural commodity rice at 0.02 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 352–EUP–129, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the termporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. E.I. du Pont de Nemours and Co., Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires February 1, 1988. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: November 29, 1985.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–29235 Filed 12–10–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Emergency Training Center

Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA)

Dates of Meeting: January 13–14, 1986

Place: National Emergency Training Center, Emmitsburg, Maryland

Time: January 13—8:30 a.m. to 5:00 p.m.; January 14—8:30 a.m. to 5:00 p.m.

Proposed Agenda

January 13–14: Old Business: New Business: Review of Staff Recommendations to NFA Master Curriculum Plan; Classroom Visitation; Annual Report by Divisions' Deputy Superintendents.

The meeting will be open to the public with approximately 10 seats available on a first-come, first-serve basis.

Members of the general public who plan to attend the meeting should contact Mr. Joseph Donovan, Superintendent, National Fire Academy, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301–447–6771) on or before January 3, 1986.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, MD, 21727 Copies of the mintues will be available upon request 30 days after the meeting.

Dated: December 2, 1985.

Joseph L. Donovan,

Superintendent, National Fire Academy.

[FR Doc. 85–29313 Filed 12–10–85; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–756–DR]

Notice of Major Disaster and Related Determinations; Florida

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–756–DR), dated December 3, 1985, and related determinations.

DATED: December 3, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646–3616.

Notice

Notice is hereby given that, in a letter of December 3, 1985, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Public Law 93–288), follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Kate and flooding, beginning on or about November 20, 1985, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93.288. I therefore declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide necessary Individual Assistance in the affected areas. You also are authorized to provide Public Assistance in the affected areas as requirements are further established. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster and are designated eligible as follows:

Gulf, Franklin, and Wakulla Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Deputy Director, Federal Emergency Management Agency.

[FR Doc. 85–29312 Filed 12–10–85; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; Intersped Systems, Inc., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20572.

Intersped Systems, Inc., 496 South Airport Blvd., South San Francisco, CA 94080. Officers: James Glenn Sickly, President, Brigitte A.M. Sickly, Vice President/Secretary

A&A International Forwarding Corp., 120 NW 87th Avenue, Apt. F–202, Miami, FL 33172. Officers: Adria Amenabar, President, Sergio Quincoses, Vice President

Stephen Paul Billinghurst, 1918 Britton Drive, Long Beach, CA 90815

Dated: December 6, 1985.

By the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–29303 Filed 12–10–85; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations; Terra Marine Shipping Co., Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Comission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 7
Name: Terra Marine Shipping Co., Inc.
Address: 501 Army Street, #209, San Francisco, CA 94124
Date Revoked: November 23, 1985
Reason: Failed to maintain a vaild surety bond

License Number: 912
Name: Express Forwarding & Storage Company, Inc.
Address: 19 Rector Street, New York, NY 10006
Date Revoked: November 23, 1985
Reason: Failed to maintain a valid surety bond

License Number: 1453
Name: Transport Inter-Modal Coporation
Address: 360 River Road, Edgewater, NJ 07020
Date Revoked: November 25, 1985
Reason: Requested revocation voluntaily

License Number: 421
Name: Noton & Ellis of New York
Address: 45 John Street, New York, Ny 10038
Date Revoked: December 1, 1985
Reason: Requested revocation voluntarily

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85–29304 Filed 12–10–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Bank System, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f) 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. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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 facts 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 24, 1985.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to acquire Northwest Leasing Corporation, Fargo, North Dakota, and thereby engage in the leasing of personal property, pursuant to § 225.25(b)(5) of Regulation Y. These activities would be conducted in Fargo, North Dakota, and elsewhere in the United States. The location of the nonbank offices would be Fargo, North Dakota.

2. *First Bank System, Inc.*, Minneapolis, Minnesota; to acquire TEC Leasing, Inc., Casper, Wyoming, and thereby engage in the leasing of personal property, pursuant to § 225.25(b)(5) of Regulation Y. These activities would be conducted in Casper, Wyoming, and elsewhere in the United States. The location of the nonbank offices would be Casper, Wyoming.

3. *First Bank System, Inc.*, Minneapolis, Minnesota; to acquire W. W. Wallwork, Inc., Fargo, North Dakota, and thereby engage in the leasing of personal property, pursuant to § 225.25(b)(5) of Regulation Y. These activities would be conducted in Fargo, North Dakota, and elsewhere in the United States. The location of the nonbank offices would be Fargo, North Dakota.

4. *First Bank System, Inc.*, Minneapolis, Minnesota; to acquire Wallwork Lease and Rental Company, Inc., North Dakota, and thereby engage in the leasing of personal property, pursuant to § 225.25(b)(5) of Regulation Y. These activities would be conducted in Fargo, Bismarck, Dickinson, Grand Forks, all located in North Dakota, and elsewhere in the United States. The location of the nonbank offices would be Fargo, Bismarck, Dickinson, Grand Forks, all located in North Dakota.

Board of Governors of the Federal Reserve System, December 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-29337 Filed 12-10-85; 8:45 am]

BILLING CODE 6210-01-M

Mobile National 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 January 1, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Mobile National Corporation*, Mobile, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Mobile, N.A., Mobile, Alabama. Comments on this application must be received not later than January 3, 1986.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F&M Bankshares of Reedsburg, Inc.*, Reedsburg, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers and Merchants Bank, Reedsburg, Wisconsin.

2. *Princeton National Bancorp, Inc.*, Princeton, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Genoa State Bank, Genoa, Illinois. Comments on this application must be received not later than January 2, 1986.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Bankshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Texas Commerce Banks, Newark, Delaware, a *de novo* bank.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, Sanfrancisco, California 94105:

1. *Crown National Bancorp*, San Jose, California; to become a bank holding company by acquiring 100 percent of the voting shares of Crown National Bank, San Jose, California (in organization). Comments on this application must be received not later than December 25, 1985.

Board of Governors of the Federal Reserve System, December 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-29336 Filed 12-10-85; 8:45 am]

BILLING CODE 6210-01-M

First Busey Corp.; Formation of: Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written 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.

Comments regarding this application must be received not later than December 21, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Busey Corporation*, Urbana, Illinois; to acquire 100 percent of the voting shares of Farmers State Bank of Heyworth, Heyworth, Illinois.

Board of Governors of the Federal Reserve System, December 9, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-29527 Filed 12-10-85; 11:01 am]

BILLING CODE 6210-01-M

Woodville Bancshares, Inc.; Formation of: Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written 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.

Comments regarding this application must be received not later than December 21, 1985.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Woodville Bancshares, Inc.*, Waco, Texas; to acquire 99.75 percent of the voting shares of The First State Bank, Colmesneil, Texas.

Board of Governors of the Federal Reserve System, December 9, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-29526 Filed 12-10-85; 11:01 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on the Evaluation of Pain; Postponement of Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of postponement of meeting.

SUMMARY: Notice is hereby given that the meeting of the Commission on the Evaluation of Pain that was to be held at the National Academy of Sciences, Board Room, 2101 Constitution Avenue, NW., Washington, DC 20037, on December 12 and 13, 1985, has been postponed. The meeting will be rescheduled at a later date. The original notice of this meeting appeared November 14, 1985 at 50 FR 47118.

Dated: December 9, 1985.

Nancy J. Dapper,

Executive Director, Commission on the Evaluation of Pain.

[FR Doc. 85-29538 Filed 12-10-85; 11:18 am]

BILLING CODE 4160-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-50822, U-52743, U-53122]

Utah; Conveyance of Public Land; Reconveyed Land Opened to Entry

Correction

In FR Doc. 85-22800 beginning on page 38899 in the issue of Wednesday, September 25, 1985, make the following corrections:

1. On page 38899, third column, ninth line from the bottom, "lots through 5" should read "lots 1 through 5"; and the eighth line from the bottom should read "N½S½, N½S½SW¼, SW¼SW¼ SW¼".

2. On page 38900, first column, fifth line from the top, "T.9S.," should read "T.9N.,".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered and Threatened Species; Receipt of Application for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Arlan R. Vaughn, Pueblo, CO—PRT-701392

The applicant requests a permit to import two pair of captive-bred Mikado pheasant (*Syrmaticus mikado*) from Bert Willemsen of Surrey, British Columbia, Canada, for the purpose of enhancement of propagation.

Applicant: Dr. Stephen Bennett Ruth, Pacific Grove, CA—PRT-702034

The applicant requests a permit to capture, mark and release adult and juvenile Santa Cruz long-toed salamanders (*Ambystoma macrodactylum croecum*), on the property of Seascape Uplands in Aptos, CA, for the purpose of obtaining population statistics on the animals. Marking will be by toe-clipping method.

Applicant: Joseph D. Ducote, Pearl River, LA—PRT-701791

The applicant requests a permit to purchase 2.2 captive-born nene geese (*Nesochen* [=*Branta*] *sandvicensis*), from Mr. David Monuszko of Poulsbo, WA, for the purpose of enhancement of propagation.

Applicant: Brookfield Zoo, Chicago Zool. Society, Brookfield, IL—PRT-701654

The applicant requests a permit to export 1.0 captive-born margay (*Felis wiedii*) to Regent's Park, London, England, for the purpose of enhancement of propagation.

Applicant: Carlos Vela, Laredo, TX—PRT-701687

The applicant requests a permit to import one personal, sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Mr. Phil van der Merwe, Skietkuil, South Africa, for the purpose of enhancement of propagation.

Applicant: Norman E. Speer, Laredo, TX—PRT-701686

The applicant requests a permit to import one personal, sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Mr. Phil van der Merwe, Skietkuil, South Africa, for the purpose of enhancement of propagation.

Applicant: John I. Harvill, Perris, CA—PRT-701945

The applicant requests a permit to import one personal, sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Mr. F. Bowker, Grahamstown, South Africa, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director of U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: December 4, 1985.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-29373 Filed 12-10-85; 8:45 am]

BILLING CODE 4310-55-M

Endangered and Threatened Species; Receipt of Application for Permit

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531 *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR Parts 17 and 18).

Applicant

Name: Manitoba Dept. of Business Development and Tourism, 7-155 Carlton Street, Winnipeg, Manitoba, Canada—File no. PRT-693086.

Type of Permit: Public Display.

Name and Number of Animals: Polar bear (*Ursus maritimus*) -1.

Summary of Activity to be Authorized: The applicant proposes to import this animal for display at a shopping mall promotion called "Showcase Canada" in Atlanta, GA and possible elsewhere.

Source of Marine Mammals for Display: One mounted specimem taken by a licensed Inuit in the Northwest territories, Canada, 1984.

Period of Activity: February—March 1986.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application(s), or requests for a public hearing on this/these application(s) should be submitted to the director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application(s) are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: December 4, 1985.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-29374 Filed 12-10-85; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 277X)]

Burlington Northern Railroad Co. Abandonment Exemption; Escambia County, FL; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad between Station 97 + 72 near Pensacola, and Station 163 + 00 near Pensacola, a distance of approximately 6,528 track feet, in Escambia County, FL.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complaint within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the bandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective January 10, 1986 (unless stayed pending reconsideration). Petitions to stay must be filed by December 23, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 31, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Peter M. Lee, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice of Exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 5, 1985

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-29368 Filed 12-10-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30751]

Gulf and Mississippi Railroad Corp.; Trackage Rights; Burlington Northern Railroad Co.; Exemption

Burlington Northern Railroad Company has agreed to grant overhead trackage rights to Gulf and Mississippi Railroad Corporation between Tupelo, MS and New Albany, MS, a distance of

28.93 miles, which includes 4.37 miles of side track. The trackage rights are effective on November 28, 1985.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: December 6, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-29378 Filed 12-10-85; 8:45 am]

BILLING CODE 7035-01-M

MERIT SYSTEMS PROTECTION BOARD

Issuance of Orders Under Section 1205(e) Regarding Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Notice of order.

SUMMARY: 5 U.S.C. 1205(e) authorizes the Board to review rules and regulations issued by the Office of Personnel Management (OPM) and their implementation by other federal agencies in order to determine if they have required or would require any federal employee to commit a prohibited personnel practice in violation of 5 U.S.C. 2303(b). Charlotte E. Larson has petitioned the Board pursuant to 5 U.S.C. 1205(e)(1)(B) to review the implementation of Federal Personnel Manual (FPM) Bulletin No. 296-56 which has since been incorporated in FPM Supplement 296-33. FPM Bulletin No. 296-56, which was issued by OPM September 7, 1984, interprets personnel actions resulting from Pub. L. 98-369, "Deficit Reduction Action of 1984." After considering the initial request, the Board determined on November 21, 1985, that the petition shall be denied.

FOR FURTHER INFORMATION CONTACT: Williams Cardoza, Office of General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419, (202) 653-8911.

Dated: December 4, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85-29197 Filed 12-10-85; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Establishment of Agency SES Performance Review Board and Names of Board Members

Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires that each agency establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRB) to review, evaluate and make a final recommendation on performance appraisals assigned to individual members of the agency's Senior Executive Service. The PRB established for the National Capital Planning Commission also makes recommendations to the agency head regarding SES Performance awards, ranks and bonuses. Section 4314(c)(4) requires that notice of appointment of Performance Review Board members be published in the **Federal Register.**

The following persons have been appointed to serve as members of the Performance Review Board for the National Capital Planning Commission: Reginald W. Griffith, Donald F. Bozarth, Robert E. Gresham, Jean McKee, Richard Petrocci.

For further information regarding SES Performance Review Board contact: Malcolm L. Trevor, Special Assistant to the Executive Director, National Capital Planning Commission, 1325 G Street, N.W., Suite 1003, Washington, D.C. 20576.

Rae N. Allen,

Secretary to the Commission.

December 5, 1985.

[FR Doc. 85-29344 Filed 12-10-85; 8:45 am]

BILLING CODE 7520-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 410-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Design of an Independent Spent Fuel Storage Installation (Dry Storage)" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance acceptable to the NRC staff for use in the design of a dry-storage independent spent fuel storage installation. This guide endorses, with certain exceptions and modifications, ANSI/ANS 57.9-1984, "Design Criteria for an Independent Spent Fuel Storage Installation (Dry Storage Type)."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by February 7, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of

Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 4th day of December 1985.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 85-29385 Filed 12-10-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for an amendment to Facility Operating License NPF-36, issued to the Long Island Lighting Company, for operation of the Shoreham Nuclear Power Station, located in Suffolk County, New York. The Notice of Consideration of Issuance of Amendment was published in the **Federal Register** on November 6, 1985 (50 FR 46214).

Condition 2.C(8) of License NPF-36, dated July 3, 1985, states that "Prior to November 30, 1985 the licensee shall environmentally qualify all electrical equipment according to the provisions of 10 CFR 50.49." The licensee requested an extension beyond November 30, 1985 for certain components in the hydrogen recombiners and certain ventilation damper actuators totaling 13 pieces.

The licensee requested an extension until November 30, 1986 for the completion of qualification of the hydrogen recombiners and an extension until August 31, 1986 for the completion of qualification of the damper actuators. Considering that (1) the delay in the qualification of these items was beyond the control of the licensee, (2) the actual testing has been completed, (3) the licensee is in the process of installing the new equipment and (4) the need for an extension beyond November 30, 1985 is based solely on delays in the completion of the qualification documentation packages, the staff and the Commission have found that the licensee has provided a satisfactory basis to demonstrate the exceptional nature of the case.

However, the Commission does not believe that the length of the extensions requested by the licensee are warranted, given the success other licensees have had in qualifying similar equipment. Furthermore, the licensee has verbally informed the staff that the equipment successfully completed the qualification test program in late October 1985. The Commission believes that an extension until December 31, 1985, should be sufficient to allow the licensee to complete the qualification documentation packages. Accordingly, the Commission has denied the licensee's request, but has approved an extension until December 31, 1985.

By January 6, 1986, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Anthony F. Earley, Jr., Esq., Long Island Lighting Company, 175 East Old Country Road, Hickville, New York 11801.

For further details with respect to this action see (1) the licensee's extension request to the Commission dated September 26, 1985, (2) the application for amendment dated October 21, 1985, and (3) the Commission's letter to the licensee dated November 14, 1985, which are avaialble for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington DC, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

Dated at Bethesda, Maryland this 6th day of December 1985.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 85-29386 Filed 12-10-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments: USITC Determination Regarding Certain Aramid Fiber

On November 26, 1985, the United States International Trade Commission referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, and in the sale, of certain aramid fiber manufactured abroad using a process which, if practiced in the United States, would infringe the claims of a U.S. patent. The Commission found that the importation of the aramid fiber has the tendency to injure substantially an efficiently and economically operated U.S. industry. The Commission directed the U.S. Customs Service to exclude aramid fiber produced abroad by the respondents from entry into the United States.

Under section 337(g), the President may disapprove the Commission's determination for policy reasons within sixty days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The determination and related orders become final automatically following the sixty day review period, if the President has not disapproved. The President also may approve the determination, making it, and any order issued under its authority, final on the date the Commission received notice.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this case. Parties commenting on domestic policy issues should refer to the portion of the Commission's record in which that issue is discussed. Parties should give thier reason for submitting comments regarding a domestic policy issue if that issue was not presented to the Commission for its consideration.

Comments of more than 15 letter-sized pages, including attachments, will not be accepted. Twenty copies of the submission must be provided. Comments must be delivered by the close of business, Friday, December 27, 1985, to the Secretary, Trade Policy Staff Committee, Room 521, 600 17th Street NW., Washington, DC. 20506. For further information, call Alice Zalik (202) 395-3432.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85-29196 Filed 12-10-85; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23931; 70-7190]

Maui Electric Co., Limited; Proposed Acquisition of Molokai Electric Co., Limited

December 3, 1985.

Maui Electric Company, Limited ("MECO"), 210 Kamehameha Avenue, Kahului, Maui, Hawaii 96732, filed an application pursuant to section 9(a)(2) and 10 of the Public Utility Holding Company Act of 1935 ("Act") requesting Commission approval of its proposed acquisition of all of the outstanding common stock of Molokai Electric Company, Limited ("MOECO").

MECO, an electric utility company providing electric service to the islands of Maui and Lanai in the State of Hawaii, is a wholly owned subsidiary of Hawaiian Electric Company, Inc. ("HECO"), an operating public utility also incorporated in Hawaii that provides electric services to the Island of Oahu. HECO is a wholly owned subsidiary of Hawaiian Electric Industries, Inc. ("HEI"), and an exempt holding company under section 3(a)(1) of the Act. HECO has another wholly owned public utility subsidiary, Hawaii Electric Light Company, Inc. ("HELCO"), which provides electric services to the Island of Hawaii. The companies in this affiliated group provide electric utility services solely within the State of Hawaii. HEI has two other wholly owned subsidiaries, HEI Investment Corp. ("HEIIC"), which invests in securities and assets of other corporations, and Hawaiian Electric Renewable Systems, Inc. ("HERS"), organized to own and/or operate alternate energy or cogeneration facilities. MOECO is a small independent electric utility providing service to the Island of Molokai. MECO, MOECO, HECO, HEI, HELCO, HEIIC, and HERS are all Hawaii corporations.

The form of the proposed transaction is a merger under which MECO would acquire all of the outstanding common stock of MOECO, which would continue as the surviving corporation. MECO will organize a new Hawaii corporation, New Meco, Inc. ("NEW MECO"), which will serve as the vehicle for the merger. MECO will provide NEW MECO with sufficient cash to carry out the merger. NEW MECO will then merge into MOECO, each outstanding share of common stock of MOECO will be exchanged for cash in the amount of $24 per share, and the common stock of NEW MECO will be converted into an equal number of shares of common stock of MOECO. As a result, the present shareholders of MOECO will receive cash in the amount of $24 per share for each of their shares of common stock of MOECO, for a total price of $567,960, and MECO will become the owner of all of the outstanding common stock of MOECO, the surviving corporation. Any stockholder of MOECO who dissents from the merger and perfects his dissenter's rights will be entitled to claim the fair market value of his MOECO shares in cash.

HECO, MECO and HELCO presently provide electric service to the principal islands of the State of Hawaii, which contain approximately 95% of the state's total population. The County of Maui includes the Islands of Maui, Lanai and Molokai. MECO already provides service to the Islands of Maui and Lanai. MECO asserts that if it could also serve Molokai, certain economies of scale and efficiencies of operation would be realized which would benefit the ratepayers of Molokai. MECO is studying the possibility of a three-island underwater cable system linking Maui, Molokai and Lanai that would allow all power for the three to be generated by MECO power plants on Maui; only transmission and distribution systems would be required for Molokai and Lanai. The proposed underwater power cable between the Islands of Manui and Oahu could cross the Island of Molohai and utilize properties of MOECO. The acquisition could thus contribute to physical interconnection of the HEI public utility companies. MECO also asserts that the proposed acquisition would provide Molokai ratepayers with a more stable and financially secure electric utility company.

According to the application, there is no ownership or other connection or affiliation between MOECO and the HEI companies, and they have no common directors. The purchase price of $24 per share for the MOECO stock has been arrived at by arm's-length negotiation between representatives of MECO and representatives of MOECO, and has been recommended to the MOECO stockholders by the MOECO Board of Directors. The merger must be approved by holders of 75% of the outstanding shares of MOECO common stock. MECO's acquisition of MOECO's common stock, and the merger of NEW MECO into MOECO, must be approved by the Hawaii Public Utilities Commission ("PUC"). The structure of this merger transaction was designed to permit MECO to benefit from substantial unused investment tax credits and net operating losses of MOECO. PUC approval of refinancing arrangements with certain creditors of MOECO may also be required. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. No commission will be paid in connection with the transaction. The only fees and expenses which will be incurred by HEI and MECO in connection with the transaction will be legal fees and filing fees, which are estimated not to exceed $75,000.

MECO also asserts that its proposed acquisition of MOECO is consistent with the applicable standards of section 10 and 11 of the Act, and that the acquisition would not effect its exemption under section 3(a)(1) of the Act.

The application 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, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the 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 notice or order issued in this matter. After said date the application, as amended or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29346 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23935; 70-7185]

National Fuel Gas Co.; Seneca Resources Corp.; Proposed Issuance of Secured Short-Term Notes to Banks by Subsidiary; Guarantee by Holding Company; Extension of Maturity

December 4, 1985.

National Fuel Gas Company, ("National"), 30 Rockefeller Plaza, Suite 4545, New York, New York 10112, a registered holding company, and its wholly owned subsidiary, Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203, have filed a declaration with this Commission and have proposed subject to sections 6(a), 7, 12(b) and 12(c) of the

Public Utility Holding Company Act of 1935 ("Act") and Rules 42, 45 and 50(a)(2) promulgated thereunder.

Pursuant to prior orders of this Commission (HCAR No. 23427, dated September 20, 1984, and HCAR No. 23842, dated September 26, 1985), Seneca has the authority to issue and sell secured short-term notes to RepublicBank Houston, National Association ("RepublicBank") and Citibank, N.A. ("Citibank") in an aggregate principal amount of up to $119,625,000 outstanding at any one time pursuant to a credit agreement ("Credit Agreement") with RepublicBank and a credit arrangement ("Credit Agreement") with Citibank.

Under the terms of the Credit Agreement with RepublicBank, Seneca issued and sold two separate, secured master notes. One master note was issued for Seneca's day-to-day operations. The other master note was issued for the benefit of a joint venture between Seneca's Houston Division and a group headed by Cashco Oil Company ("Joint Venture"). The Joint Venture was formed to develop certain oil and gas leases located in West Delta Blocks 17 and 18, located offshore, adjoining Paquemines Parish, Louisiana. Similarly, under the terms of the Credit Agreement with Citibank, Seneca issued two separate secured master notes for the same respective purposes. The current master notes will mature on December 31, 1985. Repayment of outstanding amounts is guaranteed by National. At October 31, 1985, the following aggregate amounts were outstanding to the banks:

Seneca	Joint Venture
$2,000,000	$33,500,000

At or before maturity, Seneca intends to repay the $2,000,000 master notes issued on its own behalf with internally generated funds, or with funds borrowed from the system ("System") money-pool. Upon repayment, Seneca does not intend to renew lines of credit on its own behalf; such future borrowings will be made through the System money-pool. Seneca and National now seek authorization that will: (1) Allow Seneca, on behalf of the Joint Venture, to renew the lines of credit with RepublicBank and Citibank, (2) allow Seneca to borrow an aggregate principal amount of up to $35,000,000 under the lines of credit on behalf of the Joint Venture, (3) allow Seneca to guarantee repayment of all amounts borrowed by the Joint Venture under the Joint Ventures lines of credit, and (4) allow National to guarantee repayment of all amounts borrowed for the benefit of the Joint Venture by Seneca. Seneca proposes that these short-term borrowings be authorized for a two-year period from December 30, 1985, to December 30, 1987.

Seneca intends to use the proceeds from the lines of credit to repay existing short-term notes of the Joint Venture that will mature on December 31, 1985. Borrowings under those notes were incurred to drill development wells on West Delta Blocks 17 and 18.

Seneca will issue and sell one master note to RepublicBank ("RepublicBank Note") and one master note to CitiBank ("Citibank Note") (collectively the "Joint Venture Notes"). The master note issued to each bank will be in the face amount of $35,000,000, and borrowings thereunder will be made for the benefit of the Joint Venture. Seneca will make borrowings under each master note, but in no event will the aggregate principal amount of such short-term borrowings ever exceed the amount of $35,000,000. Seneca will guarantee repayment of the Joint Venture's borrowings under the Joint Venture Notes, and National will continue to guarantee Seneca's obligations with respect to the Joint Venture Notes.

RepublicBank and Citibank have indicated their preliminary intention to each advance a maximum principal amount of up to $17,500,000 to Seneca on behalf of the Joint Venture under their respective master notes and related agreements.

The Notes will bear interest at the prime rate of interest at RepublicBank and at the base rate of interest at Citibank, as each may fluctuate from time to time, or, at Seneca's option, at an alternate rate ("Alternate Rate"). The Alternate Rate will be determined by each of the banks in their sole discretion and offered to Seneca at certain times. Seneca will have the option to either borrow or reborrow all, or a portion of the funds from RepublicBank at the prime rate or at its Alternate Rate, and from Citibank at the base rate or at its Alternate Rate. If Seneca chooses to borrow at an Alternate Rate, it is expected that such rate will remain fixed for a period of time ranging from two weeks up to one year, but in no event beyond the maturity of the notes. In the past, Seneca has taken advantage of the Alternate Rate option under its credit facilities to reduce its cost of borrowings.

Interest on all borrowings under the RepublicBank Note will be payable (i) quarterly, (ii) at the expiration of any Alternate Rate period, (iii) upon prepayment, or (iv) at final maturity of the RepublicBank Notes. Because of the volatile short-term market interest rates observed in past years, the Credit Agreement will contain an interest recapture provision if the prime rate or Alternate Rate should exceed the maximum lawful rate imposed by state or federal law.

Interest on the Citibank Note will be payable at final maturity of the note and as follows: (i) For the borrowings at the base rate, interest is payable upon the earlier of: (a) the end of each calendar quarter, (b) prepayment, or (c) selection of the Alternate Rate option; (ii) for borrowings at the Alternate Rate, interest is payable at the end of each option period chosen, however, if the option period should be longer than three months, accrued interest will be payable at the end of each three-month period accruing during the option period, and at the end of the option period; and (iii) any management fee accrued is payable at the end of each calendar quarter.

All borrowings outstanding at the prime and base rates will be prepayable in whole or in part at any time without penalty or premium. Because the Alternate Rate will be determined by available market instruments such as Certificates of Deposit, if an Alternate Rate is chosen, the borrowings outstanding at each Alternate Rate will not be prepayable, or will be prepayable at the option of the lending bank only upon the payment of an additional amount designed to compensate such bank for actual expenses or losses incurred because of the prepayments. Since Alternate Rate borrowings may not be prepayable in certain circumstances, Seneca will not utilize them unless it anticipates the need for the funds during the period for which the Alternate Rate is effective.

When borrowings are made at the prime and base rates, there will be no commitment fees, commission, or required compensating balances. As a result, Seneca's effective cost of borrowing under the RepublicBank credit facility will be the prime rate at RepublicBank (9.5% as of October 31, 1985) or the Alternate Rate quoted by RepublicBank from time to time (9.31% for 30 days quoted on October 30, 1985). Citibank will charge a management fee on all borrowings outstanding at the Alternate Rate equal to one half of one percent during all periods when borrowings are outstanding at the Alternate Rate.

The effective cost of borrowing for Seneca under the Citibank credit facility will be equal to the base rate at Citibank (9.5% as of October 31, 1985) or the Alternate Rate, adjusted by the

management fee, (8.84% in effect on October 31, 1985, for a 30-day period). Seneca will be obligated to pay the reasonable fees and expenses of counsel for RepublicBank and Citibank.

The RepublicBank Note and the Citibank Note evidencing the borrowings of the Joint Venture are currently secured by the leases in West Delta Blocks 17 and 18, in which the Joint Venture owns an interest. The borrowings of the Joint Venture will continue to be secured. The Joint Venture's borrowings are being excluded from the System's Money-Pool and are being secured by its assets because the amount of unsecured debt the Consolidated system may have outstanding at any one time is limited to 25% of the System's capitalization (HCAR No. 22670, October 15, 1982). These borrowings are being made on a secured basis so that the borrowing capacity of other System companies will not be impaired.

Repayment of the borrowings is expected to be made within a two-year period and will be funded through the production and sale of proved reserves from the Joint Venture's leases in West Delta Blocks 17 and 18. Thus, Seneca and National request that the Commission authorize Seneca to borrow under the lines of credit from December 30, 1985, through December 30, 1987.

The declaration of 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, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarants 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 declaration, as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29347 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23932; 70-7015]

New England Power Co.; Proposed Issuance and Sale of Preferred Stock and of General and Refunding Mortgage Bonds; Issuance and Pledge of First Mortgage Bonds; Financing of Pollution Control Facilities; Exception From Competitive Bidding

December 3, 1985.

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts, an electric utility subsidiary of New England Electric System, a registered holding company, has filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

NEP previously requested authorization in this proceeding to implement a general financing plan during the period ending December 31, 1986, calling for one or more issues of securities in an aggregate amount not exceeding $100 million (not including the issue of Pledged Bonds pursuant to (iv) below), including: (i) The issuance and sale of one or more series of additional preferred stock in an aggregate par value not exceeding $50 million; (ii) the execution of one or more loan agreements with issuing authorities in an aggregate principal amount not exceeding $50 million in connection with the issue of pollution control revenue bonds on behalf of NEP; (iii) the issuance and sale of one or more series of General and Refunding Mortgage Bonds ("G&R Bonds") in an aggregate principal amount that, when aggregated with the par value of any additional preferred stock issued, will not exceed $100 million (all or a portion of which may be issued in connection with the issuance of pollution control revenue bonds); and (iv) the issuance and pledge of one or more series of First Mortgage Bonds aggregating not in excess of the amount of additional G&R Bonds issued.

By order in this proceeding dated October 31, 1985 (HCAR No. 23889), NEP was authorized to engage in the following transactions as to which the record had been completed: (a) The execution of a loan agreement with the Connecticut Development Authority ("CDA") in the principal amount of $38.5 million in connection with the issue of pollution control revenue bonds on behalf of NEP; (b) the issue of a series of additional G&R Bonds in a principal amount equal to the principal amount of the above-referenced loan agreement to secure payment of NEP's loan obligations thereunder; and (c) the issue and pledge of a series of First Mortgage Bonds in an equal principal amount as the additional G&R Bonds proposed to be issued. Jurisdiction was reserved over the remainder of NEP's proposed financing plan.

By post-effective amendment, NEP now proposes that the amount of loan agreements with issuing authorities aggregate up to $100 million (rather than $50 million), including the $38.5 million previously authorized. As described before in this proceeding, additional G&R Bonds are proposed to be issued to finance NEP's share of pollution control facilities at the Seabrook and Millstone nuclear projects. These bonds will be issued in connection with the issuance of long-term pollution control revenue bonds by the Industrial Development Authority of the State of New Hampshire ("NHIDA") in the case of the Seabrook I nuclear project and the CDA in the case of the Millstone 3 nuclear project (NHIDA and CDA are hereinafter referred to individually and collectively as the "Issuing Authority"). NEP's share of these expenses and carrying charges is currently estimated to be approximately $38.5 million for the Millstone nuclear project and $35 million for the Seabrook nuclear project. As provided in a loan agreement to be entered into between NEP and the Issuing Authority, the proceeds from the sale of pollution control revenue bonds by the Issuing Authority will be loaned to NEP. In connection with the issuance of long-term pollution control revenue bonds, NEP will contemporaneously issue a corresponding amount of additional G&R Bonds to the Issuing Authority to secure payment of the principal of, premium, if any, and interest on the pollution control revenue bonds issued on NEP's behalf.

NEP has requested an exception from the competitive bidding requirements pursuant to Rule 50(a)(5) with respect to the issue of additional G&R Bonds in connection with the execution of one or more loan agreements with the Issuing Authority.

The amended application-declaration and any further 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, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicant-declarant 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 application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29348 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14829 (File No. 813-70)]

Partners' Deferral Fund and Partners' Growth Fund; Application for an Amended Order Permitting Certain Affiliated Transactions Involving Employees Securities Companies

December 4, 1985.

Notice is hereby given that the Partners' Deferral Fund and Partners' Growth Fund (the "Applicants"), 1251 Avenue of the Americas, Room 804, New York, NY 10020, filed an application on September 25, 1985, for an amendment to a previous order issued by the Commission (Investment Company Act Release No. 14444, April 1, 1985) which pursuant to section 6(b) of the Act exempts Applicants and future Annual Pools ("Funds") from various provisions of the Act as "employees" securities companies within section 2(a)(13). The amended order would further exempt the Funds from section 17(d) of the Act and Rule 17d-1 thereunder of the Act, so that the partners and principals of Coopers & Lybrand who are participants in the Funds, may make certain joint investments with the Funds. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein and to the Act and the rules thereunder for the text of all applicable provisions thereof.

Applicants state that each of them is a general partnership established pursuant to the Partnership Law of the State of New York whose partners are partners or principals (collectively, "Partners") of Coopers & Lybrand (the "Firm"). Each Annual Pool of each of the Funds is registered under the Act as a closed-end, non-diversified management investment company whose purpose is to enable the Partners of the Firm to pool their investment resources and to receive the benefit of investment opportunities that come to the attention of the Firm. Applicants state further that participation in the Funds is mandatory for all Partners of the Firm ("Participants"), who may also make voluntary capital contributions to the Funds. Capital contributions to the Funds are made annually; each year's contributions and investments made with those contributions are accounted for separately as an "Annual Pool" designated by year. Each Annual Pool of a Fund is invested only once and the proceeds are distributed to the partners of the Fund within a reasonable time after the sale or other disposition or termination of each investment (generally after seven to ten years).

Applicants represent that the Managing General Partners ("Managing Partners") of each Fund, all of whom are Participants, manage the business and make all investments decisions for the Fund. According to the application, neither the Managing Partners nor the Firm are compensated by the Funds for their services to the Funds.

According to the application, the Managing Partners of each Fund identify potential investments primarily through referrals from Partners. Applicants state that when they were created, it was expected that the Partners would not seek to invest independently in the same investment vehicle which they referred to the Funds. Therefore, Applicants sought and received exemptive relief from section 17(d) of the Act in the previous order only for certain joint transactions and not for joint transactions involving only individual Partners and a Fund. Moreover, the Code of Ethics adopted by Applicants under Rule 17j-1 currently prohibits a Partner from investing in any opportunity in which he or such Fund is considering an investment.

Applicants state that early experience with the Funds has shown that many Partners have already invested in an opportunity prior to referring it to the Funds, and are unwilling to give up their separate investments in the referred opportunity. Even if the Partners have not already invested prior to the referral, they are generally sufficiently enthusiastic about the referral to have committed themselves to investing. Applicants state further that obtaining referrals of investments from Partners in crucial to the success of the Funds, but that because of the restrictions on joint investments the Funds are foregoing potentially valuable investments.

Applicants state that relief from section 17(d) of the Act and Rule 17d-1 thereunder, in this instance would not undermine the purposes of the Act and that such relief is necessary to effectuate the purposes of the Funds. Applicants request that the amended order permitting the proposed joint transactions be granted on a general basis pursuant to section 6(b) of the Act rather than on an individual basis for each proposed joint investment. Applicants believe that this exemption is necessary because the Funds' investments generally involve private offerings in which the offering periods are short, consequently, there may be insufficient time for the Commission to review each proposed investment before the offer expires.

In connection with its request for an amended order pursuant to section 6(b) permitting the Partners to invest jointly with the Funds and to modify the Code of Ethics as described below, the Applicants agree to the following undertakings:

(1) For all opportunities in which any Partner proposes to make an independent investment and in which either of the Funds invests or is considering an investment, information concerning the investment will be assembled for and reviewed by the Managing Partners.

(2) All proposed investments by any Partner in any opportunity in which either or both of the Funds already invest or are considering an investment and all proposed investments by either or both of the Funds in any opportunity in which any Partner already invests or is considering an investment ("Coinvestments"), prior to the time of the investment by the second of them, must be reviewed by the Managing Partners, who must determine that:

(a) There is no overreaching of the Fund and the terms of the transaction are reasonable and fair to the Fund and the Partners;

(b) the investments are consistent with the policies of the Funds as set forth in their partnership agreements and filings under the Act; and

(c) an investment by a Partner in the same opportunity would not disadvantage the Fund in the making, maintaining or disposing of such Co-Investment.

The Managing Partners will record in their minutes the information and materials upon which these determinations are based.

(3) No Managing Partner will invest in any opportunity in which the Fund invests or is considering an investment, even if such Managing Partner is the referring Partner with respect to the investment opportunity.

(4) Documents relating to information provided to the Managing Partners pursuant to undertaking (1), and the

information and materials referred to in undertaking (2), will be maintained and preserved by the Funds for a period of at least six years and will be available for inspection by the Commission in accordance with section 31(b) of the Act as if they were required records thereunder.

(5) Each Co-Investment will be made by each Fund on the same basis as that of the co-investing Partner. If a Fund chooses to invest in a Co-Investment on a different basis from that of a co-investing Partner, an application for an order pursuant to section 17(d) of the Act and Rule 17d–1 will be filed with the Commission. If such an order is not obtained prior to closing of the particular Co-Investment transaction, the Fund will make the investment subject to withdrawal if such order is not eventually obtained.

(6) If a Partner proposes to sell or otherwise dispose of a Co-Investment, notice of the terms of the proposed sale or other disposition will be given to the Fund and, if permissible with respect to the particular investment, the Fund will be given the opportunity to participate in such sale or disposition on the same terms. The Managing Partners will record in their minutes the basis for their decision whether to participate in such sale or disposition.

(7) The Funds will amend their respective Codes of Ethics to require that a Partner disclose to the Managing Partners (1) any investment which the Partner is considering and which he or she knows will result in a Co-Investment with a Fund, and (2) any plans the Partner has to sell or otherwise dispose of a known Co-Investment with the Fund. The amendment will also require a Partner who decides to sell or otherwise dispose of any interest in a Co-Investment, to afford the Fund the opportunity, if permissible in the particular investment, to participate in the sale or other disposition on the same terms.

Applicants contend that the above undertakings will minimize the potential conflicts of interest and allow the Funds to most effectively achieve their purposes in a manner consistent with the policies of the Act. Moreover, these undertakings insure that the Funds will be able to participate in investments on a basis no different from or less advantageous than that of any Partners individually.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 30, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 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 to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–29238 Filed 12–10–85; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–22685, File No. SR. NYSE–85–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Fingerprint Processing Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 25, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commisison the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The New York Stock Exchange is proposing to amend its plan for fingerprinting pursuant to Rule 17f–2(c) under the Securities Exchange Act of 1934 (the "Act") as follows:

Fingerprint Processing Fee

$15.50 per fingerprint card processed, consisting of $14.00 per fingerprint card for Federal Bureau of Investigation processing and $1.50 per fingerprint card for Exchange processing.

The new fee is to be effective October 1, 1985.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries as set forth in section (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to pass along the increase in the processing charge for user-fee applicant fingerprint cards promulgated by the Federal Bureau of Investigation (the "FBI"). Such increase was announced by the FBI earlier this year to be effective October 1, 1985, and will increase the FBI's fee from $12.00 to $14.00 per fingerprint card submitted. The Exchange's portion of the total fee will remain at $1.50. The total new fee will thus be $15.50 per fingerprint card.

The Exchange acts as a processor of fingerprints for its members and others pursuant to a plan filed with the Commission pursuant to Rule 17f–2(c) under the Act.

The proposed rule change is consistent with the requirement under section 69b)(4) of the Act that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. This proposed rule change is also consistent with section 6(b)(5) of the Act in that it enables the Exchange to recover its costs with respect to fingerprint card processing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any

unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 2, 1986.

Dated: December 5, 1985

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–29192 Filed 12–10–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23938; 70–7181]

Cedar Coal Co.; Proposal To Perform Work for AEP System Companies and for Non-Associate Companies

December 5, 1985.

Cedar Coal Company ("Cedar"), 40 Franklin Road, P.O. Box 2021, Roanoke, Virginia 24022, a subsidiary coal company of Appalachian Power Company, a public-utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to sections 9(a), 10, and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 86, 90, and 91 thereunder.

Cedar has a Central Rebuild Shop ("Shop") located in a leased building in South Charleston, West Virginia, the purpose of which is to renovate, rebuild, and modify major pieces of mining equipment (longwall shearers, longwall shields, continuous miners, shuttle cars, scoops, trucks, and other equipment) for the mining operations of companies in the AEP system. As of June 1985, the Shop's staff consists of a core of 55 employees. Cedar has requested authorization to perform such services for AEP system companies. Charges for work performed by the Shop to associate companies will be at cost.

Cedar has also requested authorization for its Shop to perform work for non-associated entities of the same type that the Shop proposes to perform for AEP system companies. Charges to non-associates would include an amount for profit and would be as high as practicable giving consideration to the competitive market, but in no case less than anticipated direct labor and direct materials (incremental cost). Such work for non-associates would be done during slack periods of work from AEP System companies. It is stated that additional layoffs of experienced personnel could thus be avoided, and such personnel would be retained on staff for the anticipated higher levels of AEP system service work in future years. It is further stated that performing work for non-associates during slack periods in the Shop's workload would also more efficiently optimize utilization of the Shop's fixed assets and staff, spreading the cost of those assets and staff across a greater volume of work, thereby lowering the average cost of work to user AEP system companies. The revenue derived from providing services to non-associates would be used to reduce Shop operation costs (overheads) and thus reduce the rate charges by the Shop to user AEP system companies. Authorization is sought to perform such services in an amount up to $2 million of revenue per calendar year for an initial period up to December 31, 1988. The Shop's revenues for 1984 and for the first six months of 1985 were $12,263,375 and $7,584,456, respectively.

The application 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 30, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 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 application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–29193 Filed 12–10–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35– 23936; 70–6975]

Cedar Coal Co. et al.; Proposed Transaction Regarding Leased Equipment

December 5, 1985.

Cedar Coal Company ("Cedar"), Conesville Coal Preparation Company ("CCPC"), Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company ("SOCCo"), Windsor Power House Coal Company ("Windsor"), and Simco, Inc. ("Simco"), c/o American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, which are indirect subsidiaries of American Electric Power Company, Inc. ("AEP"), a registered holding company, and which are sometimes referred to collectively herein as the "Applicants," have filed with this Commission a post-effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act").

Cedar is a wholly owned, coal mining subsidiary of Appalachian Power Company ("Appalachian"); COCCo, SOCCo, and Windsor are wholly owned, coal mining subsidiaries of Ohio Power Company ("Ohio Power"); CCPC, a coal preparation company, and Simco, a coal mining company, are wholly owned subsidiaries of Columbus and Southern Ohio Electric Company ("S&SOE"); and Appalachian, Ohio Power, and C&SOE are electric utility subsidiaries of AEP. Pursuant to orders in this proceeding

dated May 25, 1984, and May 22, 1985 (HCAR Nos. 23313 and 23701), all of the Applicants, except Cedar, have entered into substantially identical Master Leasing Agreements with BLC Corporation ("BLC"), an affiliate of Bankers Leasing Corporation of San Mateo, California, under which the Applicants, except for Cedar, are currently leasing new and used office furniture and equipment, communications equipment, automotive equipment, and certain mining equipment. The Applicants, except for CCPC, have been authorized to lease up to an aggregate of $30 million of mining equipment under these leases.

Cedar now proposes to enter into a Master Leasing Agreement with BLC which is substantially identical in form to those Master Leasing Agreements referred to above. Under such lease, Cedar is proposing to acquire certain equipment to be utilized in its Central Rebuild Shop (the "Shop") located in the Charleston Ordinance Center, South Charleston, West Virginia. The additional equipment is estimated to have a total aggregate acquisition cost $95,000. Rental payments will be paid monthly in an amount sufficient to amortize the Acquisition Cost of the equipment in equal amounts on a straight-line basis plus a monthly interest factor on the unamortized Acquisition Cost, as described in the application. The Amortization Period will be up to 10 years, depending upon the particular equipment. After the expiration of the Amortization Period of any equipment, the lessee may purchase such equipment for $1.00.

The purpose of the Shop is to renovate, rebuild, and modify major pieces of mining equipment (longwall shearers, longwall shields, continuous miners, shuttle cars, scoops, trucks, and other equipment) for the mining operations of companies in the AEP system, including those of the Applicants. In a related proceeding before the Commission (File No. 70-7181), Cedar has requested authorization for its Shop to perform such work for AEP system companies and for non-associated entities.

The amended application and any further 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 30, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants 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 application, as now amended or as it may be further amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29194 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23939; 70-7172]

Midwest Energy Co.; Proposed Acquisition of Iowa Gas Company

December 5, 1985.

Midwest Energy Company ("Midwest"), 401 Douglas Street, P.O. Box 1348, Sioux City IA 51102, an Iowa corporation, has filed an application pursuant to section 9(a) (2) and 10 of the Public Utility Holding Company Act of 1935 ("Act"), requesting an order of the Commission approving Midwest's acquisition of all of the outstanding common stock of Iowa Gas Company ("IGC"), a gas utility that is also an Iowa corporation. Midwest's present plan is to merge IGC into Midwest's wholly-owned public utility sugsidiary, Iowa Public Service Company ("IPS"), an Iowa corporation, and operate IGC as division of IPS.

IPS is Midwest's most significant subsidiary and only public utility subsidiary. IPS is engaged in the generation, transmission and distribution of electric power and energy to retail residential, commercial and industrial customers in Iowa and South Dakota and wholesale customers in Iowa. IPS purchases natural gas from its sole pipeline supplier, Northern Natural gas Company ("Northern"), a division of HNG/InterNorth, and provides natues gas service to retail customers in Iowa, Nebraska and South Dakota. Midwest also engages in certain other non-utility businesses.

Midwest is a holding company as defined under section 2(a)(7)(A) of the Act and is an affiliate of a public utility, as defined under section 2(a)(11)(A) of the Act, by virtue of its ownership of all IPS's outstanding voting securities. Midwest is exempt under section 3(a)(1) of the Act and Rule 2 thereunder from all of the provisions of the Act, except section 9(a)(2). Section 9(a)(2) provides that unless the acquisition has been approved by the Commission, it shall be unlawful for any person to acquire any security of a public utility company if the acquiring person is, or by virtue or such acquisition will become, an affiliate of such public utility and any other public utility company.

IGC is a wholly-owned subsidiary of Iowa Resources, an Iowa corporation. Iowa Resources is an exempt holding company under section 3(a)(1) of the Act. It owns all of the common stock of Iowa Power and Light Company, an electric generation and distribution utility, as well as several nonutility businesses.

ICG is a natural gas distribution company serving portions of central and southeast Iowa, incliudng the metropolitan Des Monines, Iowa area. It has approximately 135,000 residential, commerical and industrial gas customers as of June 30, 1985. IGC purchases the majority of its natural gas from Northern and the remainder from natural Gas Pipeline Company of America. IGC does not have any direct or indirect interest in any other company, except for its wholly-owned subsidiary, Gas Resurces, Inc., a natural gas exploration in which it has an investment of $195,000.

According to the application, Middwest first approached Iowa Resources concerning the pssibility of Midwest acquiring IGC in early October 1985. Midwest presented Iowa Resources with a written offer dated October 4, 1985 to acquire all of the outstanding IGC Common Stock for $31.5 million in cash, contingent upon necessary federal regulatory approvals. This offer was orally accepted by Iowa Resources on October 14, 1985 and confirmed in writing by letter dated October 22, 1985. No associate company or affiliate of Midwest or affiliate of any such associate company has any direct or indirect material interest in the proposed transaction except as stated above. Midwest executed an Agreement and Plan of Merger (the "Merger Agreement"), with the Donovan Companies, Inc. ("DCI"), an Iowa corpoation, dated as of October 21, 1985, by which Midwest agreed to acquire all of the outstanding common stock of DCI by merging a subsidiary of Midwest into DCI. The merger Agreement is subject to receipt of an order under the Act for which Midwest has filed a separate application with the Commission (File No. 70-7184). DCI has several nonutility businesses but is primarily a natural gas distribution utility with operations in Iowa, Minnesota anf Florida.

The present application represents that an affiliation of IPS and IGC would offer benefits to their respective employees and customers and the shareholders of Midwest, and would foster the efficient development of an integrated public utility system in the northwest and north central areas of Iowa served by IPS and the centeral and southwest areas of Iowa served by IGC. According to the application, the acquisition of IGC has the potential to yield grater operating efficiencies for both IPS and IGC. Certain staff support functions which are performed individually for each utility, such as accounting, data processing, customer billing and engineering would be combined to serve both utilities. IPS and IGC have similar customers bases which may result in other operating efficiencies that would directly benefit the natural gas customers of both utilities. With the acquisition of IGC IPS would access to second pipeline supplier, wich would facilitate the delivery of gas supplies to IPS and IGC. the affiliation of IPS and IGC would also allow for gas supply transactions on a much larger scale than either alone could support. For example, Midwest believes that the opportunity to purchase gas supplies directly at potentially more competitive prices would be greatly enchanced by the increased market presence of IPS and IGC combined. In addition, the quantities of firm natural gas now under contract by IPS and IGC with their supplier could be aligned more closely with the actual demands of their customers.

Midwest asserts that the proposed acauisition is consistent with the requirements of section 10, and is not unlawful under the provisions of section 8 of the act, or detrimental to be carrying out of Section 11 of the Act. Midwest also assets that it would remain an exempt holding company under section 3(a)(1) of the Act and Rule 2 thereunder after it acquires all of the outstanding IGC Common Stock. Midwest states that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The application and any amendments thereto are available for public inspection through the Commssion's Office of Public Reference. Interested persons wishing to comment or request a hearing shoud submit their views in writing by December 30, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the Applicant at the address specified above. Proof of service (by affidavit or, in case of 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 application, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29195 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14833; 812-6203]

First PV Funding Corp. Application for an Order Granting an Exemption

December 9, 1985.

Notice is hereby given that First PV Funding Corporation ("Applicant"), 1209 Orange Street, Wilmington, Delaware 19801, filed an application on September 20, 1985, and amendments thereto on November 8th and 26th, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant 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 made therein, which are summarized below, and to the Act for the text of the relevant provisions.

According to the application, Applicant is a Delaware corporation and expects to have all of its shares of common stock owned by The Corporation Trust Company, or a company controlled by it. Applicant represents that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security. Applicant further represents that there is, and in the future will be, no class of equity securities of Applicant other than its common stock. Applicant has been created to participate as lender in one or more leveraged lease transactions ("Lessee") in which Public Service Company of New Mexico ("PNM"), is the lessee ("Lessee").

Applicant's sole purpose is to assist PNM in the refinancing, in whole or in part, of PNM's 10.2% undivided ownership interest in Palo Verde Nuclear Generating Station ("PVNGS"). PVNGS, located near Phoneix, Arizona, consists primarily of three 1,270 megawatt units, each containing a pressurized water nuclear steam supply system, and certain related common facilities. Ownership of PVNGS is governed by the Arizona Nuclear Power Project Participation Agreement, dated August 23, 1973, and pursuant thereto, Arizona Public Service Company, an Arizona utility, is authorized to act as agent for the owners of PVNGS, and has responsibility and control over construction, operation and maintenance of PVNGS. Fuel loading on Unit 1 was completed on January 11, 1985, and it obtained a Facility Operating License from the Nuclear Regulatory Commission on June 1, 1985. Units 2 and 3 are approximately 99 and 98 percent completed, respectively, and are scheduled for firm power operation in the second quarter of 1986 and the second quarter of 1987, respectively.

Applicant states that its participation as lender in the Leases will be limited to making loans, pursuant to a Trust Indenture and Security Agreement ("Lease Indenture"), to certain lessors ("Lessors") under such Leases which will be payable primarily from rentals and other payments by the Lessee Applicant expects that the Lessors will be a bank or trust company acting as trustee for one or more beneficiaries pursuant to a trust agreement, formed exclusively for the purpose of the lease financing. Applicant states that a portion of the purchase price of the property owned by the Lessors and leased to the Lessee ("Leased Property") will be paid by the beneficiaries of the grantor trust that acts as Lessor and that amount will constitute their equity investment in the Leased Property. The loans by Applicant will be without recourse to the general credit of the Lessors or their respective beneficiaries, and will be evidenced by non-recourse obligations of the respective Lessors ("Lessor Notes"). Applicant states that under each Lease, the Lessee will be obligated to make rental payments sufficient to pay principal of and premiums, if any, and interest on the Lessor Notes issued in connection therewith. Applicant further states that such obligations of the Lessee will be required to be absolute and unconditional, without right of counter-claim, setoff, deduction or defense. Applicant expects to enter into an agreement ("Commitment Agreement") with PNM pursuant to which Applicant will agree to make loans to one or more Lessors designated by PNM from time to time.

Applicant intends to acquire the funds necessary for the purchase of the Lessor Notes through the issuance of its debt securities in one or more series with

differing maturities ("Lease Obligation Bonds") which will be secured on a parity basis by a first lien on, and a security interest in, all of the assets of Applicant, consistent primarily of the Lessor Notes so acquired and previously acquired. Lessor Notes held by Applicant may only consist of Lessor Notes issued in connection with any Leases to which PNM is a party, as lessee, in conjunction with its ownership interest in PVNGS.

Applicant states that the Lease Obligation Bonds will be issued under a common indenture and a separate supplemental indenture for each series other than the initial series (collectively, the "Collaterral Trust Indenture") which will establish the terms of the Lease Obligation Bonds of that series. It is expected that the trustee under the Collateral Trust Indenture ("Trustee") will be a bank or trust company not affiliated with any of the Lessors and will not be a trustee under any Indenture of PNM or its subsidiaries. At each Lease closing the Lessor Notes will be pledged and assigned directly to the Trustee. Applicant expects that the Lessor Notes will be issued under circumstances making such transactions exempt from the registration requirements under the Securities Act of 1933 ("Securities Act").

Applicant states that the Lease Indentures will set forth the terms and conditions under which the Lessor Notes will be issued. Applicant represents that each Lease Indenture will require the Lessor to grant to the Lease Indenture Trustee an assignment of rents, including basic rentals and certain other payments, to be made by the Lessee under the applicable Lease. Although the Lease Indenture Trustee will not have a lien or security interest in the Leased Property, the Lessor will covenant that, so long as any Lessor Note is outstanding, it will not incur any other debt constituting Lessor Notes or otherwise in connection with the Leased Property, and except for certain limited permitted liens, it will not create any lien or security interest in such property. Thus, Applicant states, these two convenants combined ensure that if a Lessor defaults on a Lessor Note, the Leased Property will be available to satisfy the claims of the Trustee, acting for the benefit of Lease Obligation Bondholders. Applicant states that it will be precluded from purchasing any Lessor Note unless (i) Such Lessor Note is issued in respect of Leased Property having a fair market sales value at the time of purchase is at least equal to 110% of the original principal amount of such Lessor Note; or, (ii) such Lessor Note and all other Lessor Notes (if any) issued by the relevant Lessor are issued in respect of Leased Property having an aggregate fair market sales value (measured, in each case, as of the date such Leased Property was first financed under the Lease) at least equal to 110% of the original principal amount of such Lessor Note and such other Lessor Notes. Further, Applicant states that each Lease Indenture will include as events of default, without limitation: (a) Payment defaults on the Lessor Notes issued thereunder; and, (b) events of default under the related Lease.

According to the application, the various series of Lease Obligation Bonds will have terms which may differ as to interest rates, sinking fund obligations of Applicant, the right of Applicant to redeem such Lease Obligation Bonds and other matters. The interest rates, maturities and principal amounts of each series of Lease Obligation Bonds will be established based on prevailing market conditions, thereby giving Applicant flexibility to take advantage of changing market conditions. If the maturity dates and cash flow of the Lessor Notes exceed the cash requirements of Applicant's obligations under the Lease Obligations Bonds, the resulting funds ("Temporary Funds") will be invested by Applicant in certain investments ("Permitted Investments"), in each case maturing at such times as necessary to pay Applicant's obligations under the Lease Obligation Bonds. Applicant states that Lease Obligation Bonds, which may include commercial paper and intermediate-term and long-term obligations, will be issued in the private or public markets in the United States, and in offerings outside the United States under circumstances reasonably designed to assure that such Lease Obligation Bonds are not offered or sold to citizens and/or residents of the United States.

Applicant proposes that the initial issuance of Lease Obligation Bonds will be through an underwritten public offering of one or more series having an aggregate principal amount of approximately $300 to $320 million Applicant represents that, although PNM will not be the actual issuer of the Lease Obligation Bonds, it will be considered the "issuer" thereof for purposes of the Securities Act. Any registration statement filed under the Securities Act relating to the Lease Obligation Bonds will name PNM as the sole registrant and will be signed on behalf of PNM as the sole registrant by such officers and directors of PNM as may be required under the Securities Act and the rules, regulations and forms of the Commission thereunder.

Applicant represents that it will assign and pledge to the Trustee under the Collateral Trust Indenture, as security for the payment of the principal of and premium, if any, and interest on all Lease Obligation Bonds, the Lessor Notes and other assets held by the Applicant. Each such Lessor Note will in turn be secured by the assigned rentals and other assigned payments under such Lease. Applicant states that the Trustee will give immediate notice to Lease Obligation Bondholders of any rights granted by the Collateral Trust Indenture to it, which will include the right to exercise voting powers in respect of the Lessor Notes, to give any consents or waivers with respect thereto or to excercise any rights and remedies in respect thereof. The Collateral Trust Indenture will authorize the Lease Obligation Bondholders to direct by notice to the Trustee within a specific period of time, that it take any action or cast any vote in its capacity as a holder of the Lessor Notes. As a result of this pass-through voting mechanism, the rights and remedies of Lessor Note holders will be exercisable directly by the Lease Obligation Bondholders through their fiduciary, the Trustee. The principal amount of Lessor Notes directing any action or being voted for or against any proposal will be the principal amount of the Lease Obligation Bondholders taking the corresponding position. To the extent the Trustee does receive instruction, it will take such action with respect to the Lessor Notes as a prudent man would in the care of his own property.

Applicant states that in the event PNM defaults in the payment of rent or otherwise under the related Lease Indenture, the Lease Indenture Trustee would have the right, and upon direction of a majority in principal amount of Lessor Notes relating to such lease (which by virtue of the pass-through voting mechanism, would be a majority in principal amount of such Lease Obligation Bonds) would be required to declare all of such Lessor Notes to be due and payable and to exercise and remedies under such Lease Indenture.

Applicant states that among the rights and remedies of a holder of Lessor Notes included under the Lease Indenture is the right to (i) terminate the related Lease, demand redelivery of the Leased Property thereunder, and exercise rights in respect of such Property, and (2) demand, after a specified grace period, that PNM pay all unpaid basic rent plus a stipulated amount which, in all cases, will be

sufficient to pay the principal of an premium, if any, and interest on the related Lessor Notes. Amounts payable by PNM under the Leases, to the extent of the amount of the principal, interest and premium, if any, on the relevant Lessor Notes, will be paid directly to the Trustee for distribution to the Lease Obligation Bondholders. Applicant thus asserts that Lease Obligation Bondholders will have access under the Collateral Trust Indenture and the Lease Indentures to the credit of PNM. Moreover, Applicant asserts that Lease Obligation Bondholders will be entitled to realize on the security afforded by the assignment of rentals in an amount up to the aggregate unpaid amount of the relevant Lessor Notes secured by such assignment of rentals free of any rights of PNM or its creditors. The combination of the Lessor Notes and the obligation of PNM under the Leases, Applicant asserts, grant holders of Lease Obligation Bonds access to the general credit of PNM and is thus the equivalent of a general unsecured obligation of PNM without limitation as to source of payment. PNM may not be released from its Lease obligations unless: (i) Payment in full or (ii) a direct assumption by PNM (and release of the related Lessor) of the obligation represented by the Lessor Note upon the occurrence of casualty and certain other events which require the collapsing of the Lease transaction. In the latter instance, Applicant states, there is a transformation of PNM's obligation to pay to that of a direct and unconditional obligation to pay. Moreover, Applicant asserts that since the Lessor Notes are not secured by the Leased Property, there will be no need to prepay the Lessor Notes in the event of a casualty. The Preservation of a right for PNM to assume the Lessor Notes in certain circumstances assures that PNM will not be faced with an accelerated obligation to prepay the Lessor Notes under provisions of the Leases.

Applicant states that the issue, sale and delivery of a particular series of Lease Obligation Bonds may be effected, at maximum, two months prior to the date for the consummation of the Leases ("Lease Closing Date") applicable to the Leased Property financed with the Lease Obligation Bond proceeds. Pending the Lease Closing Date, the net proceeds of the Lease Obligation Bonds will be held by the Trustee, pursuant to the terms of the Collateral Trust Indenture. The Trustee may invest proceeds in Permitted Investments, which include direct obligations of the United States or obligations fully guaranteed by the United States, certificates of deposits issued by or bankers' acceptances of, or time deposits with, banks organized under United States law and limited to amounts of less than $15 million in principal at any one time and from any one bank, or commercial paper of companies incorporated in or doing business under the laws of the United States or one State, in an amount not exceeding $15 million in principal amount at any one time from any one company. The commercial paper will also have the highest rating by a nationally recognized rating organization. Permitted Investments, Applicant states, also include repurchase agreements, fully collaterized by the Permitted Investments, pursuant to which a United States bank, trust company or national banking association having a net worth of at least 200 million dollars is obligated to repurchase the obligation not later than 90 days after its purchase.

Except to the extent payable from the proceeds of refunding Lease Obligation Bonds, proceeds of Temporary Investments or the proceeds of the initial issuance of the Lease Obligation Bonds, where the relevant Lease Closing Date does not occur simultaneously, due to the nonrecourse nature of Lessor Notes and the limited scope of Applicant's activities, payment of the principal of and premium, if any, and interest on the Lease Obligation Bonds will be made exclusively from amounts paid by the Lessee under the Leases.

Applicant asserts that its proposed activities are appropriate in the public interest because the proposed issuance of Lease Obligation Bonds would provide a convenient mechanism for PNM to obtain access to segments of the debt capital market other than the institutional private placement market. Applicant further asserts that an exemption would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because, among other things, investors will be protected under the proposed arrangements to the same extent as under equivalent arrangements where the Act is inapplicable.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 30, 1985, 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, DC 20549. A copy of the request should be served personally or by mail upon Applicant 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 to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-29482 Filed 12-10-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2222]

Florida; Declaration of Disaster loan Area

As a result of the President's major disaster declaration on December 3, 1985, I find that the Counties of Franklin, Gulf and Wakulla constitute a disaster loan area because of damage from Hurricane Kate and flooding beginning on or about November 20, 1985. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on February 3, 1986, and for economic injury until September 3, 1986, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (Non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 222208 for physical damage and for economic injury the number is 637200.

(Catalog of Federal Domestice Assistance Program Nos. 59002 and 59008)

Dated December 5, 1985.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 85-29376 Filed 12-10-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0491]

GHW Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On September 10, 1985, a notice was published in the **Federal Register** (50 FR 36941) stating that an application had been filed by GHW Capital Corporation, 489 Fifth Avenue, New York, New York 10017, with the Small Business Administration (SBA), for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1985)).

Interested parties were given until the close of business October 9, 1985, to submit their comments on the application to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other information, SBA issued License No. 02/02-0491 to GHW Capital Corporation on November 13, 1985, to operate as a section 301(c) SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 2, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-29375 Filed 12-10-85; 8:45 am]

BILLING CODE 8025-01-M

Nashville Advisory Council; Public Meeting

The U.S. Small Business Administration Tennessee Advisory Council meeting scheduled for December 11, 1985, located in Nashville, Tennessee, has been canceled. This meeting will be rescheduled sometime in January.

For further information, write or call Robert M. Hartman, District Director, U.S. Small Business Administration, 404 James Robertson Parkway, Nashville, Tennessee 37219—(615) 852-5850.

Dated: December 5, 1985.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 85-29377 Filed 12-10-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 85-12-13; Docket 43386]

Application of McClain Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 85-12-13) Docket 43386.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that McClain Airlines, Inc., continues to be fit, willing, and able to conduct operations as a certificated air carrier.

DATES: Persons wishing to file objections should do so no later than December 26, 1985.

ADDRESSES: Responses should be filed in Docket 43386 and addressed to the Office of Documentary Services, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunningan, Special Authorities Division, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 755-3812.

Dated: December 5, 1985.

Philip W. Haseltine,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-29361 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-62-M

[Order 85-12-15; Docket 43638]

Revocation of the Section 401 Certificate of American Central Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Order and show cause (Order 85-12-15), Docket 43638.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the section 401 certificate of American Central Airlines, Inc.

DATES: Persons wishing to file objections should do so no later than December 26, 1985.

ADDRESSES: Responses should be filed in Docket 43638 and addressed to the Office of Documentary Services, Department of Transportation, 400 7th Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 755-3812.

Dated: December 5, 1985

Philip W. Haseltine,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-29360 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-85-28]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended toaffect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 31, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204) Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G,

FAA Headquarters Building (FOB 10A), 800 Independence avenue SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on December 4, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
23495	U.S. Army	14 CFR 91.73	To permit petitioner to conduct night military flight training operations without operating aircraft position lights.
20818	Ransome Airlines	14 CFR 135.429(a) and 135.435	To allow petitioner to continue to use foreign repair stations not holding appropriate U.S. certificates to overhaul and repair certain engines, aircraft components, accessories, and propellers.
24770	FlightSafety Int'l	14 CFR 61.57 and 61.58	To allow petitioner to use certain simulators to give helicopter pilots credit for their Biennial Flight Review or pilot-in-command checks.
24516	U.S. Epperson Underwriting Co.	14 CFR 21.181	To allow petitioner to add an aircraft and renumber an aircraft already listed in a minimum equipment list exemption.
24800	Tennessee Air Cooperative, Inc.	14 CFR 103.1	To allow petitioner's pilots and other disabled pilots to exceed the maximum 259 pounds empty weight requirement for ultralight aircraft up to a maximum 350 pounds to allow installation of special safety and operational equipment for the disabled.
24303	SimuFlight Training International	14 CFR 61.183	To allow petitioner the use of Phase II simulators for instructor pilot training and checking.
17067	MacAvia International Corporation	14 CFR 91.27	To allow ferry flights of petitioner's four-engine DC-6 aircraft to be conducted with one engine inoperative when the aircraft is operated under contract with the U.S. Forest Service for fire control. To allow petitioner to operate a DC-6 aircraft without a valid airworthiness certificate or a special flight permit.
6572	U.S. Department of Agriculture	14 CFR 105.43(a) and 65.127 (a) & (b)	To expand the petitioner's existing exemption to cover emergency as well as non-emergency use of parachutes; exempt the Service from approved parachute requirements, but not packing requirements, and certain requirements for parachute packing equipment and facilities.
24782	International Council of Aircraft Owner & Pilot Associations.	14 CFR 61.3(a)	To allow private pilots with a foreign pilot license issued by a contracting State to the Convention on International Civil Aviation to act as pilot-in-command of a U.S.-registered civil aircraft with private pilot privileges when they have a valid foreign private pilot or higher grade pilot license and appropriate foreign medical certificate, under certain conditions.
24779	FlightSafety Int'l	14 CFR 135.297	To allow petitioner to use FAA-approved visual simulators to complete pilot-in-command checks under certain conditions.
21961	Deere & Company	14 CFR 91.45	Extension of exemption No. 3241 to allow petitioner to continue to conduct ferry flights in a Lockheed L-1329 JetStar aircraft with one engine inoperative, without obtaining a special flight permit for each flight.
23789	Prince Corporation	14 CFR 21.181	Extension of exemption No. 3897 to allow petitioner to operate certain aircraft utilizing the provisions of a minumum equipment list.
24832	Crown Central Petroleum Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
18718	FlightSafety Int'l	14 CFR 61.58(c) and 61.67(d)(2)	To allow pilots to complete the entire Category II authorization practical requirement in an approved FSI visual simulator when the pilot has successfully completed at least three landings and takeoffs in the preceding 90 days.
24548	Allied Corporation	14 CFR 21.181	Amendment to exemption No. 4524 to allow petitioner to operate additional aircraft utilizing the provisions of a minimum equipment list.
21959	Deere & Company	14 CFR Portions of Parts 21 & 91	To permit operations of a Grumman G-1159 (N400JD); three Cessna C-550's (N30JD, N60JD, N90JD) and a Lockheed L-1329 (N500JD) using the provisions of a FAA-approved minimum equipment list for each type of aircraft.
23713	SimuFlight Training	14 CFR 121.407(a)(1)(i) and Portions of Part 121, Appendix A.	To allow petitioner, even though not a Part 121 certificate holder, to obtain approval of Phase II simulators; and to obtain approval of an Advanced Simulation Training Program.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought (disposition)
24326	Hawaiian Airlines, Inc	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date, which would allow petitioner to cover operations among various points in the South Pacific. (Amended grant 11/7/85.)
24633	Hercules Flight Training Center	14 CFR 61.58(b), (c), 61.157(d)(1) and 121.407(a)(1)(ii).	To permit petitioner to use the L-362 flight simulator to accomplish certain training and checking requirements. (Granted 11/7/85.)
24703	New York Air	14 CFR 61.3(a) and (c) & 121.383(a)(2)	To permit petitioner to assign and airman to accept as assignment without the pilot having in his or her personal possession an appropriate current medical and/or pilot certificate, if the certificate(s) have been lost or stolen. (Denied 11/7/85.)
21606	Alaska Airlines, Inc	14 CFR 121.574(a)(1) and (3)	To permit petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within the State of Alaska. (Granted 11/7/85.)
24284	American Airlines	14 CFR 121.411(a)(5)	To allow petitioner to use previously qualified check airmen who do not presently hold Class III medical certificates in flight simulator training programs. (Denied 9/25/85.)
24157	Chin Shrimp, S.A.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/6/85.)
24515	United Airlines, Inc.	14 CFR 121.434(c)(1)(ii)	To permit petitioner's pilot employees initially qualifying or upgrading as pilot in command (PIC) to be considered as having satisfied the operating experience requirements after completion of the appropriate number of hours but independent of having been observed by a Federal Aviation Administration (FAA) inspector. (Denied 7/30/85.)

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought (disposition)
24401	Executive Aero Systems	14 CFR 135.181(c)	To allow petitioner's pilots to operate single-engine aircraft over-the-top or in instrument flight rule (IFR) conditions from a point no more than 15 minutes flying time at normal cruise speed from the destination airport provided that airport is reported to having visual flight rule (VFR) conditions. (Denied 9/26/85.)
24305	British Aerospace, Inc	14 CFR 21.181	To allow the operation of one BAe800 and one BA 3100 aircraft utilizing the provisions of minimum equipment lists. (Granted 8/23/85.)
24286	Sky Harbor Air Service, Inc	14 CFR 135.219	To allow petitioner to operate aircraft under Part 135 when weather reports at the destination airport indicate weather conditions below minimum standards. Petitioner states that since weather reports and forecasts are not updated frequently, using the pilot's own observations in determining landing conditions at time of arrival would not compromise safety. (Denied 9/19/85.)
24488	Midwest Aviation, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)—approved minimum equipment list (MEL). (Granted 8/21/85.)
24438	Vecellio & Grogan, Inc	14 CFR 21.181	To allow petitioner to operate a Beech King Air 200 airplane utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24433	Burlington Northern, Inc	14 CFR 21.181	To allow petitioner to operate a B-727-191 aircraft utilizing the provisions of a minimum equipment list. (Granted 8/31/85.)
24469	Parks College of St. Louis University	14 CFR Portions of Part 141	To allow aviation students of petitioner to graduate from the appropriate courses when they have been trained to a specific performance standard rather than having met the minimum flight time requirements. (Granted 8/22/85.)
24497	Kaiser Steel Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24491	Old Ben Coal Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Partial grant 8/21/85.)
24490	United Technologies	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24499	The Kelly Springfield Tire Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24498	Guilford Mills, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24504	State Street Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/25/85.)
24502	AMCA International	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24501	GTE Service Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24510	OutBoard Marine Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)—approved minimum equipment list (MEL). (Granted 8/27/85.)
24508	Ashland Oil, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/21/85.)
24506	Cities Service Oil & Gas Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24512	American Can Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24516	U.S. Epperson Underwriting Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (*Granted 8/21/85.*)
24511	Ziegler Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (*Granted 8/23/85.*)
24526	Jeno's, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (*Granted 9/23/85.*)
24524	Corning Glass Works	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (*Granted 8/21/85.*)
24523	United States Fidelity and Guaranty Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (*Granted 8/21/85.*)
24514A	Peabody Coal Co	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). (Granted 10/18/85.)
24513	Forbes, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24422	Emerson Electric Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/15/85.)
23416	Empire Airlines, Inc	14 CFR 121.371(a) and 121.378	Renewal of exemption to allow Braathens S.A.F.E. to perform maintenance and alterations outside of the U.S. on petitioner's aircraft. (Granted 10/22/85.)
24449	St. Lucia Airways Ltd	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a master minimum equipment list. (Granted 9/23/85.)
19634	Douglas Aircraft Co	14 CFR 121.310(d)(4)	Extension of Exemption 3055 to allow petitioner's to operators of DC-8 series aircraft to operate those aircraft in passenger-carrying operations without the specified cockpit control device for each emergency light, provided the number one emergency electrical control switch and circuit breaker used for the manual emergency light system "on" control function are incoporated into the operator's flightcrew training program. (Granted 11/25/85.)
24748	Florida Power & Light Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted (11/25/85.)
23713	Simulite Training International, Inc	14 CFR Portions of Part 121, Appendix H	To allow petitioner to conduct an advanced simulation training program (ASTP) using Phase II advanced technology simulators, subject to conditions and limitations. (Denial of Amendment 11/25/85.
24747	Jimmy Swaggart Ministries	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 11/25/85.
24746	General Dynamics Corp	14 CFR. 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24739	Wayfarer Ketch Corp	14 CFR. 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24721	Massey Coal Services, Inc	14 CFR. 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24728	Black & Decker Manufacturing Co	14 CFR. 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24708	Avco Lycoming	14 CFR. 21.181	To allow petitioner to operate the following aircraft using Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). (Granted 11/25/85.)

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought (disposition)
24243	Sundstrand Corp	14 CFR 21.181	To allow petitioner to operate its corporate aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). (Granted 11/22/85.)
24682	Consolidated Gas Transmission Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24644	Dow Chemical U.S.A	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
24691	Hilton Hotels Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 11/25/85.)
15590	Embry-Riddle Aeronautical University	14 CFR Portions of Part 141, Appendixes A, C, D, F, and H.	To continue to exempt certain students from the minimum flight time requirements. (Granted 8/31/85.)
24576	United Airlines	14 CFR 61.151(e)	To allow W. F. Predhome, Jr., to qualify for an Airline Transport Pilot certificate (simulator-only) and to exercise the privileges of a simulator instructor under § 121.411 for petitioner. Mr. Predhome suffers from diabetes and is not eligible for a medical certificate under Part 67. (Denied 11/5/85.)
24606	Oakland Police Dept	14 CFR 45.29	To allow petitioner to operate two Enstrom F 28C helicopters that display the word "POLICE" and 3-inch-hight nationality and registration marks in place of the 12-inch-high N-numbers now required by the regulations. (Denied 11/18/85.)
24622	Advanced Control Systems	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24034	Aerovias Colombianas LTDA	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. (Amended Partial Grant 11/26/85.)
24561	Weis Markets, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/3/85.)
24360 and 24406	Lloyd Aereo Boliviano, S.A	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. (Amended Grant 11/26/85.)
19504	Lineas Aereas Costarricenses (SA)	14 CFR Portions of Parts 21 and 91	To extend Exemption 2858B, which expires 11/30/83, to permit petitioner to operate two leased U.S.-registered Boeing 727-2Q6 aircraft using an FAA-approved master minimum equipment list and a continuous airworthiness inspection program recommended by Boeing. (Granted 11/26/85.)
24378	All Star Airlines, Inc	14 CFR 43.3 & 43.7	To allow petitioner to acquire parts from Air Canada, which have not been maintained or approved for return to service by persons prescribed, for installation on aircraft when located other than in Canada. (Withdrawn 9/24/85.)
24086-1	Airlift International	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. (Amended Grant 11/15/85.)
24662	Albuquerque Int'l Balloon Fiesta, Inc	14 CFR 61.3 and 91.27	To allow certain pilots and foreign balloons to participate in the 14th Annual Albuquerque International Balloon Fiesta during the period of October 5–13, 1985, without complying with the pilot certification and airworthiness requirement of these sections. (Partial Grant 9/25/85.)
23745	Swissair	14 CFR Portions of Parts 21 & 91	To allow petitioner to operate two leased U.S.-registered Boeing 747 aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list and an FAA-approved continuous airworthiness maintenance and inspection program. (Granted 9/27/85.)
23447	Amway Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list. (Granted 8/28/85.)
24549	AMP Incorporated	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/15/85.)
24528	Nabisco Brands, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/18/85.)
24529	Jas. I. Miller Tobacco Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24548	Allied Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/15/85.)
24163	Helicopter Association International	14 CFR 135.167(a), (2)(xvi)	To allow petitioner to operate extended overwater flights carrying a 2-day supply of food rations supplying at least 500 calories for each four persons instead of 1,000 calories per day for each person. (Denied 9/23/85.)
23647	Embry-Riddle Aeronautical University	14 CFR 141.65	To allow petitioner to recommend graduates of its approved certification courses for flight instructor certificates and ratings without taking the Federal Aviation Administration's flight or written test, or both, in accordance with the provisions of Subpart D of Part 141, subject to certain conditions and limitations. (Granted 9/25/85.)
24533	Chrysler Aviation, Inc	14 CFR 61.63(d)(2) and (d)(3)	To permit trainees of petitioner who are applicants for a type rating to be added to any grade of pilot certificate, to substitute a practical test that includes the items and procedures for testing in an airplane simulator as set forth in the appendix of Part 61, although petitioner does not have an operating certificate issued under Part 121. (Granted 8/23/85.)
24540	Union Camp Corporation	14 CFR 91.45	To permit petitioner to conduct Lockhead JetStar 731's (N47UC, N48UC, and N49UC) ferry flights with one engine inoperative. (Granted 8/30/85.)
24541	Boeing Commercial Airplane Company	14 CFR 91.45	To permit petitioner to conduct turbine powered transport category airplanes ferry flights with one engine inoperative. (Partial Grant 8/28/85.)
24539	Masco Flight Operations	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24554	Champion Int'l Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24556	Modine Manufacturing Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24663	James River Corp. of Virginia	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24657	Metromedia Flight Dept	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24660	Oscar Mayer Foods Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24659	Reynolds Aluminum	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24654	Amax Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/25/85.)
23530	Minuteman Aviation, Inc	14 CFR 135.261(b)	To extend Exemption 3774; to allow petitioner to continue to operate its helicopter hospital emergency medical evacuation service without complying with the duty time limitations. (Granted 9/19/85.)

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought (disposition)
12638	Air Transport Assoc. of America	14 CFR 121.99 and 121.351(a)	Renewal of exemption to allow American Airlines, Eastern Airlines and Pan American World Airways to dispatch, with single HF, on certain oceanic routes between the northeastern United States and the San Juan, P.R., ARTCC. (Granted 8/30/85.)
24632	American Continental Aviation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24638	American Standard, Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/25/85.)
24602, 24652	Pfizer, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24627	American Hospital Supply Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24629	Sun Banks, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24604	Whirlpool Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/4/85.)
24624	Double Wharf Corp	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/4/85.)
24628	The Pennsylvania State University	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24596	Union Camp Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24595	Blandin Paper Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24583	Bunn-O-Matic	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24582	Armstrong World Industries, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/15/85.)
24585	Pacific Northwest Bell	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/23/85.)
24574	McFillen Air Park	14 CFR 135.243	To allow pilots employed by petitioner to haul freight-only in instrument flight rule conditions without possessing the necessary experience requirements (Granted 10/22/85.)
24566	Penn Corp Financial, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 10/2/85.)
24558	TRW, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 9/26/85.)
24563	ANR Pipeline Co	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)
24553	Eastern Airlines Incorporated	14 CFR 121.391	To allow petitioner to block-off two of the 252 passenger seats on its A300-B4 aircraft for nighttime operation and carry only five flight attendants. (Denied 10/16/85.)
24573	The Clorox Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. (Granted 8/23/85.)

[FR Doc. 85-29300 Filed 12-10-85; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Rock Island County, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project know as the Milan Beltway Extension/Rock River Crossing, located in Rock Island County, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Frank M. Johnson, District Engineer, Federal Highway Administration, 320 West Washington Street, Room 700, Springfield, Illinois, 62701, telephone (217)492-4618, or Mr. William D. Ost, District Engineer, Illionis Department of Transportation, 819 Depot Avenue, Dixon, Illinois, 61021, telephone (815)284-2271.

SUPPLEMENTARY INFORMATION: The proposed action is the construction of a 1.2 miled four-lane, acces-controlled highway (expressway) conecting the Milan Beltway (from its present terminus at Airport Road in Milan, Illinois) to the proposed extension of the John Deere Expressway in Moline, Illinois. The Milan Beltway (FAU 5822) will include a new four-lane bridge over the Rock River and two interchanges one with Airport Road and another with relocated Blackhawk Road/52nd Avenue.

The proposed action is a key element in the Quad Cities Urbanized Area Transportation Plan. It will provide for orderly urbanization within the southern portion of the Quad Cities metropolitan area and will provide a direct connection between the developing area south of the Rock River and the urbanized portion of the Quad Cities north of the Rock River. The proposed action has been carefully integrated with the John Deere Expressway and will become the primary traffic facility serving the area south of the Rock River. Thus, the John Deere Expressway will operate at an acceptable level of service for its design life without the need to construct any additional lanes through Black Hawk State Park—a primary environmental objective for the Quad Cities. area.

Alternates studies will be a controlled access highway (expressway) on new alignment, mass-transit options and a no-action alternate.

A formal scoping meeting is not being proposed at this time. Coordination has been initiated with environmental and regulatory agencies, including the Illinois Department of Conservation, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers. Other agencies will be contacted for input as the study progresses. The proposed action is likely to involve an individual section 404 permit and the Corps of Engineers has agreed to be a cooperating agency for the environmental impact statement.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions

are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or Illinois Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 22.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and Local Clearinghouse review of Federal and Federally assisted program, and products apply to this program)

Issueed on: November 25, 1985.

Frank M. Johnson,

District Engineer, Federal Highway Administration, Springfield, Illinois 62701.

[FR Doc. 85-29191 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Civil Penalty Assessment For Noncompliance With Fuel Economy Standards: Jaguar Cars, Inc.

The Administrator of the National Highway Traffic Safety Administration (NHTSA) has determined that Jaguar Cars, Inc. (Jaguar) has violated section 507 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2007, (the Act) by importing passenger automobiles for the 1983 and 1984 model years having average fuel economy levels which failed to meet or exceed the fleet average fuel economy standards established pursuant to the Act. The Administrator has assessed Jaguar a total of $6,015,990 in civil penalties for the violation.

Jaguar is the importer of vehicles manufactured in the United Kingdom by B.L. Cars Limited. In the 1983 model year, Jaguar imported 12,639 cars, and in the 1984 model year it imported 15,679 cars. According to calculations reported by the Administrator of the Environmental Protection Agency, Jaguar's fleet average fuel economy level for the 1983 model year was 19.2 miles per gallon, and for the 1984 model year is was 19.4 miles per gallon. The fuel economy standards established by NHTSA's rules pursuant to section 502 of the Act, 15 U.S.C. 2002, for the 1983 model year was 26 miles per gallon. For the 1984 model year the standard was 27 miles per gallon.

Jaguar had available credits from the 1980 model year when its vehicles exceeded the applicable standard. Section 502(1) of the Act, 15 U.S.C. 2002(1), permits a manufacturer to apply such credits, based on the amount by which the manufacturer exceeds the standard and the number of vehicles manufactured or imported, against any failure to meet the standard occurring within three years of the year in which the credits are earned. These credits have the effect of reducing Jaguar's civil penalty liability for 1983. Jaguar had no credits available to offset against its noncompliance for the 1984 model year.

Pursuant to section 508 of the Act, 15 U.S.C. 2008, the Administrator has assessed Jaguar civil penalties calculated by multiplying the number of tenths of a mile per gallon by which Jaguar's fleet average failed to meet the standard, by the number of vehicles it imported, multiplying this amount by $5, and offsetting available credits. Before taking into account its available credits, Jaguar would have been liable for a penalty of $4,297,260 for the 1983 model year. However, its 1980 credits amounted to $4,239,290. Therefore the Administrator has assessed a penalty of $57,970 for the 1983 model year. Because there are no available credits for 1984, the Administrator has assessed Jaguar $5,958,020 for that model year. The total assessment is $6,015,990.

On August 30, 1985, upon receiving the report of apparent noncompliance from EPA, the Associate Administrator of NHTSA gave Jaguar written notice and an opportunity to submit a plan to obtain credits in future years to offset the noncompliance. The written notice also gave Jaguar an opportunity to request an adjudicative hearing pursuant to the Act and the agency's regulations before assessment of civil penalties. On October 31, 1985, Jaguar responded in a letter by its counsel which submitted no plan for future credits and expressly stated that Jaguar did not request a hearing and would pay the correct amount upon final assessment establishing liability. The Administrator has therefore determined that no adjudicative proceeding is necessary, and accordingly she has issued a letter to Jaguar, dated December 3, 1985, notifying the company of the determination of noncompliance and assessment.

Jaguar was advised that it must submit its payment within fifteen days from receipt of the letter.

(15 U.S.C. 2008(a)(2); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on December 6, 1985.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 85-29397 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for renewal or modification of exemptions or application to become a part to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transporation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes December 27, 1985.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transporation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
5122-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	5122
5951-X	Ashland Chemical Company, Columbus, OH.	5951
6016-X	Airco, Inc., Murray Hill, NJ	6016

Application No.	Applicant	Renewal of exemption
6228-X	Airco Welding Products, Murray Hill, NJ.	6228
6501-X	GOEX, Inc., Cleburne, TX	6501
6530-X	Air Products and Chemicals, Inc., Allentown, PA.	6530
6563-X	Mada Medical Products, Inc., Carlstadt, NJ.	6563
6602-X	Ethyl Corp., Baton Rouge, LA	6602
6614-X	Hill Brothers Chemical Company, Tucson, AZ.	6614
6765-X	Air Products and Chemicals, Inc., Allentown, PA.	6765
6765-X	Union Carbide Corporation, Danbury, CT.	6765
6826-X	McDonnell Douglas Astronautics Co., Huntington Beach, CA.	6826
6826-X	Atlantic Reseach Corporation, Gainesville, VA.	6826
6908-X	U.S. Department of Defense, Falls Church, VA.	6908
6913-X	Vista Chemical Company, Ponca City, OK.	6913
6999-X	U.S. Department of Defense, Falls Church, VA.	6999
7052-X	General Dynamics, Forth Worth, TX.	7052
7052-X	NL Industries, Inc., Houston, TX	7052
7052-X	Tadiran Ltd., Port Washington, NY.	7052
7052-X	Battery Engineering, Inc., Hyde Park, MA.	7052
7052-X	Altus Corporation, San Jose, CA	7052
7052-X	Union Carbide Corporation, Danbury, CT.	7052
7052-X	The Boeing Co., Seattle, WA	7052
7052-X	Electrochem Industries, Inc., Clarence, NY.	7052
7052-X	General Electric Co., Philadelphia, PA.	7052
7052-X	Gould, Incorporated, Andover, MA.	7052
7052-X	A/S Hellesens, Soborg, Denmark	7052
7087-X	Unitek Corporation, Monrovia, CA	7087
7255-X	U.S. Department of Defense, Falls Church, VA.	7255
7446-X	Kaiser Aluminum and Chemical Corp., Erie, PA.	7446
7495-X	Brewer Chemical Corp., Honolulu, HI (See Footnote 1).	7495
7578-X	U.S. Department of Defense, Falls Church, VA.	7578
7741-X	Bell Aerospace Textron, Buffalo, NY (See Footnote 2).	7741
7753-X	Monsanto Company, Saint Louis, MO.	7753
7943-X	GPS Industries, City of Industry, CA.	7943
7943-X	Hill Brothers Chemical Company, Tucson, AZ.	7943
7943-X	Westinghouse Electric Corporation, Horseheads, NY.	7946
7963-X	Stauffer Chemical Company, Westport, CT.	7963
8006-X	Bland Brothers, Incorporated, Miami, FL.	8006
8081-X	National Aeronautics and Space Administration, Washington, DC.	8081
8156-X	Liquid Carbonic Corporation, Chicago, IL.	8156
8329-X	Texas Instruments, Inc., Dallas, TX.	8329
8465-X	Chase Bag Co., Oak Brook, IL	8465
8525-X	Atlanttrafik Express Service, New York, NY.	8525
8556-X	Union Carbide Corporation, Danbury, CT.	8556
8556-X	Air Products and Chemicals, Inc., Allentown, PA.	8556
8732-X	Chemcentral Inc., Chicago, IL	8732
8812-X	The Protectoseal Co., Bensenville, IL (See Footnote 3).	8812
8837-X	Fabricated Metals, Inc., San Leandro, CA.	8837
9015-X	Monsanto Company, Saint Louis, MO (See Footnote 4).	9015
9072-X	Morton Thiokol, Inc., Brigham City, UT.	9072
9092-X	West-Tex Equipment Company, Midland, TX.	9092
9134-X	I.S.C. Chemicals Limited, Avonmouth, England.	9134
9136-X	Ptasti-Drum Corporation, Lockport, IL.	9136
9146-X	Biefa-Feiser GmbH, Posttach, West Germany.	9146
9164-X	Fabricated Metals, Inc., San Leandro, CA.	9164
9168-X	Air-Pak, Inc., Pittsburgh, PA	9168
9175-X	Marathon Oil Company, Littleton, CO.	9175
9181-X	Honeywell, Inc., Horsham, PA (See Footnote 5).	9181
9251-X	Orchard Supply Company of Sacramento, CA (See Footnote 6).	9251
9256-X	U.S. Department of Defense, Falls Church, VA.	9256
9545-X	Medical Diagnostics, Inc., Columbia, MD (See Footnote 7).	9545

[1] To authorize methyl bromide, Class B poison, as an additional class of material.

[2] Request increase in combination of propellant cylinders not to exceed 27.30 pints of anhydrous hydrazine plus one helium sphere per shipment.

[3] To authorize an alternate type 5 gallon capacity container and to allow shipment of additional flammable liquids.

[4] Renew and to authorize potassium dichloro-s-triazinetrione and sodium dichloro-s-triazinetrione as additional oxidizers for shipment in bulk bags.

[5] To authorize a DOT Specification 17C drum as overpack and to require the electrical connector of the piston actuator to be covered with a Faraday shield cap.

[6] To authorize shipment of a corrosive liquid, n.o.s. in DOT Specification 51 portable tanks.

[7] To renew emergency exemption authorizing a mixture of 0.5% p-toluene sulfonic acid and 99.5% acetone to be shipped under the limited quantity provision for flammable liquids.

Application No.	Applicant	Parties to exemption
7052-P	Tadiran Electronic Industries, Port Washington, NY.	7052
8156-P	Liquid Air Corporation, Walnut Creek, CA.	8156
8445-P	Dow Consumer Products, Inc., Indianapolis, IN.	8445
8526-P	Phelco Inc. Trucking, Hazelwood, MO.	8526
8988-P	Vann Systems, Houston, TX	8966
9275-P	McCormick & Company, Inc., Hunt Valley, MD.	9275
9275-P	Merrell Dow Pharmaceuticals, Inc., Cincinnati, OH.	9275
9275-P	The Proctor & Gamble Distributing Company, Cincinnati, OH.	9275
9275-P	Amway Corporation, Ada, MI	9275
9275-P	Warner Labert Company, Morris Plains, NJ.	9275
9275-P	International Flavors & Fragrances (IFF-US), Hazlet, NJ.	9275
9275-P	Ortho Pharmaceutical Corporation, Somerset, NJ.	9275
9329-P	Dresser Atlas, Houston, TX	9329
9364-P	FMC Corporation, Philadelphia, PA.	9364
9379-P	H.J. Baker & Bro., Inc., New York, NY.	9379

This notice of receipt of application for renewal of exemption and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 5, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 85-29381 Filed 12-10-85; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes January 13, 1986.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9546-N	The Schawbel Corporation, Cambridge, MA	49 CFR 173.24(a)(1), 175.3	To authorize shipment of isobutane in a specially designed curling iron device to be classed as an ORM-D. (Modes 1, 2, 3, 4, 5.)
9547-N	National Institutes of Health, Bethesda, MD	49 CFR 173.179	to authorize shipment of *n*-methyl-n-nitro-n-nitrosoguanadine (MNNG) classed as a flammable solid in a specially designed packaging not to exceed 100 grams per outside package. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9548-N	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354(a)(6), 174.63(d)	To authorize shipment of motor fuel antiknock compound in non-DOT specification portable tanks, complying with DOT Specification 51 except for ASME Code stamp. (Modes 1, 2, 3.)
9549-N	Schlumberger Well Services, Rosharon, TX	49 CFR 173.100(v), 175.30	To authorize shipment of oil well cartridges each containing not more than 600 grains of high explosive, reclassified and offered as a Class C explosive, under special conditions. (Modes 1, 3, 4.)
9550-N	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.101, Column 6(a)	To authorize shipment of Cesium Beam Frequency Standard (Cesium Clock) containing a small amount of cesium metal, classed as a flammable solid aboard passenger carrying aircraft. (Mode 5.)
9551-N	Connie Kalitta Services, Inc., Ypsilanti, MI	49 CFR 173.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appen. B.	To authorize carriage of various Class A and B explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9552-N	IRECO Incorporated, Salt Lake City, UT	49 CFR 173.216–11	To extend testing for DOT Specification 23G containers from 6-month intervals to one year intervals for shipment of certain Class A explosives. (Mode 1.)
9553-N	Polaroid Corporation, Cambridge, MA	49 CFR 173.119, 173.245	To allow one-time reuse of refurbished DOT Specification 37M/2SL steel packaging for shipment of certain waste corrosive and flammable liquids for land burial. (Mode 1.)
9554-N	Bondico, Inc., Jacksonville, FL	49 CFR 173, Subparts D, E, F, H	to manufacture, mark and sell non-DOT specification 90 gallon capacity polyethlene/fiberglass reinforced plastic container with top head welded closed after filing for shipment of those commodities authorized in DOT Specification 34 container. (Modes 1, 2.)
9555-N	E. I. du Pont de Nemours Co., Inc., Wilmington, DE.	49 CFR 173.346(a)(12)	To authorize shipment of methylcyclopentadienyl manganese tricarbonyl classed as a poison B liquid, in DOT Specification MC-330 or MC-331 cargo tanks. (Mode 1.)
9556-N	American Fireworks Company, Hudson, OH	49 CFR 173.101	To authorize shipment of certain special fireworks in limited amounts per motor vehicle, classed as flammable solid. (Mode 1.)
9557-N	Delaware Valley Industrial Gases, Inc., Waterford Works, NJ.	49 CFR 173.34(f)	To authorize rebuilding of DOT Specification 4B, 4BA and 4BW cylinders in a configuration other than the original method of manufacturing. (Modes 1, 2, 3, 4, 5.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 5, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 85-29382 Filed 12-11-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Suppmnt. to Dept. Circ.—Public Debt Series—No. 36-85]

Treasury Bonds of 2015; Interest Rates

Washington, November 25, 1985.

The Secretary announced on November 22, 1985, that the interest rate on the bonds designated Bonds of 2015, described in Department Circular—Public Debt Series—No. 36-85 dated November 15, 1985, will be 9⅞ percent. Interest on the bonds will be payable at the rate of 9⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-29294 Filed 12-10-85; 8:45 am]

BILLING CODE 4810-40-M

[Suppmnt. to Dept. Circ.—Public Debt Series—No. 37-85]

Treasury Notes of Series H-1991; Interest Rate

Washington, November 29, 1985.

The Secretary announced on November 27, 1985, that the interest rate on the notes designated Series H-1991, described in Department Circular—Public Debt Series—No. 37-85 dated November 15, 1985, will be 9⅛ percent. Interest on the notes will be payable at the rate of 9⅛ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-29295 Filed 12-10-85; 8:45 am]

BILLING CODE 4810-40-M

[Suppmnt. to Dept. Circ.—Public Debt Series—No. 35-85]

Treasury Notes, Series D-1995; Interest Rate

Washington, November 22, 1985.

The Secretary announced on November 21, 1985, that the interest rate on the notes designated Series D-1995, described in Department Circular—Public Debt Series—No. 35-85 dated November 15, 1985, will be 9½ percent. Interest on the notes will be payable at the rate of 9½ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-29296 Filed 12-10-85; 8:45 am]

BILLING CODE 4810-40-M

[Suppmnt. to Dept. Circ.—Public Debt Series—No. 34-85]

Treasury Notes, Series U-1988; Interest Rate

Washington, November 20, 1985.

The Secretary announced on November 19, 1985, that the interest rate on the notes designated Series U-1988, described in Department Circular—Public Debt Series—No. 34-85 dated November 15, 1985, will be 9⅝ percent. Interest on the notes will be payable at the rate of 9⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-29297 Filed 12-10-85; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 238
Wednesday, December 11, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 Noon, Monday, December 16, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. 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 6, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–29398 Filed 12–6–85; 4:36 pm]

BILLING CODE 6210–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 28637, dated December 2, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, December 9, 1985.

CHANGE IN THE MEETING: The following item has been added to the closed portion of the meeting:

"Recommendation for Participation as Amicus Curiae"

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change:

Clarence Thomas, Chairman
Tony E. Gallegos, Commissioner
William A. Webb, Commissioner
Fred W. Alvarez, Commissioner
R. Gaull Silberman, Commissioner

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: December 9, 1985.

Johnnie L. Johnson, Jr.,

Attorney Advisor.

This Notice Issued December 9, 1985.

[FR Doc. 85–29489 Filed 12–9–85; 3:59 pm]

BILLING CODE 6750–06–M

3

FEDERAL COMMUNICATIONS COMMISSION

December 5, 1985.

Additional Item To Be Considered at Open Meeting, Tuesday, December 10th

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 2:00 p.m., Tuesday, December 10, 1985 at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Mass Media—3—Title: Amendment of § 73.606(b), TV Table of Assignments for Ventura, California. Summary: The Commission will consider the substitution of a UHF television channel for Channel 16 at Ventura, California, to enable the Los Angeles County Sheriff's Department to use Channel 16 for public safety purposes.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration to this additional item.

Action by the Commission December 5, 1985. Commissioners Fowler, Chairman; Quello, Dawson and Patrick voting to consider this additional item.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254–7674.

Issued: December 5, 1985.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–29436 Filed 12–9–85; 10:39 am]

BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:11 p.m. on Thursday, December 5, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) Adopt a resolution making funds available for the payment of insured deposits made in Security State Bank, Broken Bow, Nebraska, which was closed by the Director of Banking and Finance for the State of Nebraska on Thursday, December 5, 1985; and

(B) Adopt a resolution making funds available for the payment of insured deposits made in The Farmers and Merchants National Bank of Hennessey, Hennessey, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, December 5, 1985.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 6, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-29449 Filed 12-9-85; 11:35 am]

BILLING CODE 6714-01-M

5

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, December 20, 1985 at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigation 731-TA-292/296 [Preliminary] (Certain welded carbon steel pipes and tubes from the People's Republic of China, the Philippines, and Singapore)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Dated: December 4, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-29413 Filed 12-6-85; 5:11 pm]

BILLING CODE 7020-02-M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, December 19, 1985.

PLACE: Suite 410, 1825 K Street, NW., Washington, DC.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634-4015.

Dated: December 9, 1985.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 85-29479 Filed 12-9-85; 3:16 am]

BILLING CODE 7600-01-M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

STATUS: Open.

TIME AND DATE: December 18-19, 1985, 9:00 a.m.

PLACE: Council Office, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

1. Council Deliberation on Draft Power Plan. The Council may complete preliminary action on the draft power plan at its December 11-12 meeting. If so, the Council would cancel the December 18-19 meeting. Please call the central office for a status report on this meeting.
   a. Any other issue not resolved at prior meetings.
2. Council Business.
3. Public Comment. The record on the draft plan closed October 25, 1985; therefore, no public comment can be taken on this subject at this meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Curtis (Power Plan issues only) or Ms. Bess Atkins (all other issues) at (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 85-29437 Filed 12-9-85; 10:39 am]

BILLING CODE 0000-00-M

8

POSTAL RATE COMMISSION

TIME AND DATE: Periodic meetings between December 13 through 20, 1985.

PLACE: 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: United Parcel Service's Motion that USPS' Request Not be Considered Under Experimental Procedures—(Docket No. MC86-1).

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 85-29434 Filed 12-9-85; 10:39 am]

BILLING CODE 7715-01-M

9

POSTAL RATE COMMISSION

TIME AND DATE: Periodic meetings between December 12 through 24, 1985.

PLACE: 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of issues and recommended decision regarding Advo System, Inc.—Docket No. C85-1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 85-29435 Filed 12-9-85; 10:39 am]

BILLING CODE 7715-01-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 43323 October 24, 1985.

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 26, 1985.

CHANGE IN THE MEETING: Deletion.

The following item was not considered at an open meeting scheduled for Tuesday, December 3, 1985, at 10:00 a.m.

Consideration of whether to issue an order granting the application of Maui/Waikiki Hotel Associates, LaSalle/Market Streets Associates, and VMS National Properties for exemption from Sections 12(g), 13(a) and 14 of the Securities Exchange Act of 1934, as amended. For further information, please contact William E. Toomey at (202) 272-2573.

Commissioner Grundfest, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Douglas Michael at (202) 272-2467.

John Wheeler,

Secretary.

December 4, 1985.

[FR Doc. 85-29463 Filed 12-9-85; 12:45 pm]

BILLING CODE 8010-01-M

Federal Register

Wednesday
December 11, 1985

Part II

Department of Health and Human Services

Public Health Service

42 CFR Part 75

Standards for the Accreditation of Educational Programs for, and the Credentialing of Radiologic Personnel; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 75

Standards for the Accreditation of Educational Programs for and the Credentialing of Radiologic Personnel

AGENCY: Public Health Service, HHS.

ACTION: Final rulemaking.

SUMMARY: These regulations establish standards for the accreditation of educational programs for radiologic personnel, and for the credentialing of such persons. These standards are part of the implementation of the Consumer-Patient Radiation Health and Safety Act of 1981 (Title IX of Pub. L. 97–35), which required their promulgation by regulation. The standards are voluntary for States and mandatory for Federal agencies.

EFFECTIVE DATE: These regulations are effective January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Brooks, Health Personnel Standards Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–95, Rockville, Maryland 20857; telephone: 301 443–6757.

SUPPLEMENTARY INFORMATION: The Consumer-Patient Radiation Health and Safety Act of 1981 (the Act) is Subtitle I of Title IX of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. In accordance with section 979 of the Act, the Secretary of Health and Human Services is adding a new Part 75 to Title 42 of the *Code of Federal Regulations*, entitled "Standards for the Accreditation of Educational Programs for and the Credentialing of Radiologic Personnel."

The Department published in the **Federal Register** on July 12, 1983, a Notice of Proposed Rule-Making (NPRM) that provided for a 120-day public comment period.

One of the expressed purposes of the Act is to "insure that . . . radiologic procedures are consistent with rigorous safety precautions and standards." Section 977(2). The comments submitted revealed that attempts to use radiologic personnel standards to improve patient safety are exceedingly complex. In addition, the Act requires that the standards be mandatory for Federal agencies employing radiologic personnel. Comments received from the Federal agencies indicated that current standards for radiologic personnel are adequate to insure the safety of patients and that the proposed standards would create a number of operational problems in areas other than safety. Thus, those most directly affected by the promulgations of such standards felt them to be unnecessary and costly.

Many of the States already have licensing standards for radiologic personnel. The States are also aware of the recommendations of the organizations representing radiologic personnel concerning minimum standards for training and accreditation of educational programs in this area. Thus, many commentators suggested that one of the primary goals of the Act, which is to encourage the States to adopt educational and accreditation standards (see sections 981 (c) and (d)), was unnecessary.

Other commentors pointed out that since the time that the Act was introduced in the Congress, changes in technology and in the Federal regulation of radiologic devices themselves have reduced the risk of unnecessary exposure substantially.

Most fundamentally, both the comments and the Department's own review raised serious questions about whether such standards have more than a remote connection to patient safety. At best, formal education is far removed from actual practice in a work setting. No studies exist which show even a tenuous connection between accreditation status of an institution and the safety-related performance of its graduates. Moreover, there are demonstrably effective alternatives, such as improved design and operation of radiological equipment, and short-term training in techniques of reducing unnecessary intensive exposure. As the American Hospital Association, in its comments on the NPRM, stated: "The means used to address this goal—standards for the accreditation of educational programs for and credentialing of radiologic personnel—are at best an indirect way to approach the problem. There is no demonstrable link between certification on the one hand, and the quality and safety of patient services on the other. And if the link between credentialing and patient safety is weak, the link between an educational accreditation program and patient safety is weaker still."

Therefore, the Department decided to seek repeal of the Act, and transmitted to the Congress in July 1985, the Health Professions Amendments of 1985 which, among other things, would have repealed the Act. In October, the Congress enacted many of the provisions of these proposed Amendments, but did not act on the Department's request to repeal the Act. Thus, given the statutory mandate, the Department has decided to issue the final rule now and will consider again requesting repeal of the Act in the near future.

Section 979 of the Act requires the Secretary, after consultation with appropriate Federal agencies, agencies of States, and professional organizations, to promulgate regulations setting forth minimum standards for the accreditation of educational programs to train individuals to perform radiologic procedures, and minimum standards for the certification"[1] of persons who administer such procedures. These standards are required to distinguish between the occupations of (1) radiographer,[2] (2) dental auxiliaries (including dental hygienists and dental assistants), (3) radiation therapy technologist, and (4) nuclear medicine technologist. The Secretary is also authorized to promulgate standards for other occupational groups utilizing ionizing and non-ionizing radiation as the Secretary finds appropriate. However, the regulations promulgated herein are limited to the occupational groups listed above, utilizing ionizing radiation. At this time, the biological hazards of non-ionizing radiation have not been established as a threat to patient health and safety.

These regulations establish minimum standards for accreditation of educational programs for selected radiologic personnel and standards for credentialing selected radiologic personnel, as required by the Act. The standards apply to non-Federal personnel only to the extent to which States adopt them. Licensed practitioners (doctors of medicine, osteopathy, dentistry, podiatry, and chiropractic) are specifically excluded from coverage by the Act. In addition, the Department has also chosen to exclude licensed pharmacists.

Compliance by the States with the standards is voluntary. However, the Secretary is required by section 981(d) of the Act to monitor the States' "compliance" and to report to the Congress on January 1 of each year the status of that compliance.

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[1] Although the Act uses the term "certification", the term "credentialing" is used in these standards, because certification generally refers to voluntary regulation of personnel or protection of an occupational title, rather than to state regulation of practice as is the intent of these standards.

[2] The statute uses the language "medical radiologic technologists (including radiographers)." For purposes of this regulation, "radiographer" is used as the more generally accepted designation of this occupation.

The standards are intended to assist those States which desire to regulate the education and practice of radiologic personnel. While the standards were developed by the Department, the Act preserves the traditional prerogatives of States in the approval of educational programs and in regulation of personnel. States remain free to utilize approval processes already established by existing voluntary accrediting agencies and examining boards, or to establish their own processes, or to take no action of any kind. While providing a particular basis for action by States, the Act does not require such action.

The Act requires that each department, agency, and instrumentality of the Executive Branch of the Federal Government must comply with the standards promulgated, except that the Veterans Administration (VA) is required to issue its own regulations that, to the maximum extent feasible, make the standards set forth in this regulation applicable to VA facilities. The Administrator of theVA must report to the appropriate committees of Congress on compliance with the requirement not more than 180 days after final promulgation of these regulations. (See section 983 of the Act.) Neither the Act nor these standards impose upon Federal agencies any specific policies or procedures to follow in the implementation of standards in the Federal work force.

The Act requires that the standards be developed in consultation with appropriate Federal agencies, including the VA and the Environmental Protection Agency. To carry out this requirement, a Federal working group was formed consisting of official representatives of agencies that employ these personnel.

Agencies of States, including licensing agencies, boards that regulate health occupations, health departments, and radiation control agencies, provided information and advice. In addition, appropriate professional organizations, voluntary accrediting and certifying agencies in the affected occupations, and employers thereof were also consulted.

The Department chose to promulgate two separate sets of standards for credentialing, each of which identifies five basic elements and provides for maximum flexibility to States. One set of standards is provided for radiographers, nuclear medicine technologists, and radiation therapy technologists. Another set of standards is provided for dental hygienists and dental assistants, which applies only to their performance of dental radiographic procedures. Each standard addresses the issuance of licenses, eligibility, the use of criterion-referenced examinations, continuing competency, and policies and procedures. For the professions named in the Act, there are several private-sector certifying organizations and a number of State licensure statutes, which vary considerably.

All of the standards for the accreditation of educational programs contain material only distantly related, if at all, to patient safety. For example, all include generic responsibilities for planning, managing, and evaluating the educational program offered. Such standards do not relate to training in radiologic procedures, *per se*, but may promote the overall quality of the educational experience. Many such generic standards are included, because they have been accepted by voluntary (nongovernmental) agencies with considerable experience in accrediting educational programs in these fields. However, many other standards have been eliminated.

The Department chose to promulgate accreditation standards that follow the requirements of the voluntary accrediting agencies for educational programs in these professions, e.g., the Committee on Allied Health Education and Accreditation (CAHEA) of the American Medical Association and the Commission on Dental Accreditation (the Commission) of the American Dental Association. However, some of these voluntary standards and all explanatory material issued by these agencies have been eliminated to allow maximum discretion to States. The Department made this decision because (1) the Congress intended that the standards be developed in consultation with appropriate professional organizations, (2) the standards already promulgated are arguably appropriate—insofar as any such standards can be—to promote the type of competency in radiologic procedure safety and patient protection intended by the Act, and (3) the development of standards that differed from those already utilized in these professions would cause unnecessary confusion. In developing standards based on those already promulgated by recognized, private-sector accrediting bodies, certain inconsistencies appear in the format and content of the separate standards for radiographers, radiation therapy technologies, nuclear medicine technologists, dental hygienists, and dental assistants. The Department believes that these inconsistencies do not materially affect the separate standards or impose greater burdens on any profession.

The decision to rely on standards developed by the professions themselves as a starting point created another problem. Many academic economists and several Federal agencies, including the Antitrust Division of the Department of Justice and the Federal Trade Commission (FTC), have raised over the years serious questions concerning the possible anticompetitive effects of certain aspects of State licensure laws which rely on such standards.

The anticompetitive effects are partly related to the structure of the State regulatory body. Licensing boards composed solely of, or dominated by, licensed members of the occupation or profession being regulated may provide a vehicle for raising barriers to entry into these professions. When entry barriers are increased, wage costs and prices to the public increase also. Such barriers are often increased by raising the educational requirements for entry on restricting the number of institutions accredited to train future entrants. Thus, control over the accreditation process by licensed members of the profession is also an important element in attempts to limit entry.

To lessen the potential for these problems, the Department recommends that those States which decide there is a need to establish regulatory controls over radiologic personnel avoid establishing licensing boards dominated by practicing members of these occupations. Caution should also be taken by States to review accreditation policies, especially if influenced by members of the radiologic occupations, to insure that they are not unduly restrictive. In reviewing and modifying the standards promulgated by this rule we have attempted to avoid such problems—for example, by eliminating requirements that only not-for-profit institutions can perform training—but States should avoid adding requirements in the future which erect entry barriers or reduce employment opportunities.

Comments and the Department's Responses

The Department published in the **Federal Register** on July 12, 1983, a Notice of Proposed Rulemaking (NPRM) that provided for a 120-day public comment period. A total of 286 comments from organizations, governmental agencies, and individuals was received.

The presentation of these comments and of the Department's responses is divided into three sections. The first consists of comments regarding the Supplementary Information section of

the July 12 NPRM. The second consists of comments on the rule—the new 75 Part which will be added to Title 42 of the Code of Federal Regulations. The third consists of comments on the Appendixes to the NPRM, which contained the text of the standards.

I. Supplementary Information Section

Two respondents recommended changes in the rationale for not providing standards for users of non-ionizing radiation. The language in the NPRM reads, "at this time, the biological effects of non-ionizing radiation have not been conclusively established as a threat to patient health and safety." These respondents proposed changing the word "effects" to "hazards" and deleting the word "conclusively." The Department agrees.

Twelve respondents recommended that a grandfathering clause be added to the regulation. Grandfathering provisions proposed by these individuals ranged from provision of a grace period in which personnel could obtain the necessary education or credential, to grandfathering on the basis of prior work experience. Traditionally, grandfathering provisions have been included in State statutes for personnel licensure rather than in actual standards adopted under such statutes. Therefore, the model statute being developed by the Department will contain a recommendation on this topic. However, because this regulation is mandatory for Federal agencies, a grandfathering provision for Federal employees has been added as § 75.3(a)(6) of the regulation.

Several respondents questioned the applicability of these standards to active duty military personnel. One of these respondents argued that the standards do not apply because such personnel are not members of the five regulated occupations. Another argued that it would be all but impossible to comply with these standards if they were to apply, since neither military training nor length of service corresponds in any way to the periods of time involved in standards designed for multi-year career training by civilian educational institutions. We agree, and have added a clause to § 75.3(a)(6) under which uniformed personnel trained by the Armed Services will be deemed to have met these standards, provided that equivalent safety protection is otherwise provided. This clause, however, does not apply to civilian employees of the uniformed services.

Other commenters requested that foreign nationals employed by Federal agencies in position outside the United States be exempted from the standards. In response to those comments, and in the absence of any indication of a Congressional intention to impose an American accreditation and licensure model abroad, we have added a provision to the effect that such foreign nationals will be deemed to have met the requirements of the standards if, in the judgment of the employing agency, they present qualifications that are equally protective of patient health and safety.

Finally, a respondent pointed out that application of the standards would bar from Federal employment applicants who are fully qualified by training and experience but who happen to reside in States which choose—as the law permits them to do—not to adopt the standards. At the very least, it will be some years before the standards are widely established by the States. In order to avoid the consequent severe hampering of Federal civilian recruitment, we have also added to § 75.3(a)(6) a provision under which the Office of Personnel Management or the hiring agency may determine that an applicant who has been trained or has practiced in a profession in a State that has not adopted the standards for the profession shows evidence of training, experience and competence that are equally protective of patient health and safety.

In addition, to afford sufficient flexibility to deal with any other potential problems that Federal agencies might encounter, a provision has been added to allow a Federal agency to develop and use alternative criteria that it determines, after consultation with the Secretary, to offer equivalent protection of patient health and safety.

The preamble to the NPRM asked for comments as to whether the credentialing standards should be revised to identify specific eligibility requirements and examination content. One respondent stated that it would be inappropriate to expand the two licensure standards in this way, since this would severely limit the autonomy of the States in developing licensure programs. The Department agrees.

In the NPRM, the Department encourages comments on its decision to follow the existing, private-sector accreditation standards and on whether the NPRM should be revised to reduce inconsistencies. Many respondents addressed the appendixes to the NPRM. The Department has acknowledged and responded to these comments in Section III below, dealing with the individual appendixes. Many of these comments argued for more detail and others for less detail, mostly with respect to particular occupations. Responses to these comments reflected the Department's original problem of dealing with standards which had been independently developed and which treated identical topics inconsistently, with no occupation-specific reason for so doing (e.g., on topics such as student record-keeping and general quality and quantity of staff offices and classrooms). Further, if one occupation's standard (or lack thereof) was viewed as minimally necessary, then others which exceeded it must by definition exceed the minimum (the Act allows promulgation only of "minimum" standards). Yet making a change either way to reduce inconsistencies would depart from the voluntary standards. Faced with such dilemmas, the Department has in general chosen to eliminate rather than add details except, of course, for those particular standards which directly relate to safety training.

In the NPRM, comments were solicited regarding the potential costs and effectiveness of implementing the standards. Eight of thirteen respondents stated that costs would increase as a result of these standards, while two commented that there would be no significant increase in costs. One respondent suggested that any costs resulting from these standards could be offset by a testing and/or licensure fee. In addition, two respondents indicated that the implementation of these standards would be cost effective. While the Department agrees that standards might raise costs, the standards and any costs they entail are mandatory only for Federal agencies. States are free to decide whether or not to adopt regulatory controls and at what level. Changes that we have made in this final rule, and the provision for alternative criteria, are intended to permit flexibility and cost-saving alternatives (provided, of course, that patient safety is equally well-protected), and avoid any serious and inadvertent compliance difficulties for Federal agencies. States which follow this model closely, including relevant applicability exemptions, should also avoid difficulties.

One respondent believed that both the accreditation and licensure standards should contain provisions for periodic Federal review and revision in order to ensure that they remain current. The Department recognizes that radiologic personnel must keep up with a rapidly developing scientific and technical knowledge base. However, both employers and employees have a strong incentive to ensure that radiological personnel maintain and increase their knowledge of safety-related matters.

Moreover, we expect that voluntary associations and possibly States will revise standards from time to time, and will find this easy to do given the flexibility of these standards. In the unlikely event that these standards prove incompatible with such changes, we can under the Act elect to propose revisions, with or without an explicit updating procedure. In the model statute separately transmitted to States, we have explicitly incorporated legal authority to change standards over time.

II. Part 75

Section 75.1(a)

Thirteen respondents questioned the purpose of the regulations, stating that they are unnecessary or that private-sector initiatives are sufficient to regulate radiologic personnel, particularly since the Department has modeled these standards on those of private organizations. It was also argued that the regulation would make recruitment of qualified personnel unnecessarily difficult. With respect to the first argument, we agree, but as previously discussed have little or no choice under the Act. With respect to the second argument, changes discussed above should eliminate the recruitment problem. Therefore, the Department believes that a wider application of standards, essentially similar to those already utilized in a significant part of the health care system, will not create substantial new difficulties in personnel recruitment.

Section 75.1(b)

The Department proposed standards for five occupations that utilize ionizing radiation: (1) Radiographer, (2) dental hygienist, (3) dental assistant, (4) nuclear medicine technologist, and (5) radiation therapy technologist. One hundred ninety-four respondents questioned why the standards were limited to these five occupations. The Department continues to affirm its belief that it is not appropriate at this time to recommend radiologic standards for other types of health personnel who administer ionizing radiation. A fuller and more satisfactory base of information is required on existing practice, standards in the private sector, and job-knowledge requirements, particularly for those personnel who have not previously been held to rigorously developed formal standards regarding their qualifications and competency. Moreover, many occupational groups (e.g., registered nurses) predominantly perform non-radiological procedures and are already subject to a wide range of standards. It would be both extremely difficult and unwise to attempt to create separate standards and duplicative processes limited to radiological competency. More fundamentally, the very concepts of accreditation and licensing only apply to well-defined occupational settings in which both training and job performance are tightly linked to the subject of the standards. For persons who performs radiological procedures in actual job settings rather than on the basis of nominal profession, there are better and more direct approaches such as short-term training and performance testing. Accordingly, coverage has not been extended to other occupations, although individual States have the prerogative to do so.

Nine respondents supported the Department's initial decision to not promulgate standards for personnel in ultrasound and diagnostic medical sonography.

Section 75.2

One respondent suggested that the definition of accreditation be expanded to include the approval of individual courses. The purpose of this regulation is not to set standards for individual courses, but to set standards for educational programs that will in many cases include a considerable variety of academic and clinical training.

One respondent suggested that the term "certification" be defined in § 75.2. As explained in footnote 1 above, the term "certification" is not used in the regulation. Accordingly, no such definition is necessary.

Two respondents felt that the definition of "continuing competency" was too narrow. The Department agrees and has expanded this definition.

Four respondents suggested that the definition of "energized laboratory" be changed to include laboratories in which the equipment emits non-ionizing radiation. Since this regulation applies only to five occupations that utilize ionizing radiation, this change has not been made.

Two respondents suggested that a more complete definition of "ionizing radiation" would include neutrons and other nuclear particles. The Department agrees and has adopted this definition.

In the NPRM, the Department proposed to apply nuclear medicine technologist standards only to technologists who perform *in vivo* procedures, since *in vitro* procedures do not pose the threat of excess radiation to patients. A second rationale for this decision was based on the Department's concern that standards for the nuclear medicine technologists should not be applied to other laboratory personnel who can perform *in vitro* procedures. Seventeen respondents objected to a lack of clarity in this definition or to the application of the standards. It was also suggested that a clearer statement on *in vivo* procedures would be necessary. The Department recognizes that *in vivo* and *in vitro* procedures fall within the scope of the nuclear medicine technology profession, but remains concerned about application of technologist standards to other personnel. Accordingly, the original statement on applicability has been retained but clarified by adding the following statement: "For purposes of this Act, any administration of radiopharmaceuticals to human beings is considered an *in vivo* procedure." In addition, to the extent that *in vitro* procedures present a potential hazard to technologists or other laboratory personnel, health and safety rules should be established in the laboratory for their protection. Such provisions, however, are beyond the scope of this regulation. The Department suggests that States examine these issues carefully in proposing licensure standards for these personnel.

Five respondents suggested other changes that would amend the definition of "nuclear medicine technologist." A suggestion to insert the phrase "administers radiopharmaceuticals to human beings" has been adopted. A suggestion to delete the reference to licensed pharmacists has also been adopted. However, the Department has chosen to exempt pharmacists from the regulation because it does not wish to impose requirements on pharmacists or their educational programs beyond those required by State licensure statutes or State-approved program accreditation. The suggestion to insert the phrase "while under the supervision of a licensed practitioner" has merit, but more properly should be contained in the State licensure statute that defines the scope of practice for nuclear medicine technologists. One respondent suggested the insertion of the phrase "represents himself or herself to the public as a nuclear medicine technologist." The Department agrees that nuclear medicine technologists are not the only professionals that perform the procedures in question and that medical technologists, clinical chemists, and others that perform *in vitro* procedures are not covered by these regulations. However, the Department feels that the definition, as written, clearly delineates who is and is not covered by this regulation.

Four respondents stated that the term "radiographer" normally denotes an

industrial radiographer who X-rays materials, and recommended substituting "radiographic technologist," "medical radiologic technologist," or "medical radiographer." The Department disagrees. Since "radiographer" is the accepted occupational title for these personnel in health care settings and is less confusing than "medical radiologic technologist," which can be applied to more than one of these professions, the term "radiographer" has been retained.

One Federal agency expressed concern that under emergency or combat conditions, persons not meeting licensure requirements may have to perform the duties of radiographers. It is recognized that under such conditions the substitution of lesser qualified personnel is preferable to doing without necessary diagnostic information obtainable by radiologic procedures. These standards do not attempt to address the use of personnel in emergency conditions, which are sufficiently rare so as not to affect the medical radiation hazards to which the general population is routinely subjected. However, to clarify this point we have created in § 75.3 a specific exemption to cover this case.

One respondent wrote that the note to the definition of "radiographer" should be deleted or a similar note added for "nuclear medicine" and "radiation therapy technologists." Another respondent requested that the note be incorporated into the definition of "radiographer", stating that this would eliminate the need for the "Description of the Profession" in the accreditation standards. The Department has incorporated the note into the definition, but has retained the Description of the Profession in Appendix A to indicate the competencies for which radiographers should be trained.

One respondent suggested that the definition of "radiologist" be amended to include physicians certified by the American Board of Chiropractic Radiology. Since the term "radiologist" is used only to refer to the qualifications of the medical director of an approved educational program, who may either be a radiologist or possess "suitable equivalent qualifications," the change is unnecessary.

Section 75.3

One respondent felt that military X-ray technologists should be included in the Federal requirements. The Act specifically requires all Federal agencies to comply with the standards for all employees, including military personnel, except that the VA must comply "to the extent feasible" and issue its own regulations.

III. Comments on Appendixes

Appendix A

One respondent stated that the accreditation standards for radiographers are excessively detailed, and one stated they are insufficiently detailed to protect patient health and safety. The Department believes that the accreditation standards are adequate and the level of detail of the standards has been retained.

One respondent stated that the Description of the Profession for radiographers was unclear and suggested using the American College of Radiology's wording concerning imaging techniques. The description of the profession is similar to that presently used by CAHEA, which was adopted by the College. The Department believes that this description is adequate.

One respondent suggested that a course in computer science be added to the curriculum for all radiographers. Although the Department has not made this addition to the minimum curriculum, it acknowledges that accrediting bodies may wish to do so in the future.

Two respondents commented on faculty requirements. One recommended that the criteria for instructors be more specific and detailed. The other requested that specific credentials be stated for faculty. The Department believes that within the standards as published in the NPRM, any more specific qualifications or credentials should be determined by institutions providing the educational program.

One respondent pointed out that recordkeeping requirements for radiographers were much more detailed than for nuclear medicine technologists or radiation therapy technologists. The three have been made consistent.

As was suggested by one respondent, the sponsorship section has been revised to be consistent with the other appendixes.

In other regulations, the Department has consistently eliminated the requirements for full-time program directors. In order to provide maximum flexibility to States, this policy has also been incorporated in Appendix A and E of this regulation.

Appendix B

Three respondents stated that Appendixes B and C could, in most instances, be combined, and two supported the Appendixes as proposed. Curriculum standards for dental radiography training are virtually the same for dental hygienists (Appendix B) and dental assistants (Appendix C). However, the Act requires the Department's standards to distinguish between these occupations.

One respondent suggested that the words "course and program" be added to the term "dental radiography training" wherever used in Appendixes B and C. Because dental radiography training encompasses both courses and programs, as described in the sponsorship sections of Appendixes B and C, no change has been made.

Relating to sponsorship, one respondent suggested that A. use the language of the Commission on Dental Accreditation. The Commission's Standard 1, regarding educational settings, is directed toward the accreditation of a total dental hygiene education program, while the Department's standard is directed only toward dental radiography training. Since the Department intends only to propose accreditation standards for training in dental radiography, it has retained the NPRM language.

Another respondent suggested that A.1.(b) (currently A.2.) specify the Commission as the accrediting organization recognized by the U.S. Department of Education. The Department does not believe that identification of accrediting bodies will materially affect the standards and has retained the original language.

One respondent suggested that A.1.(c) (currently A.3.) specify State dental boards as the State entity responsible for approving sponsors of and training in dental radiography. States have the authority to designate the entity that sets requirements for personnel who expose and process dental radiographs. This is often, but not always, the dental board. Therefore, the original language of the standard has been retained.

Three respondents expressed concern over curriculum content, learning experiences, and institutional time, and suggested that these may pose enforcement problems for accrediting agencies. After reviewing the relevant Commission requirements and guidelines, the Department continues to believe that the provisions of this rule are consistent with voluntary sector standards, which do not appear to pose enforcement problems.

Two respondents questioned the use of the term "direct supervision" in B.1.(c) (currently B.3.). It is the intent of this standard to assure appropriate faculty supervision during a student's radiographic technique and practice assignments, but not to impose a direct and constant supervision requirement after a student has demonstrated

competence in making radiographs. Therefore, the standard has been modified.

Another respondent suggested amending B.1.(c) (currently B.3.) to state, "experiences should include primary, mixed, and permanent dentitions, as well as edentulous and partially edentulous patients." This language more completely describes possible radiographic opportunities, and the Department has adopted this suggestion. This would create a problem for the Armed Forces, as discussed by another respondent, since some uniformed personnel are not allowed to practice on children and such training would therefore be redundant. The exemption previously discussed would solve this problem.

Two respondents recommended deleting "Certified Dental Assistant" as a qualifying credential for dental radiography faculty. Another respondent suggested that dental hygiene faculty be licensed to teach these procedures, and one proposed that dental radiography faculty be required to demonstrate special training and experience. D.1.(a) (currently D.1.) is a list of minimum qualifications for individuals who teach dental radiography. The language of this section is similar to the faculty standard of the Commission's standards for dental hygiene education programs. The Department believes in maintaining flexibility for educational institutions regarding faculty requirements and has chosen to retain the original language of the NPRM.

Appendix C

One respondent objected that section A excludes high school dental assisting programs that otherwise meet these standards. The Department agrees and has modified this standard to include secondary educational programs.

Two respondents suggested that only programs accredited by the Commission on Dental Accreditation should be approved sponsors. The Commission accredits dental assisting education programs but does not accredit individual courses. To limit radiography training to courses conducted by Commission-accredited programs would eliminate many sponsors who are providing recognized and acceptable courses in dental radiography. Accordingly, the original language has been retained.

One respondent suggested that reference to Federal agencies be deleted from A.1.(c) (currently A.3.). The Department has deleted this language, since it is unnecessary and is inconsistent with the standards for other occupations.

Four respondents expressed concern about the level of detail in the curriculum content standards and a need to specify instructional time. In developing this standard, the Department has followed voluntary-sector standards concerning curriculum content, learning experiences, and instructional time, and believes these standards adequate. As with Appendix B, respondents also objected to use of the term "direct supervision." The Department agrees and has modified this provision.

One respondent recommended that dental assistants should in all cases be required to demonstrate competence on manikins before making radiographs on patients. The Department acknowledges the advantages of practice on manikins, but recognizes that such a requirement would greatly restrict learning opportunities in dental radiography for on-the-job-trained dental assistants, whose training needs are greatest. Appropriate instruction and supervision, as set forth in these standards, can make a radiogaphic exposure for diagnostic purposes into a safe learning and practice experience.

One respondent indicated that not all training facilities have children in their patient pools. The Department agrees but notes that the standard recommends that clinical experience "should" provide such opportunities. Accordingly, training facilities should make an effort to meet the intent of the standards, but may not be able to do so in all cases. As in Appendix B, this standard was also modified to include primary, mixed, and permanent dentitions, as well as edentulous and partially edentulous patients.

Three respondents stated that dental radiography faculty should be required to demonstrate special training and experience, that the Certified Dental Assistant credential is not a sufficient qualification, and that the provision for recognition of equivalent qualifications in D.1.(a) (currently D.1.) is ambiguous. D.1.(a) (currently D.1.) is a list of minimum qualifications for individuals who teach dental radiography. This standard is similar to the faculty standard found in the Commission's standards for dental assisting education programs. The Department believes in maintaining flexibility for educational institutions regarding faculty requirements and has chosen to retain this language.

One respondent requested that the note at the end of the standard specify the Commission as the accrediting body recognized by the U.S. Department of Education. As described previously, the Department has chosen not to name such organizations in these standards.

Appendix D

Two respondents addressed in general terms the standards for accreditation of educational programs for nuclear medicine technologists. One concurred with the effort made to follow the CAHEA's *Essentials and Guidelines*. Another found the wording, although drawn from the *Essentials*, to be vague, incomplete, and imprecise. A third respondent suggested numerous changes in the standards for accreditation of educational programs for nuclear medicine technologists, which would essentially duplicate the proposed new draft voluntary-sector essentials. While the Department supports voluntary-sector standards, it believes that Federal requirements can be less detailed without compromising the quality of educational programs. Therefore, the standards have not been amended.

Two respondents felt that the qualifications for program director were excessively detailed, while another felt they were insufficiently detailed. The Department believes that the qualifications for program director are adequate and the original language has been retained.

One respondent recommended adding a list of recognized educational programs to the note. Since States have the responsibility to approve educational programs, the Department suggests that the States or accrediting bodies recognized by States be consulted for such a list.

Appendix E

Two respondents suggested that the sponsorship standard be less specific, arguing that the critical factor is that programs have good clinical affiliations and strong didactic programs regardless of institutional sponsors. In keeping with the Department's preference to follow private sector standards where appropriate, the current language has been retained.

Two respondents suggested that the curriculum be expanded to include management organization and function, statistics, and computer applications. Although the Department has not added these topics to the minimum curriculum, it recognizes that accrediting bodies may wish to make some such changes in the future.

Another respondent felt that the one-year program option should be eliminated. Since one-year programs currently exist, are accredited, and graduate personnel fully cognizant of patient health and safety considerations.

the Department does not believe that Federal regulations should be more restrictive.

One respondent suggested that in C.4., the standard should require laboratories to meet applicable Federal and State standards. The Department agrees and has made the appropriate change.

To maintain consistency with minimum, voluntary-sector standards, the Department felt that it was necessary to add, "or possess suitable equivalent qualifications" to the program director qualifications.

Appendixes F and G

One State agency opposed the creation of standards that would lead to a licensure law and questioned the need for separate licenses for the five professions covered by this regulation. The Department has recommended minimum standards for each of these distinct occupations, as required by Pub. L. 97-35. As written, the standards for "nuclear medicine technologist", "radiation therapy technologist", and "radiographer" can be incorporated into a State licensure program. "Dental hygienist" is already licensed in all States. For "dental assistant", a permit to engage in dental radiography may be preferable. However, States that elect to implement such standards may choose among a variety of implementation strategies.

Five respondents dealt with the continuing competency requirement in Appendixes F and G. They questioned its specificity, cost-effectiveness, and feasibility of enforcement. The Department believes that licensure without a requirement for maintaining competency does not serve to protect the public. However, the state of the art in assuring continued competency is such that specific guidelines cannot be presented at this time. States that choose to set a continuing competency requirement should develop an oversight or enforcement mechanism.

The NPRM mentioned the National Commission for Health Certifying Agencies (NCHCA) as having published suitable criteria for certifying organizations. Three respondents objected to mention of the NCHCA. One suggested that a list of criteria would be acceptable. Twelve respondents supported the reference to the NCHCA's criteria and in most cases requested additional information. The Department believes that States can look to NCHCA for an acceptable method of evaluating certifying practices, but does not see the need to incorporate lengthy additional material that is readily available.

One respondent suggested that the adoption of criteria such as those of NCHCA is less significant than adherence to such criteria. The Department agrees. This respondent also suggests that States be required to develop processes that will ensure that accrediting organizations adhere to such criteria. The Department considers this overly prescriptive in a Federal standard and believes that the present wording of this section provides sufficient guidance to States on matters of validity, objectivity, and fairness in establishing standards.

Two respondents requested that language be added to require that examinations be currently reliable and valid. The Department believes that reliability and validity issues are adequately covered in the section on policies and procedures.

Two respondents requested addition of the following statement, "a State agency may, in lieu of its own examination, recognize successful completion of a national credentialing examination." It is not the intent of the Department to specify, within these regulations, the procedures by which States may or may not implement these standards. The standards allow either approach. Therefore, the statement has not been adopted.

Three respondents objected to the special eligibility clause in Appendixes F and G (B.2.), feeling that the standard should require all applicants to be graduates of accredited programs. The Department believes that States should develop procedures to permit applicants who have training and/or experience equal to or greater than graduates of accredited programs to take the licensure examination. Only dental hygiene has no special eligibility clause, since all States license hygienists and require graduation from an accredited program. Therefore, the original language has been retained.

Two respondents endorsed the use of the term "competency-based examination" rather than "criterion-referenced examination" in Appendix F, believing it to be more comprehensive. Another respondent suggested expanding the wording to include "and functional capability." However, the term "criterion-referenced examination" is widely accepted, understood, and used in the credentialing community, and the Department feels that the proposed change would not serve to clarify the standard.

Appendix G

One respondent suggested that Federal entities could also issue licenses or permits. Currently, some Federal agencies that train dental personnel provide a certificate of completion of the program, but none take the next step of credentialing the individual. Although this step may be considered by Federal agencies in the future, credentialing is basically a State function (licensing) or private sector function (certification). The Department, therefore, has retained the original language.

One respondent suggested combining B.1. and B.2., which specify eligibility requirements. The Department believes that the present organization of the standard more clearly shows the requirements of each pathway to eligibility, i.e., formal education and combination of training and/or experience.

Two respondents suggested an eligibility requirement of high school graduation or the equivalent for dental assistants. Since the standards specify in some detail the education and training required to be eligible for a permit, an additional requirement does not appear necessary. States may establish such a requirement as they determine necessary.

Four respondents made recommendations relative to examinations. One respondent encouraged the use of the Dental Assisting National Board examination; two stated that a clinical examination is necessary to assure competence; and the other suggested that examination content areas be specified. The standard, as revised, allows States maximum flexibility in selecting the type of examination necessary to determine competence, including a clinical examination.

Regulatory Flexibility Act and Executive Order 12291

The Department certifies that these regulations will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions and, therefore, does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

The Department has also determined that this is not a major rule under the Executive Order 12291, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of

United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

While the costs of implementation of these regulations by Federal agencies cannot be calculated in the absence of specific implementation plans, no significant costs are anticipated, and we have sought to minimize or eliminate anticompetitive effects.

Promulgation of these standards will affect private-sector health costs only to the extent that States elect to regulate these personnel when otherwise they would not do so. This effect is probably minimal since State regulation of these personnel has been increasing without a Federal model regulation. Regardless, this regulation does not "result in" such impacts, and we do not believe that significant costs are involved.

List of Subjects in CFR Part 75

Credentialing of radiologic personnel, Federal radiologic personnel, Health personnel standards, Medical radiation, Radiation protection, Radiologic personnel standards, Standards for radiologic personnel.

Dated: November 25, 1985.

James O. Mason,

Assistant Secretary for Health.

Approved: November 26, 1985.

Margaret M. Heckler,

Secretary.

Therefore, Part 75 will be added to Subchapter F of Title 42 of the Code of Federal Regulations as set forth below.

PART 75—STANDARDS FOR THE ACCREDITATION OF EDUCATIONAL PROGRAMS FOR AND THE CREDENTIALING OF RADIOLOGIC PERSONNEL

Sec.

Authority: Sec. 979 of the Consumer-Patient Radiation Health and Safety Act of 1981, Pub. L. 97-35, 95 Stat. 599-600 (42 U.S.C. 10004).

§ 75.1 Background and purpose.

(a) The purpose of these regulations is to implement the provisions of section 979 of the Consumer-Patient Radiation Health and Safety Act of 1981, 42 U.S.C. 10004, which requires the establishment by the Secretary of Health and Human Services of standards for the accreditation of programs for the education of certain persons who administer radiologic procedures and for the credentialing of such persons.

(b) Section 979 requires the Secretary, after consultation with specified Federal agencies, appropriate agencies of States, and appropriate professional organizations, to promulgate by regulation the minimum standards described above. These standards distinguish between the occupations of (1) radiographer, (2) dental hygienist, (3) dental assistant, (4) nuclear medicine technologist, and (5) radiation therapy technologist. In the interest of public safety and to prevent the hazards of improper use of medical radiation identified by Congress in its determination of the need for standards, the Secretary is also authorized to prepare standards for other occupational groups utilizing ionizing and non-ionizing radiation as he/she finds appropriate. However, the standards set out below are limited to the five occupational groups listed above, utilizing ionizing radiation. Nothing in these accreditation standards is intended to discriminate against proprietary schools.

§ 75.2 Definitions.

All terms not defined herein shall have the meaning given them in the Act. As used in this part:

"Accreditation," as applied to an educational program, means recognition, by a State government or by a nongovernmental agency or association, of a specialized program of study as meeting or exceeding certain established qualifications and educational standards. As applied to a health care or educational institution, "accreditation" means recognition, by a State government or by a nongovernmental agency or association, of the institution as meeting or exceeding certain established standards or criteria for that type of institution.

"Act" means the Consumer-Patient Radiation Health and Safety Act of 1981, 42 U.S.C. 10001-10008.

"Continuing competency" means the maintenance of knowledge and skills and/or demonstrated performance that are adequate and relevant to professional practice needs.

"Credentialing" means any process whereby a State Government or nongovernmental agency or association grants recognition to an individual who meets certain predetermined qualifications.

"Dental hygienist" means a person licensed by the State as a dental hygienist.

"Dental assistant" means a person other than a dental hygienist who assists a dentist in the care of patients.

"Educational program" means a set of formally structured activities designed to provide students with the knowledge and skills necessary to enter an occupation, with evaluation of student performance according to predetermined objectives.

"Energized laboratory" means any facility which contains equipment that generates ionizing radiation. This does not include facilities for training students when the equipment is not powered to emit ionizing radiation, e.g., practice in setting controls and positioning of patients.

"Formal training" means training or education, including either didactic or clinical practicum or both, which has a specified objective, planned activities for students, and suitable methods for measuring student attainment, and which is offered, sponsored, or approved by an organization or institution which is able to meet or enforce these criteria.

"Ionizing radiation" means any electromagnetic or particulate radiation (X-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles) which interacts with atoms to produce ion pairs in matter.

"Licensed practitioner" means a licensed doctor of medicine, osteopathy, dentistry, podiatry, or chiropractic.

"Licensure" means the process by which an agency of State government grants permission to persons meeting predetermined qualifications to engage in an occupation.

"Nuclear medicine technologist" means a person other than a licensed practitioner who prepares and administers radio-pharmaceuticals to human beings and conducts *in vivo* or *in vitro* detection and measurement of radioactivity for medical purposes.

"Permit" means an authorization issued by a State for specific tasks or

practices rather than the entire scope of practice in an occupation.

"Radiation therapy technologist" means a person other than a licensed practitioner who utilizes ionizing radiation-generating equipment for therapeutic purposes on human subjects.

"Radiographer" means an individual other than a licensed practitioner who (1) performs, may be called upon to perform, or who is licensed to perform a comprehensive scope of diagnostic radiologic procedures employing equipment which emits ionizing radiation, and (2) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed. Radiographers are distinguished from personnel whose use of diagnostic procedures is limited to a few specific body sites and/or standard procedures, from those personnel in other clinical specialties who may occasionally be called upon to assist in diagnostic radiology, and from those technicians or assistants whose activities do not, to any significant degree, determine the site or dosage of radiation to which a patient is exposed.

"Radiologist" means a physician certified in radiology by the American Board of Radiology or the American Osteopathic Board of Radiology.

§ 75.3 Applicability.

(a) *Federal Government.* Except as provided in section 983 of the Act, the credentialing standards set out in the Appendixes to this part apply to those individuals who administer or propose to administer radiologic procedures, in each department, agency and instrumentality of the Federal Government as follows:

(1) "Radiographer Standards" apply to all individuals who are radiographers as defined in § 75.2 and who are not practitioners excepted by the Act.

(2) "Nuclear Medicine Technologist Standards" apply to all individuals who are nuclear medicine technologists as defined in § 75.2, who perform *in vivo* nuclear medicine procedures, and who are not practitioners excepted by the Act. For purposes of this Act, any administration of radiopharmaceuticals to human beings is considered an *in vivo* procedure.

(3) "Radiation Therapy Technologist Standards" apply to all individuals who perform radiation therapy and who are not practitioners excepted by the Act.

(4) "Dental Hygienist Standards" apply to all dental hygienists who perform dental radiography.

(5) "Dental Assistant Standards" apply to all dental assistants who perform dental radiography.

(6) The following persons are deemed to have met the requirements of these standards:

(i) Persons employed by the Federal government as radiologic personnel prior to the effective date of this regulation and who show evidence of current or fully satisfactory performance or certification of such from a licensed practitioner;

(ii) Uniformed military personnel who receive radiologic training from or through the Armed Forces of the United States and who meet standards established by the Department of Defense or components thereof, provided that those standards are determined by such Department or component to offer equivalent protection of patient health and safety;

(iii) Foreign national employed by the Federal government in positions outside of the United States who show evidence of training, experience, and competence determined by the employing agency to be equally protective of patients health and safety; and

(iv) Persons first employed by the Federal government as radiologic personnel after the effective date of this regulation who (*a*) received training from institutions in a State or foreign jurisdiction which did not accredit training in that particular field at the time of graduation, or (*b*) practiced in a State or foreign jurisdiction which did not license that particular field or which did not allow special eligibility to take a licensure examination for those who did not graduate from an accredited educational program; provided that such persons show evidence of training, experience, and competence determined by the Office of Personnel Management or the employing agency to be equally protective of patient health and safety.

(7) The following persons are exempted from these standards:

(i) Persons who are trained to perform, or perform, covered radiologic procedures in emergency situations which preclude use of fully qualified personnel; and

(ii) Students in approved training programs.

(8) A department, agency, or instrumentality of the Federal government may, after consultation with the Secretary, use alternative criteria which it determines would offer equivalent protection of patient health and safety.

(b) *States.* The States may, but are not required to, adopt standards for accreditation and credentialing that are consistent with the standards set out in the Appendixes to this part.

Appendix A.—Standards for Accreditation of Educational Programs for Radiographers

A. Description of the Profession

The radiographer shall perform effectively by:

1. Applying knowledge of the principles of radiation protection for the patient, self, and others.

2. Applying knowledge of anatomy, positioning, and radiographic techniques to accurately demonstrate anatomical structures on a radiograph.

3. Determining exposure factors to achieve optimum radiographic technique with a minimum of radiation exposure to the patient.

4. Examining radiographs for the purpose of evaluating technique, positioning, and other pertinent technical qualities.

5. Exercising discretion and judgment in the performance of medical imaging procedures.

6. Providing patient care essential to radiologic procedures.

7. Recognizing emergency patient conditions and initiating lifesaving first aid.

B. Sponsorship

1. Accreditation will be granted to the institution that assumes primary responsibility for curriculum planning and selection of course content; coordinates classroom teaching and supervised clinical education; appoints faculty to the program; receives and processes applications for admission; and grants the degree or certificate documenting completion of the program.

2. Educational programs may be established in:

(a) Community and junior colleges, senior colleges, and universities;

(b) Hospitals;

(c) Medical schools;

(d) Postsecondary vocational/technical schools and institutions; and

(e) Other acceptable institutions which meet comparable standards.

3. The sponsoring institutions and affiliate(s) must be accredited by a recognized agency. When the sponsoring institution and affilitate(s) are not so recognized, they may be considered as meeting the requirements of accreditation if the institution meets or exceeds established equivalent standards.

C. Instructional Facilities

1. *General.* Appropriate classroom and clinical space, modern equipment, and supplies for supervised education shall be provided.

2. *Laboratory.* Energized laboratories utilized for teaching purposes shall be certified as required for compliance with Federal and/or State radiation safety regulations. The use of laboratories shall be governed by established educational objectives.

3. *Reference Materials.* Adequate up-to-date scientific books, periodicals, and other reference materials related to the curriculum and profession shall be readily accessible to students.

D. Clinical Education

1. The clinical phase of the educational program shall provide an environment for supervised competency-based clinical education and experience and offer a sufficient and well-balanced variety of radiographic examinations and equipment.

2. An acceptable ratio of students to registered technologists shall be maintained in the clinical teaching environment.

3. A clinical instructor(s), who shall be responsible for supervising students according to objectives, shall be identified for each primary clinical education center.

4. The maximum student enrollment shall not exceed the capacity recommended on the basis of volume and variety of radiographic procedures, resources, and personnel available for teaching purposes.

5. In programs where didactic and clinical experience are not provided in the same institution, accreditation shall be given only to the institution responsible for admissions, curriculum, and academic credit. The accredited institution shall be responsible for coordinating the program and assuring that the activities assigned to the students in the clinical setting are educational. There shall be a uniform contract between the accredited institution and each of its affiliate hospitals, clearly defining the responsibilities and obligations of each.

E. Curriculum

1. The structure of the curriculum shall be based on not less than two calendar years of full-time study or its equivalent.

2. Instruction shall follow a planned outline that includes:

(a) The assignment of appropriate instructional materials;

(b) Classroom presentations, discussions and demonstrations; and

(c) Examinations in the didactic and clinical aspects of the program.

3. All professional courses, including clinical education, must include specific curriculum content that shall include, but shall not be limited to:

(a) Introduction to radiologic technology;
(b) Medical ethics;
(c) Imaging;
(d) Radiographic processing technique;
(e) Human structure and function;
(f) Medical terminology;
(g) Principals of radiographic exposure;
(h) Radiographic procedures;
(i) Principles of radiation protection;
(j) Radiographic film evaluation;
(k) Methods of patient care;
(l) Pathology;
(m) Radiologic physics; and
(n) Radiation biology.

Related subjects added to the professional curriculum shall meet the requirements of the degree-granting institution.

F. Finances

Financial resources for operation for the educational program shall be assured through regular budgets, gifts, grants, endowments, or fees.

G. Faculty

1. *Program Director.* A program director shall be designated who is credentialed in radiography. The program director's responsibilities in teaching, administration, and coordination of the educational program in radiography shall not be adversely affected by educationally unrelated functions.

(a) *Minimum qualifications.* A minimum of two years of professional experience and proficiency in instructing, curriculum design, program planning, and counseling.

(b) *Responsibilities.* (1) The program director, in consultation with the medical director/advisor (G. 2.) shall be responsible for the organization, administration, periodic review, records, continued development, and general policy and effectiveness of the program.

(2) Opportunities for continuing education shall be provided for all faculty members.

2. *Medical Director/Medical Advisor*—(a) *minimum qualifications.* The medical director/medical advisor shall be a qualified radiologist, certified by the American Board of Radiology, or shall possess suitable equivalent qualifications.

(b) *Responsibilities.* The medical director/medical advisor shall work in consultation with the program director in developing the goals and objectives of the program and implementing the standards for their achievement.

3. *Instructors.* All instructors shall be qualified through academic preparation and experience to teach the assigned subjects.

H. Students

Admission

(a) Candidates for admission shall satisfy the following minimum requirements: Completion of four years of high school; successful completion of a standard equivalency test; or certification of equivalent education by an organization recognized by the United States Department of Education. Courses in physics, chemistry, biology, algebra, and geometry are strongly recommended.

(b) The number of students enrolled in each class shall be commensurate with the most effective learning and teaching practices and should also be consistent with acceptable student-teacher ratios.

I. Records

Records shall be maintained as dictated by good educational practices.

Note.—Educational programs accredited by an organization recommended by the United States Department of Education are considered to have met these standards.

Appendix B—Standards for Accreditation of Dental Radiography Training for Dental Hygienists

A. Sponsorship

Sponsorship must be by an entity that assumes primary responsibility for the planning and conduct of competency-based didactic and clinical training in dental radiography.

1. This responsibility must include: defining the curriculum in terms of program goals, instructional objectives, learning experiences designed to achieve goals and objectives, and evaluation procedures to assess attainment of goals and objectives; coordinating classroom teaching and supervised clinical experiences; appointing faculty; receiving and processing applications for admission; and granting documents of successful completion of the program.

2. The formal training in dental radiography may be a part of a total program of dental hygiene education accredited by an organization recognized by the United States Department of Education.

3. The sponsoring entity and the dental radiography training must be approved by the State entity responsible for approving dental hygiene education programs or the State entity responsible for credentialing dental personnel in radiography.

B. Curriculum

Dental radiography training for dental hygienists must provide sufficient content and instructional time to assure competent performance.

1. The dental radiography curriculum content and learning experiences must include the theoretical aspects of the subject as well as practical application of techniques. The theoretical aspects should provide content necessary for dental hygienists to understand the critical nature of the radiological procedures they perform and of the judgments they make as related to patient and operator radiation safety.

2. The dental radiography curriculum must include content in seven areas: radiation physics; radiation biology; radiation health, safety, and protection; X-ray films and radiographic film quality; radiographic techniques; darkroom and processing techniques; and film mounting.

—*Radiation Physics.* Curriculum content should include: historical background; role of radiology in modern dentistry; types of radiation; X-ray production principles; operation of X-ray equipment; properties of X-radiation; and X-radiation units, detection and monitoring devices.

—*Radiation Biology.* Curriculum content should include: Interaction of ionizing radiation with cells, tissues, and matter; factors influencing biological response of cells and tissues to ionizing radiation; somatic and genetic effects of radiation exposure; and cumulative effects of X-radiation and latent period.

—*Radiation Health, Safety, and Protection.* Curriculum content should include: Sources and types of radiation exposure; public health implications and public concerns; principles of radiological health including collimation and filtration; radiation protection methods in the dental office; necessity for high diagnostic yield with a reduction of X-radiation exposure; and monitoring devices.

—*X-ray Films and Radiographic Film Quality.* Curriculum content should include: X-radiation production and scatter; X-ray beam quality and quantity; factors influencing radiographic density, contrast,

definition, and distortion; film characteristics; dosage related to film speed; types of films, cassettes, and screens; and film identification systems.

—*Radiographic Techniques.* Curriculum content should include: imagery geometry; patient positioning; film/film holder positioning; cone positioning and exposure settings for the intraoral paralleling technique, bisecting the angle technique, and techniques for occlusal radiographs; extraoral panoramic techniques; and patient variations that affect the above techniques.

—*Darkroom and Processing Techniques.* Curriculum content should include: solution chemistry and quality maintenance; darkroom equipment and safe lighting; film processing techniques; automatic film processing; and processing errors.

—*Film Mounting.* Curriculum content should include: anatomical landmarks essential to mounting films; film mounting procedures; and diagnostic quality of radiographs.

3. The curriculum must also include clinical practice assignments.

—Clinical practice assignments must be an integral part of the curriculum so that Dental Hygienists have the opportunity to develop competence in making radiographs. Faculty supervision must be provided during a student's radiographic technique experience. Students must demonstrate competence in making diagnostically acceptable radiographs prior to their clinical practice where there is not direct supervision by faculty.

—Dental hygienists must demonstrate knowledge of radiation safety measures before making radiographs and, where possible, should demonstrate competence on manikins before making radiographs on patients. Radiographs must be exposed for diagnostic purposes and not solely to demonstrate techniques or obtain experience.

—The clinical experience should provide opportunity to make a variety of radiographs and radiographic surveys including primary, mixed, and permanent dentitions, as well as edentulous and partially edentulous patients.

C. Student Evaluation

Evaluation procedures must be developed to assess performance and achievement of dental radiography program objectives.

D. Faculty

The dental radiography training must be conducted by faculty who are qualified in the curriculum subject matter.

1. This may include a D.D.S./D.M.D. degree; graduation from an accredited dental assisting or dental hygiene education program with a certificate or an associate or baccalaureate degree; status as a Certified Dental Assistant certified by the Dental Assisting National Board; or recognition as equivalently qualified by the State entity which approved the training program in dental radiography.

2. The faculty-to-student ratio must be adequate to achieve the stated objectives of the curriculum.

E. Facilities

Adequate radiographic facilities must be available to permit achievement of the dental radiography training objectives. The design, location, and construction of radiographic facilities must provide optimum protection from X-radiation for patients and operators. Equipment shall meet State and Federal laws related to radiation. Monitoring devices shall be worn by dental personnel. Lead aprons must be placed to protect patients. Safe storage for films must be provided. Darkroom facilities and equipment must be available and of a quality that assures that films will not be damaged or lost.

F. Learning Resources

A wide range of printed materials, instructional aids, and equipment must be available to support instruction. Current specialized reference texts should be provided; and models, replicas, slides, and films which depict current techniques should be available for use in instruction. As appropriate self-instructional materials become available, they should be provided for the student's use.

Note.—Educational programs accredited by an organization recognized by the United States Department of Education are considered to have met these standards. Under existing licensure provisions in all States, becoming a dental hygienist requires graduation from a dental hygiene education program accredited by an organization recognized by the United States Department of Education. In lieu of this requirement, Alabama accepts graduation from a State-approved preceptorship program.

Appendix C—Standards for Accreditation of Dental Radiography Training for Dental Assistants

A. Sponsorship

Sponsorship must be an entity that assumes primary responsibility for the planning and conduct of competency-based didactic and clinical training in dental radiography.

1. This responsibility must include: Defining the curriculum in terms of program goals, instructional objectives, learning experiences designed to achieve goals and objectives, and evaluation procedures to assess attainment of goals and objectives; coordinating classroom teaching and supervised clinical experiences; appointing faculty; receiving and processing applications for admission; and granting documents of successful completion of the program.

2. Dental radiography training may be freestanding (as a continuing education course offered by State dental/dental auxiliary societies, or by dental/dental auxiliary education programs); or be a part of an educational program in dental assisting. Such dental assisting education programs may be accredited by an organization recognized by the United States Department of Education; or located in a school accredited by an institutional accrediting agency recognized by the the United States Department of Education or approved by the State agency responsible for secondary and postsecondary education, or approved by a Federal agency conducting dental assistant education in that Agency.

3. The sponsoring entity and the dental radiography training must be approved by the State entity responsible for approving dental assisting education programs, or the State entity responsible for credentialing dental personnel in radiography.

B. Curriculum

Dental radiography training for dental assistants must provide sufficient content and instructional time to assure competent performance.

1. The dental radiography curriculum content and learning experiences must include the theoretical aspects of the subject as well as practical application of techniques. The theoretical aspects should provide content necessary for dental assistants to understand the critical nature of the radiological procedures they perform and of the judgments they make as related to patient and operator radiation safety.

2. The dental radiography curriculum must include content in seven areas: radiation physics; radiation biology; radiation health, safety, and protection; X-ray films and radiographic film quality; radiographic techniques; darkroom and processing techniques; and film mounting.

—*Radiation Physics.* Curriculum content should include: Historical background; role of radiology in modern dentistry; types of radiation; X-ray production principles; operation of X-ray equipment; properties of X-radiation; and X-radiation units, detection and monitoring devices.

—*Radiation Biology.* Curriculum content should include: interaction of ionizing radiation with cells, tissues, and matter; factors influencing biological response of cells and tissues to ionizing radiation; somatic and genetic effects of radiation exposure; and cumulative effects of X-radiation and latent period.

—*Radiation Health, Safety, and Protection.* Curriculum content should include: sources and types of radiation exposure; public health implications and public concerns; principles of radiological health including collimation and filtration; radiation protection methods in the dental office; necessity for high diagnostic yield with a reduction of X-radiation exposure; and monitoring devices.

—*X-ray Films and Radiographic Film Quality.* Curriculum content should include: X-radiation production and scatter; X-ray beam quality and quantity; factors influencing radiographic density, contrast, definition, and distortion; film characteristics; dosage related to film speed; types of films, cassettes, and screens; and film identification systems.

—*Radiographic Techniques.* Curriculum content should include: imagery geometry; patient positioning; film/film holder positioning; cone positioning and exposure settings for the intraoral paralleling technique, bisecting the angle technique, and techniques for occlusal radiographs; extraoral panoramic techniques; and patient variations that affect the above techniques.

—*Darkroom and Processing Techniques.* Curriculum content should include: Solution chemistry and quality maintenance; darkroom equipment and safe lighting; film processing techniques; automatic film processing; and processing errors.

—*Film Mounting.* Curriculum content should include: anatomical landmarks essential to mounting films; film mounting procedures; and diagnostic quality of radiographs.

3. The curriculum must also include clinical practice assignments.

—Clinical practice assignments must be an integral part of the curriculum so that Dental Assistants have the opportunity to develop competence in making radiographs. The clinical experience may be conducted in the dental office in which the Dental Assistant is employed or is serving an externship. Faculty and/or employing dentist supervision must be provided during a student's radiographic technique experience. Students must demonstrate competence in making diagnostically acceptable radiographs prior to their clinical practice when there is not direct supervision by faculty and/or the employing dentist.

—Dental Assistants must demonstrate knowledge of radiation safety measures before making radiographs, and where possible should demonstrate competence on manikins before making radiographs on patients. Radiographs must be exposed for diagnostic purposes and not solely to demonstrate techniques or obtain experience.

—The clinical experience should provide opportunity to make a variety of radiographs and radiographic surveys, including primary, mixed, and permanent dentitions, as well as edentulous and partially edentulous patients.

C. Student Evaluation

Evaluation procedures must be developed to assess performance and achievement of dental radiography program objectives.

D. Faculty

The dental radiography training must be conducted by faculty who are qualified in the curriculum subject matter.

1. This may include a D.D.S./D.M.D. degree; graduation from an accredited dental assisting or dental hygiene education program with a certificate or an associate or baccalaureate degree; status as a Certified Dental Assistant certified by the Dental Assisting National Board; or recognition as equivalently qualified by the State entity (or Federal agency where appropriate) which approves the educational program in dental radiography.

2. The faculty-to-student ratio must be adequate to achieve the stated objectives of the curriculum.

E. Facilities

Adequate radiographic facilities must be available to permit achievement of the dental radiography training objectives. The design, location, and construction of radiographic facilities must provide optimum protection from X-radiation for patients and operators. Equipment shall meet State and Federal laws related to radiation. Monitoring devices shall be worn by dental personnel. Lead aprons must be placed to protect patients. Safe storage for films must be provided. Darkroom facilities and equipment must be available and of a quality that assures that films will not be damaged or lost.

F. Learning Resources

A wide range of printed materials, instructional aids, and equipment must be available to support instruction. Current specialized reference texts should be provided; and models, replicas, slides, and films which depict current techniques should be available for use in instruction. As appropriate self-instructional materials become available, they should be provided for the student's use.

Note.—Educational programs accredited by an organization recognized by the United States Department of Education are considered to have met these standards.

Appendix D—Standards for Accreditation of Educational Programs for Nuclear Medicine Technologists

A. Sponsorship

1. Accreditation will be granted to the institution that assumes primary responsibility for curriculum planning and selection of course content; coordinates classroom teaching and supervised clinical education; appoints faculty to the program; receives and processes applications for admission; and grants the degree or certificate documenting completion of the program.

2. Educational programs may be established in:

(a) Community and junior colleges, senior colleges, and universities;

(b) Hospitals and clinics;

(c) Laboratories;

(d) Medical schools;

(e) Postsecondary vocational/technical schools and institutions; and

(f) Other acceptable institutions which meet comparable standards.

3. The sponsoring institution and affiliate(s) must be accredited by a recognized agency. When the sponsoring institution and affiliate(s) are not so recognized, they may be considered as meeting the requirements of accreditation if the institution meets or exceeds established equivalent standards.

4. Responsibilities of the sponsor and each affiliate for program administration, instruction, supervision, etc., must be carefully described in written affiliation agreements.

B. Curriculum

Instruction must follow a plan which documents:

1. A structured curriculum including clinical education with clearly written syllabi which describe learning objectives and competencies to be achieved. The curriculum shall be based on not less than one calendar year of full-time study or its equivalent.

2. The minimum professional curriculum that includes the following:

(a) Methods of patient care;

(b) Radiation safety and protection;

(c) Nuclear medicine physics;

(d) Radiation physics;

(e) Nuclear instrumentation;

(f) Statistics;

(g) Radionuclide chemistry;

(h) Radiopharmacology;

(i) Departmental organization and function;

(j) Radiation biology;

(k) Nuclear medicine *in vivo* and *in vitro* procedures;

(l) Radionuclide therapy;

(m) Computer applications; and

(n) Clinical practicum.

3. Assignment of appropriate instructional materials.

4. Classroom presentations, discussions, and demonstrations.

5. Supervised practice, experience, and discussions. This shall include the following:

(a) Patient care and patient recordkeeping;

(b) Participation in the quality assurance program;

(c) The preparation, calculation, identification, administration, and disposal of radiopharmaceuticals;

(d) Radiation safety techniques that will minimize radiation exposure to the patient, public, fellow workers, and self;

(e) The performance of an adequate number and variety of imaging and non-imaging procedures; and

(f) Clinical correlation of nuclear medicine procedures.

6. Evaluation of student's knowledge, problem-solving skills, and motor and clinical competencies.

7. The competencies necessary for graduation.

C. Resources

1. The program must have qualified program officials. Primary responsibilities shall include program development, organization, administration, evaluation, and revision. The following program officials must be identified:

(a) *Program Director*—(1) *Responsibilities.* The program director of the educational program shall have overall responsibility for the organization, administration, periodic review, continued development, and general effectiveness of the program. The director shall provide supervision and coordination to the instructional staff in the academic and clinical phases of the program. Regular visits to the affiliates by the program director must be scheduled.

(2) *Qualifications.* The program director must be a physician or nuclear medicine technologist. The program director must demonstrate proficiency in instruction, curriculum design, program planning, and counseling.

(b) *Medical Director*— (1) *Responsibilities.* The medical director of the program shall provide competent medical direction and shall participate in the clinical instruction. In multiaffiliate programs each clinical affiliate must have a medical director.

(2) *Qualifications.* The medical director must be a physician qualified in the use of radionuclides and a diplomate of the American Board(s) of Nuclear Medicine, or

Pathology, or Radiology, or possess suitable equivalent qualifications.

(c) *Clinical Supervisor.* Each clinical affiliate must appoint a clinical supervisor.

(1) *Responsibilities.* The clinical supervisor shall be responsible for the clinical education and evaluation of students assigned to that clinical affiliate.

(2) *Qualifications.* The clinical supervisor must be a technologist credentialed in nuclear medicine technology.

2. *Instructional Staff*—(a) *Responsibilities.* The instructional staff shall be responsible for instruction in the didactic and/or clinical phases of the program. They shall submit course outlines for each course assigned by the program director; evaluate students and report progress as required by the sponsoring institution; and cooperate with the program director in the periodic review and upgrading of course material.

(b) *Qualifications.* The instructors must be qualified, knowledgeable, and effective in teaching the subjects assigned.

(c) *Instructor-to-student ratio.* The instructor-to-student ratio shall be adequate to achieve the stated objectives of the curriculum.

(d) *Professional development.* Accredited programs shall assure continuing education in the health profession or occupation and ongoing instruction for the faculty in curriculum design and teaching techniques.

3. Financial resoures for continued operation of the educational program must be assured.

4. *Physical Resources.* (a) *General.* Adequate classrooms, laboratories, and other facilities shall be provided.

(b) *Equipment and Supplies.* Modern nuclear medicine equipment, accurately calibrated, in working order, and meeting applicable Federal and State standards, if any, must be available for the full range of diagnostic and therapeutic procedures as outlined in the curriculum.

(c) *Reference Materials.* Reference materials appropriate to the curriculum shall be readily accessible to students.

(d) *Records.* Records shall be maintained as dictated by good educational practices.

5. *Instructional Resources.* Instructional aids such as clinical materials, reference materials, demonstration and other multimedia materials must be provided.

D. Students

Admission Requirements

Persons admitted into nuclear medicine technology programs shall have completed high school or its equivalent. They shall have completed postsecondary courses in the following areas:

(1) Human anatomy and physiology;
(2) Physics;
(3) Mathematics;
(4) Medical terminology;
(5) Oral and written communications;
(6) General chemistry; and
(7) Medical ethics.

Prerequisites may be completed during nuclear medicine training. Educational institutions such as junior colleges, universities, and technical vocational institutes may provide these prerequisite courses as part of an integrated program in nuclear medicine technology (i.e., two to four years).

E. Operational Policies

Students may not take the responsibility nor the place of qualified staff. However, students may be permitted to perform procedures after demonstrating proficiency, with careful supervision.

F. Continuing Program Evaluation

1. Periodic and systematic review of the program's effectiveness must be documented.

2. One element of program evaluation shall be the initial employment of graduates of the program.

Note.—Educational programs accredited by an organization recognized by the United States Department of Education are considered to have met these standards.

Appendix E—Standards for Accreditation of Educational Programs for Radiation Therapy Technologists

A. Sponsorship

1. Educational programs may be established in:

(a) Community and junior colleges, senior colleges, and universities;

(b) Hospitals, clinics, or autonomous radiation oncology centers meeting the criteria for major cancer management centers or meeting demonstrably equivalent standards;

(c) Medical schools; and

(d) Postsecondary vocational/technical schools and institutions.

2. The sponsoring institution and affiliates, if any, must be accredited by recognized agencies or meet equivalent standards. When more than one clinical education center is used, each must meet the standards of a major cancer management center.

3. When didactic preparation and supervised clinical education are not provided in the same institution, accreditation must be obtained by the sponsoring institution for the total program. This institution will be the one responsible for admission, curriculum, and academic credit. The accredited institution shall be responsible for coordinating the program and assuring that the activities assigned to the student in the clinical setting are educational. There shall be a uniform, written, affiliation agreement between the accredited institution and each clinical education center, clearly defining the responsibilities and obligations of each.

B. Curriculum

Educational programs of 24 months and 12 months or their equivalents may be developed. A 24-month program shall admit those candidates with a high school diploma (or equivalent) as outlined in D.1. The 12-month program shall be designed for those students admitted with backgrounds as outlined in D.2.

Instruction must follow a plan which documents:

1. A structured curriculum with clearly written course syllabi which describe competencies and learning objectives to be achieved. The curriculum shall include but not necessarily be limited to the following:

(a) Orientation to radiation therapy technology;
(b) Medical ethics and law;
(c) Methods of patient care;
(d) Medical terminology;
(e) Human structure and function;
(f) Oncologic pathology;
(g) Radiation oncology;
(h) Radiobiology;
(i) Mathematics;
(j) Radiation physics;
(k) Radiation protection;
(l) Radiation oncology technique;
(m) Radiographic imaging; and
(n) Clinical dosimetry.

The curriculum must include a plan for well-structured competency-based clinical education.

2. Assignment of appropriate instructional materials.

3. Classroom presentations, discussions, and demonstrations.

4. Supervised clinical education and laboratory practicum.

5. Evaluation of students to assess knowledge, problem-solving skills, and motor and clinical competencies.

6. Program graduates must demonstrate competencies including, but not limited to, the following:

(a) Practice oral and written communications;
(b) Maintain records of treatment administered;
(c) Perform basic mathematical functions;
(d) Demonstrate knowledge of human structure, function, and pathology;
(e) Demonstrate knowledge of radiation physics in radiation interactions and radiation protection techniques;
(f) Provide basic patient care and cardiopulmonary resuscitation;
(g) Deliver a planned course of radiation therapy;
(h) Verify physician's prescribed course of radiation therapy and recognize errors in computation;
(i) Demonstrate awareness of patterns of physical and emotional stress exhibited by patients;
(j) Produces and utilize immobilization and beam directional devices;
(k) Prepare commonly used brachytherapy sources;
(l) Demonstrate knowledge of methods of calibration of equipment, and quality assurance;
(m) Prepare isodose summations;
(n) Detect malfunctioning equipment;
(o) Apply rules and regulations for radiation safety, and detect defects which might pose a radiation hazard;
(p) Understand the function of equipment and accessories;
(q) Demonstrate knowledge of methods of continuing patient evaluation (follow up);
(r) Apply wedge and compensating filters;
(s) Recognize patients' clinical progress, complications, and demonstrate knowledge of when to withhold treatment until consultation with the physician; and
(t) Interact with patients and families concerning the physical and psychological needs of patients.

C. Resources

1. *Program Officials.* The program must have a qualified program official or officials. Primary responsibilities shall include program development, organization, administration, evaluation, and revision. A program director is necessary; other program officials may be required.

(a) *Program Director*—(1) *Responsibilities.*

—The director of the educational program shall be responsible for the organization, administration, periodic review, continued development, and general effectiveness of the program. The program director's responsibilities in teaching, administration, and coordination of the educational program in radiation therapy technology shall not be adversely affected by educationally unrelated functions.

—In a college-sponsored program, or a hospital-sponsored multiple affiliate program, the program director shall be a employee of the sponsoring institution. A schedule of regular affiliate visits must be maintained.

(2) *Qualifications.*

—Must be a technologist qualified in radiation therapy technology and educational methodologies.

—Must be credentialed in radiation therapy technology or possess suitable equivalent qualifications.

—Must have at least two years' experience as an instructor in an accredited educational program.

(b) *Clinical Supervisor.* Each clinical education center shall appoint a clinical supervisor.

(1) *Responsibilities.* The clinical supervisor shall be responsible for the clinical education and evaluation of students assigned to that clinical education center.

(2) *Qualifications.* Must be a technologist, with suitable experience, qualified in radiation therapy technology and educational methodologies and must be credentialed in radiation therapy technology.

(c) *Medical Director/Medical Advisor*—

(1) *Responsibilities.* The medical director/medical advisor shall work in consultation with the program director in developing the goals and objectives of the program and implementing the standards for achievement.

(2) *Qualifications.* The medical director/medical advisor shall be a qualified radiation oncologist certified by the American Board of Radiology, or shall possess suitable equivalent qualifications.

2. *Instructional Staff*— (a) *Responsibilities.* The instructional staff shall be responsible for submitting course outlines for each course assigned by the program director; evaluating students and reporting progress as required by the sponsoring institution; and cooperating with the program director in the periodic review and upgrading of course material.

(b) *Qualifications.* The instructors must be individually qualified, must be effective in teaching the subjects assigned, and must meet the standards required by the sponsoring institution.

(c) *Instructor-to-Student Ratio.* The instructor-to-student ratio shall be adequate to achieve the stated objectives of the curriculum.

(d) *Professional Development.* Programs shall have a policy that encourages continuing education in radiation therapy technology and assures ongoing instruction for the faculty in curriculm design and teaching strategies.

3. *Financial Resources.* Financial resources for continued operation of the educational program must be assured.

4. *Physical Resources*—(a) *General.* Adequate classrooms, laboratories, and other facilities shall be provided. All affiliated institutions shall provide space required for these facilities.

(b) *Equipment and Supplies.* Appropriate modern equipment and supplies in sufficient quantities shall be provided.

(c) *Laboratory.* Energized laboratories must meet Federal and/or State radiation and safety regulations.

(d) *Reference Materials.* An adequate supply of up-to-date books, periodicals, and other reference materials related to the curriculum and the profession shall be readily available to students.

(e) *Records.* Records shall be maintained as dictated by good educational practices.

5. *Instructional Resources.* Instructional aids such as clinical materials, reference materials, and demonstration and other multimedia materials must be provided.

D. Students

Admission

1. Applicants must be high school graduates (or equivalent) with an educational background in basic science and mathematics.

2. For admission to a 12-month program, the candidate must satisfy one of the following requirements:

(a) Graduation from an accredited or equivalent program in radiography.

(b) Successful completion or challenge of courses in the following prerequisite content areas:

—Radiation physics;
—Human structure and function;
—Radiation protection;
—Medical ethics and law;
—Methods of patient care;
—Medical terminology; and
—Mathematics.

(c) Successful demonstration of the following competencies:

—Practice oral and written communications;
—Perform basic mathematical functions;
—Demonstrate knowledge of human structure and function;
—Demonstrate knowledge of radiation physics in radiation interactions and radiation protection techniques;
—Provide basic patient care and cardiopulmonary resuscitation;
—Demonstrate awareness of patterns of physical and emotional stress exhibited by patients;
—Apply rules and regulations for radiation safety, detect defects which might pose a radiation hazard, and maintain control, if a radiation accident occurs; and
—Interact with patients and families concerning patients physical and psychological needs.

E. Continuing Program Evaluation

1. A process for periodic and systematic review of the program's effectiveness must be documented and reflected in policies.

2. Program evaluation shall include the employment performance of recent graduates.

Note.—Educational programs accredited by an organization recognized by the United States Department of Education are considered to have met these standards.

Appendix F—Standards for Licensing Radiographers, Nuclear Medicine Technologists, and Radiation Therapy Technologists

The following section describes basic elements to be incorporated in credentialing programs of States that choose to regulate personnel who perform radiologic procedures.

A. Licensure

1. Only eligible applicants who have passed the licensure examination shall be licensed as Radiographers, Nuclear Medicine Technologists, or Radiation Therapy Technologists.

2. Licenses shall be renewed at periodic intervals.

B. Eligibility

1. For regular eligibility to take the licensure examination, applicants shall have successfully completed an accredited program of formal education in radiography, nuclear medicine technology, or radiation therapy technology.

2. Special eligibility to take the licensure examination shall be provided for applicants whose training and/or experience are equal to, or in excess of, those of a graduate of an accredited educational program.

C. Examination

A criterion-referenced examination in radiography, nuclear medicine technology, or radiation therapy technology shall be utilized to test the knowledge and competencies of applicants.

D. Continuing Competency

The licensed Radiographer, Nuclear Medicine Technologist, or Radiation Therapy Technologist shall maintain continuing competency in the area in which he/she is practicing.

E. Policies and Procedures

An organization that seeks to be recognized for the certifying of personnel shall adopt definite policies to ensure validity, objectivity, and fairness in the certifying process. The National Commission for Health Certifying Agencies (NCHCA) has published suitable criteria for a certifying organization to adopt with respect to policies for: (1) Determination of appropriate examination content (but not the actual content for any specific occupation); (2) construction of examinations; (3) administration of examinations; and (4) fulfilling responsibilities to applicants. An organization (whether an NCHCA member or not) that adopts these or equivalent criteria

will meet all of the requirements of this section of these standards.

Appendix G.—Standards for Licensing Dental Hygienists and Dental Assistants in Dental Radiography

The following section describes basic elements to be incorporated in credentialing programs of States that choose to regulate personnel who perform radiologic procedures.

Currently, Dental Hygienists are credentialed through individual State licensure processes, all of which include assessment of competence in dental radiography. In all States, Dental Hygienists are required to be licensed prior to practicing. The existing State dental hygiene licensure processes meet the intent and purpose of the Consumer-Patient Radiation Health and Safety Act of 1981 and the standards for licensing Dental Hygienists in dental radiography set forth below.

A. Licensure/Permit

1. To those who have passed a licensure or designated dental radiography examination, a license or permit shall be issued by the State entity responsible for credentialing dental personnel.

2. Licenses or permits shall be renewed at periodic intervals.

B. Eligibility

1. An individual shall provide proof of graduating student status or graduation from an accredited or approved dental hygiene or dental assisting education program.

2. For dental assistants, special eligibility to take the examination shall be provided to applicants with appropriate combinations of training and/or experience.

C. Examination

A criterion-referenced examination in dental radiography shall be utilized to test the knowledge and competencies of applicants.

D. Continuing Competency

The Dental Hygienist or Dental Assistant shall be required to maintain continuing competency in the area in which he/she is practicing.

E. Policies and Procedures

An organization that seeks to be recognized for the certifying of personnel shall adopt definite policies to ensure validity, objectivity, and fairness in the certifying process. The National Commission for Health Certifying Agencies (NCHCA) has published suitable criteria for a certifying organization to adopt with respect to policies for: (1) Determination of appropriate examination content (but not the actual content for any specific occupation); (2) construction of examinations; (3) administration of examinations; and (4) fulfilling responsibilities to applicants. An organization (whether an NCHCA member or not) that adopts these or equivalent criteria will meet all of the requirements of this section of these standards.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered and Threatened Status for the Piping Plover; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered and Threatened Status for the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered and threatened status for the piping plover (*Charadrius melodus*) under the authority contained in the Endangered Species Act of 1973, as amended. The shorebird breeds on the northern Great Plains, in the Great Lakes, and along the Atlantic coast (Newfoundland to North Carolina); and winters on the Atlantic and Gulf of Mexico coasts from North Carolina southward and in the Bahamas and West Indies. Endangered status is determined for the plover in the watershed of the Great Lakes (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and Ontario). Threatened status is determined for the plover in the remainder of its range: northern Great Plains (Iowa, northwestern Minnesota, Montana, Nebraska, North Dakota, South Dakota, Alberta, Manitoba, and Saskatchewan); Atlantic coast (Quebec, Newfoundland, Maritime Provinces and States from Maine to Florida); Gulf coast (Florida to Mexico); Bahamas and West Indies; and anywhere else found in the wild except where listed as endangered. The primary threats to the piping plover are habitat disturbance and destruction, and disturbance of nesting adults and chicks. This rule implements the protection of the Endangered Species Act of 1973, as amended, for the piping plover.

DATES: The effective date of this rule is January 10, 1986.

ADDRESSES: The complete file for this rule is available for inspection during normal business hours, by appointment, at the Endangered Species Division, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

FOR FURTHER INFORMATION CONTACT: James M. Engel, Endangered Species Coordinator at the above address (612/725-3276 or FTS 725-3276).

SUPPLEMENTARY INFORMATION:

Background

The piping plover is a small, stocky shorebird first described in 1824. Adults weigh from 42 to 64 grams (1.5 to 2 ounces) with a length about 17 centimeters (7 inches) and a wingspread about 35 centimeters (15 inches) (Palmer, 1967). Both sexes are similar in size and color. The upper parts are pale brownish, and the underparts are white. A dark band encircling the body below the collar and a dark stripe across the forecrown and distinguishing marks in summer adults, but obscure in winter. Palmer (1967) further details the plumage and other characteristics of the piping plover.

The most recent edition of *Checklist of North American Birds* (American Ornithologists Union, 1983) refers the reader to the 1957 edition for the treatment of avian subspecies. That edition recognizes two subspecies of the piping plover: *Charadrius melodus melodus* (Atlantic coast of North America) and *Charadrius melodus circumcinctus* (northern Great Plains of U.S. and Canada). The birds found nesting in the Great Lakes are intermediate, but referred to as *circumcinctus* by the 1957 *Checklist*. The references in this rule to Atlantic coast, northern Great Plains, and Great Lakes breeding populations are a breakdown of the species' breeding range.

Piping plovers occupy their breeding grounds from late March to August. Nest sites are sandy beaches along the ocean (Cairns, 1982) and inland lakes; bare areas on dredge and natural, alluvial islands in rivers (Faanes, 1983; Niemi and Davis, 1979); gravel pits along rivers (Ducey, 1982); and salt-encrusted bare areas of sand, gravel, or pebby mud on interior alkali lakes and ponds (Whyte, 1985). Nests are shallow, scraped depressions, sometimes lined with small pebbles, shells, or other debris, and usually contain four eggs (Bent, 1929). Least terns (*Sterna antillarum*) are common breeding associates of piping plovers on the northern Great Plains and Atlantic coast. The piping plover winters along the coast from North Carolina to Florida and Mexico, and in the Bahamas and West Indies.

Historical references of population trends of the piping plover are largely qualitative or lacking altogether. Consequently, it is not possible to give a detailed and precise tabulation of plover populations for each State or Province since 1900, for example. However, there is enough available information to indicate a substantial decline in the species and its habitat, shrinkage of its breeding range, and continued threats to the species, its habitat, and range.

By 1900, the piping plover, described by nineteenth century naturalists, such as Audubon and Wilson, as a common resident on the beaches of the Atlantic coast, had been greatly reduced by year-round shooting. In some areas on the Atlantic coast, the plover was close to extirpation. With Federal protection (Migratory Bird Treaty Act) the bird had recovered by the 1920's along the Atlantic coast and was considered common (Bent, 1929).

Since that time, there has been a decrease in the population over most of its range, and it has vanished as a nesting species from many areas. Since 1972, the National Audubon Society's "Blue List," a list designed to serve as an early warning system on the deteriorating status of North American breeding birds, has continued to include the piping plover each year as a bird in potential danger. In his treatise on the shorebirds on the world, Johnsgard (1981) viewed the piping plover as ". . .declining througout its range and in rather serious trouble." The Canadian Committee on the Status of Endangered Wildlife in Canada (COSEWIC), an organization of specialists from Federal agencies, all Provincial and Territorial governments, and from nationally based private conservation organizations, assigned the status "Threatened" to the piping plover on May 2, 1978 (Bell, 1978). In April 1985 COSEWIC assigned endangered status to the plover in Canada.

Cairns and McLaren (1980) estimated 900 breeding pairs of piping plovers from Newfoundland to North Carolina. They encouraged further field work to confirm their estimates. Such work has been carried out and has revealed an estimated 722 breeding pairs (Table 1). Surveys and research have added substantially to the scientific data on the species and its habitat. Most current breeding locations are well documented.

TABLE 1.—ESTIMATED PAIRS ON ATLANTIC COAST (1985)

	Pairs*
Province:	
Newfoundland	1
Quebec	20
New Brunswick	95
Prince Edward Island	60
Nova Scotia	70
Subtotal (Canada)	246
State:	
Maine	12
New Hampshire	0
Massachusetts	112
Rhode Island	10
Connecticut	16
New York	100
New Jersey	80
Delaware	6
Maryland	10
Virginia	100
North Carolina	30
Subtotal (U.S.)	476
Total (United States and Canada)	722

* Source: references cited in this document and comments received in response to the proposal.

The plover is absent from many former nesting beaches on the Atlantic coast. Several recent status surveys have indicated low numbers and declines of plovers and continued threats to the species' habitat (Galli, 1980, 1983, 1984; Raithel, 1984; Seatuck Research Program, 1984, 1985). In light of the bird's 1920 status as a common resident (Bent, 1929), it is evident from today's low numbers that a substantial decline has occurred. For example, the number of breeding pairs of plovers on Long Island, New York, declined from over 500 in the 1930's (Wilcox, 1939, 1959) to the present 100 (Seatuck Research Program, 1984, 1985).

In the Great Lakes watershed the plover numbers 17 pairs (Table 2). Russell (1983) estimated the historical numbers at over 500 pairs. The species has been extirpated as a breeding bird throughout most of the Great Lakes. Barrows (1912) cited the bird as a very common summer resident along the Lake Michigan shoreline in Illinois. In Michigan, the range of the plover has been greatly reduced in recent years and the 77 adult birds in 1979 (Lambert and Ratcliff, 1981) declined to 13 pairs by 1984. At Long Point, Ontario, a population of over 100 pairs in the 1920's had declined to zero by the late 1970's (Lambert and Nol, 1978).

TABLE 2.—ESTIMATED PAIRS IN GREAT LAKES (1985)

	Pairs*
Province:	
Subtotal (Canada)	0
State:	
Minnesota	2
Wisconsin	1
Illinois	0
Michigan	13
Indiana	0
Ohio	0
Pennsylvania	0
New York	1
Subtotal (U.S.)	17
Total (United States and Canada)	17

* Source: references cited in this document and comments received in response to the proposal

The northern Great Plains harbor the largest number of piping plovers in North America (Table 3). The bird occurs sparingly in northeastern Montana and on the Missouri River and its tributaries in the Dakotas and Nebraska. It is nearly extirpated from Iowa. In North Dakota, extensive surveys have indicated far fewer breeding pairs than the 500–1,400 pairs conjectured by Kantrud (*in* Faanes, 1982). The species is most numerous in Saskatchewan (Harris *et al.*, 1985) but is declining throughout the prairie Provinces (Haig, 1985). For example, in Manitoba only 20 percent of historical nesting sites remain occupied by plovers. At the eastern edge of the Great Plains is the Lake of the Woods. Twenty-four pairs of plovers are found in this area: 22 in Minnesota, 2 in Ontario. In addition to a shrinking breeding range, reproductive success has been poor at several remaining sites because of human disturbance and artificially controlled lake levels (Haig, 1985).

TABLE 3.—ESTIMATED PAIRS IN NORTHERN GREAT PLAINS (1985)

	Pairs*
Province:	
Alberta	110
Saskatchewan	712
Manitoba	44
Ontario	*2
Subtotal (Canada)	868
State:	
Minnesota	*22
Montana	10
North Dakota	132
South Dakota	50
Nebraska	*355
Iowa	2
Subtotal (United States)	571
Total (United States and Canada)	1,439

* Source: references cited in this document and comments received in response to the proposal.
* Lake of the Woods
* Includes 160 pairs on Missouri River between South Dakota and Nebraska.

Numbers of piping plovers on Gulf coast wintering grounds may be declining as indicated by a preliminary analysis of Christmas Bird Count data published in *American Birds* (Raithel, 1985). Recognizing the limitations in analyzing such data (Raynor, 1973), Raithel's analysis may indicate that the plover population is partially cyclical but has been trending downward. Independent counts of plovers on the Alabama coast indicate a decline in numbers since the 1950's (Dr. Guy A. Baldasarre, pers. Comm., 1985). In Texas, there has been an estimated 30 percent loss of wintering habitat over the past 20 years (Texas Parks and Wildlife Department, unpubl. data, 1985).

On December 30, 1982, the Service published a notice of review in the **Federal Register** (47 FR 58454) identifying vertebrate taxa, native to the U.S., being considered for addition to the List of Endangered and Threatened Wildlife. The notice included the piping plover as a category 2 species (i.e., a species still needing some data before a proposed listing could be made). Since then, the Service has reviewed further data on the status and biology of the plover in the northern Great Plains, Great Lakes, and Atlantic coast States, and Canada.

On November 8, 1984, the Service published a proposed rule in the **Federal Register** (49 FR 44712) advising that sufficient information was now on file to support a determination that the piping plover is an endangered and threatened species pursuant to the Endangered Species Act of 1973, as amended. The proposal solicited comments on the proposed listing from any interested parties, especially concerning threats to this species, its distribution and range, whether or not critical habitat should be designated, and activities that might impact the species.

Summary of Comments and Recommendations

In the proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, foreign countries, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting general public comment were published in 41 newspapers throughout the breeding and wintering ranges of the plover.

Within 45 days of the publication of the proposed rule, the Service received requests for public hearings from Tom Pitts and Associates, Consulting Engineers, Loveland, Colorado (on behalf of the Colorado-Nebraska-Wyoming Interstate Task Force on Endangered Species [comprised of the Colorado Water Congress, Nebraska Water Resources Association, and the Wyoming Water Development Association]); Warren G. White, natural resource advisor at the Office of the Governor of Wyoming; Colorado Water Congress; Davis, Graham and Stubbs (on behalf of the Northern Colorado Water Conservancy District); Colorado Water Conservation Board; Board of Water Commissioners of the City and County of Denver; and the Nebraska Water Resources Association. They requested public hearings in Colorado, Nebraska, and Wyoming and a 60-day extension of the comment period.

The Audubon Society of Omaha, Nebraska; the Central Nebraska Public Power and Irrigation District; and Cook and Kopf, P.C., Lexington, Nebraska (on behalf of the Central Platte Natural Resources District) requested a public hearing be held in Nebraska. The Central Nebraska Public Power and Irrigation District also requested a 60-day extension of the comment period. The Wyoming Water Development Association requested a public hearing

be held in Wyoming. Notice of public hearing and reopening of the comment period was published in the **Federal Register** on December 31, 1984 (49 FR 50748). A public hearing was held on January 18, 1985, at the Peter Kiewit Conference Center, Omaha, Nebraska. The comment period was extended until January 28, 1985.

After the 45-day public hearing request period had ended on December 24, 1984, the Service received additional requests for public hearings in Colorado, Nebraska, and Wyoming, and requests for a 60-day extension of the comment period from the Central Colorado Water Conservancy District; Nebraska Rural Electric Association; Niobrara River Basin Development Association, Ainsworth, Nebraska; The Republican Valley Conservation Association, McCook, Nebraska; Board of Public Utilities, Casper, Wyoming; James W. Sanderson of Saunders, Snyder, Ross & Dickson, P.C., Denver, Colorado (on behalf of the legal committee of the Colorado Water Congress' Special Project on Endangered Species); and U.S. Representative Virginia Smith, 3rd District, Nebraska. Notice of a second public hearing and reopening of the comment period was published in the **Federal Register** on January 29, 1985 (50 FR 3940). The second public hearing was held on February 27, 1985, at the Denver City Council Chambers, Denver, Colorado. The comment period was extended until March 29, 1985.

On April 15, 1985, the Service received a request for an additional 60-day comment period from James W. Sanderson of Saunders, Synder, Ross & Dickson, P.C., Denver, Colorado (on behalf of the legal committee of the Colorado Water Congress' Special Project on Threatened and Endangered Species). Notice of reopening of the comment period for 30 days was published in the **Federal Register** on May 16, 1985 (50 FR 20461). The comment period closed on June 17, 1985.

Thirty-three people attended the public hearing in Omaha, Nebraska. Twelve of them presented oral comments. Six of the 12 commenters also submitted written comments. Twenty-nine people attended the public hearing in Denver, Colorado. Thirteen of them presented oral comments. Four of the 13 commenters also submitted written comments. Both hearings centered largely on the adequacy of the scientific data used to support the proposed listing of the piping plover in the northern Great Plains, especially in the Platte River system of Nebraska. The 25 public hearing comments and over 200 comments received by mail are summarized below.

Over 170 Federal, State, and Provincial agencies, biologists, conservation organizations, and other interested parties supported the proposed listing, and provided substantial comments on the plover's status and recommendations for management. The Service will incorporate appropriate management recommendations from these comments in future recovery activities for the piping plover. In addition to substantive comments, numerous written comments and oral statements at the public hearings either supported or opposed listing the piping plover, but provided no substantive data.

Opposition to the proposed rule was received from 25 water management organizations, attorneys representing the organizations, and consultants retained by those organizations in the Platte River Basin of Colorado, Nebraska, and Wyoming. The principal corcern of the Colorado and Wyoming water groups was the potential impacts this listing might have on water development projects on the South Platte River, Colorado, and the North Platte River, Wyoming. Nebraska water groups expressed similar concerns for the two rivers, as well as the Platte River itself. The water groups contend that proposed reserviors and other river-related projects may be curtailed because the piping plover nests on sandbars in the Platte River and its tributaries.

The concern of the water groups stems from previous Service actions on behalf of the whooping crane (*Grus americana*) and its critical habitat, a 53-mile reach of the Platte River between Lexington and Shelton, Nebraska (50 CFR 17.95). Breeding piping plovers and interior least terns (the latter listed as endangered on May 28, 1985; 50 FR 21784) require the same open sandbar habitat on the Platte River as the whooping crane requires for roosting. Critical habitat for the tern and plover has not been proposed.

Three of the water groups, Denver Water Department (DWD), Central Platte Natural Resources District (CPNRD), and Tom Pitts & Associates (TPA) (on behalf of the Colorado Water Congress, Nebraska Water Resources Association, and the Wyoming Water Development Association) best summarized the comments of all the water groups:

Comment 1. The cause and effect relationship with respect to altered water flows and reduction in scouring of sandbars and increased vegetation is unsupported and not applicabe to the Platte River Basin. Rather, the causative factor behind the development of the woody floodplain vegetation is the presence of water in the river on a year-round basis. A report by Ecological Analysts (1983) was submitted in support of this comment. In addition, another submitted report by Pitts (1985) maintained that there has been an upward trend in the flows of the Platte River from 1940 to 1982 and that Williams (1978) erred in his analysis of historical Platte River flows.

Service response: While the precise cause(s) may be of consequence to future Section 7 consultations, the facts of reduced open sandbar habitat and lowered numbers of plovers remain and are of direct relevance to this rule. CPNRD, TPA (Ecological Analysts, 1983) and the Service (U.S. Fish and Wildlife Service, 1981) recognize that water development projects on the Platte River system have resulted in vegetational changes. In the course of various public hearings and comment periods on matters dealing with the Platte River (i.e., Little Blue-Catherland Water Right Application), the Nebraska Game and Parks Commission (NGPC) also has received information that it is not lack of scouring that has caused vegetation encroachment. However, NGPC (1984, 1985a) found, as did the Service and U.S. Geological Survey (1983), that a lack of scouring is a principal cause of the loss and modification of the open sandbar habitat.

In the present judgment of the Service, the dewatering of the Platte River over the past 50 years has been a causative agent in the reduction of available wetlands and sandbars for the piping plover and over species of wildlife, including the least tern and whooping crane.

The Service conducted a 3-year investigation (1978–1980) of the Platte River (U.S. Fish and Wildlife Service, 1981) "to define habitat-use patterns and habitat requirements of migratory bird populations utilizing the North Platte and Platte River valleys and to assess factors influencing woody vegetation establishment along these rivers." The report stated:

> With approximately 70 percent of the Platte's annual flows diverted for various consumptive uses upstream in Colorado, Wyoming and western Nebraska, channel width in many areas has been reduced to 10-20 percent of former size. Habitat conditions within the existing channel have also changed as a result or reduced scouring of sandbars and shifting of alluvial sediments. A broad band of mature deciduous woodland now occupies tens of thousands of acres that formerly were part of the river and numerous

islands overgrown with woody vegetation exist within the channel.

A study by the U.S. Geological Survey (1983) supported the results of the Service's conclusion on vegetation encroachment. The study also affirmed the downward trend in Platte River flows discussed by Williams (1978). The Service's report concluded that "species that nest on the open sandbars of the Platte River have been affected adversely by the encroachment of woody vegetation. The most profound impact has been on the distribution and abundance of the least tern and piping plover. Both species require broad expanses of unvegetated river channel and sparsely vegetated sandbars." Faanes (1983) further detailed the nesting ecology of the piping plover and least tern and the present modification and curtailment of the bare sandbar habitat on the Platte River.

Comment 2. The habitat needs of four endangered or threatened species, the whooping crane, bald eagle (*Haliaeetus leucocephalus*), interior least tern, and piping plover are contradictory, and these species cannot co-exist in the same habitat or areas on the Platte River. Ecological Analysts (1983) discussed the incompatible river flow and habitat conditions required by the least tern, bald eagle, and whooping crane.

Service response: Bald eagles primarily use mature trees of riparian woodlands for communal roosts during the winter. Whooping cranes roost on unvegetated sandbars during their migration in spring and fall (Lingle *et al.* 1984). Critical habitat has been designated for the whooping crane along the Platte River (50 CFR 17.95). The interior least tern and piping plover breed on sparsely vegetated sandbars during the spring and summer. The maintenance of sandbar habitat will aid the recovery of the whooping crane, interior least tern, and piping plover. The well-established and extensive floodplain forest will continue to serve as a wintering area for bald eagles. The recovery plan for the bald eagle does not call for increasing the acreage of forest along the Platte River, and the whooping crane recovery plan does not call for mature forest removal (U.S. Fish and Wildlife Service, 1980, 1983a). The maintenance of open sandbars by removal or curtailment of early successional woody vegetation, however, may be needed for the benefit of the whooping crane, interior least tern, and piping plover (U.S. Fish and Wildlife Service, 1981).

The Service sees no biological conflict between the listed avian species. Currently, the bald eagle roosts within the whooping crane's critical habitat reach of the Platte River. There is no incompatibility in tern and plover nesting habitat, which is also found in the whooping crane's critical habitat. The Platte River Whooping Crane Habitat Maintenance Trust currently manages for the least tern, bald eagle, piping plover, and whooping crane and has no biological conflict in protecting these species (Currier *et al.*, 1985).

Comment 3. Habitat utilization of the central Platte River reach by the piping plover is due to the stable river flows, associated with the construction of the Kingsley Dam and the Tri-County Canal System in the early 1940's.

Service response: Prior to the European settlement of Nebraska, the Platte River was extremely wide and shallow, possessing far more numerous open sandbars (Williams, 1978) and habitat that could support a much larger population of piping plovers than exists today. Lewis and Clark observed the plover on sandbars in the Missouri River between Iowa and Missouri in 1804 (Swenk, 1935). In 1856 the Lieutenant G. K. Warren Expedition collected three piping plovers at the fork of the Platte River (Coues, 1874). At the turn of the century, the plover was described as common in Nebraska, with breeding along the Platte River, on the Loop River at Dannebrog (northwest of Grand Island), and on any of the rivers of the State where sandbars occurred (citations *in* Moser, 1942). This is further evidence of the presence of the species on the upper Missouri River system prior to extensive European settlement and regulation of these rivers.

The plover and least tern no longer breed on the Missouri River between Iowa and Nebraska. The river has been channelized and sandbars no longer exist in early summer. The plover no longer breeds on the Platte River between North Platte and Overton. This stretch of the river is narrow, bordered by a riparian forest, and is no longer suitable for plover nesting. Although a few pairs of plovers breed on the northeastern shore of Lake McConaughy and on Keystone Lake, the breeding population of the plover in Nebraska has decreased.

Comment 4. There is insufficient data to indicate that the piping plover or its habitat is declining in the northern Great Plains.

Service response: In evaluating the status of the piping plover in the northern Great Plains, the Service examined the number of birds as well as habitat trends. Among the breeding avifauna of the northern Great Plains, the piping plover, like the least tern, has one of the most restricted breeding habitats.

In addition to the loss of sandbar habitat by Missouri River channelization, previously discussed, the remainder of the Missouri River in the Dakotas is largely a lake or reservoir where sandbars no longer occur. Habitat changes on the Platte River have already been discussed. In North Dakota two major plover nesting areas, Lakes Brekken and Holmes in the chain-of-lakes area of McClean County, have been modified and are no longer utilized by plovers. Major breeding areas in Saskatchewan and Manitoba have been modified or are threatened with alteration.

The Service points out that the overall range of the piping plover has decreased. The bird is nearly extirpated from the Great Lakes region which formerly represented nearly one-third of the breeding range. In addition, on the Atlantic coast the breeding range of the species has shrunk considerably within most States and Provinces. The modification, curtailment, and destruction of the piping plover's habitat and range continues. This trend persuades the Service to list the species throughout its range.

Comment 5. Censuses of plovers on the Platte River have only been conducted in conjunction with least tern censuses. Additionally, because plovers are more tolerant of vegetation at nest sites (Faanes, 1983), an increase in vegetation in the Platte River valley is not necessarily an encroachment or curtailment of the plover's usable habitat.

Service response: The Service's evaluation of least terns and piping plovers on the Platte River was directed at both species. Censuses took place on the river itself and in the entirety of the central Platte Valley. Although the piping plover may be slightly more tolerant of vegetation at the nest site than the least tern, nearly 80 percent of the area around a nest consists of bare ground (Faanes, 1983). Ducey (1984) reported no obvious difference in the nest sites of piping plovers and least terns on the Missouri River. Nesting in barren to sparsely vegetated habitats is characteristic of plovers of the genus *Charadrius* (Page *et al.*, 1985). Such vegetation must remain sparse in order to continue to be attractive to nesting plovers. Otherwise, suitable nesting areas will continue to decline.

Comment 6. A moratorium should be placed on any new or proposed listings of species in the Platte River Basin. Information regarding habitat needs should be referred to the Federal/State

Coordinating Committee on the Platte River Basin.

Service response: The Service has the responsibility to list species. Listing is required under the Endangered Species Act to be based solely on biological considerations. Listing is the process of identifying those species that are unlikely to survive or may become endangered without the protection of the Act. The Service has indicated at various times that cooperation is important.

A Federal/State Coordinating Committee on the Platte River Basin was recently formed in response to a request by the Colorado Water Congress, Nebraska Water Resources Association, and the Wyoming Water Development Association. The Service appreciates the considerable input from the Committee on the Platte River problems and looks forward to continued cooperation in the management of this system.

Comment 7. Impacts to the piping plover on the wintering range need to be thoroughly examined before the Service can conclude that impacts on the breeding range are primarily responsible for the alleged endangered and threatened status of the species.

Service response: The Service agrees that some reductions in numbers may have been caused by losses of habitat outside the breeding areas. In addition to extensive breeding area problems, the loss and modification of wintering habitat is a significant threat to the piping plover. Wintering beaches become unsuitable to the plovers when altered or destroyed. The most concentrated wintering area, the extensive Laguna Madre de Mexico, south of Brownsville, Texas, was lost when its water level was stabilized for a fisheries lagoon. Plovers typically winter on mud flats, and the greatest concentration of wintering plovers today occurs on the mainland side of South Padre Island, north of Brownsville, Texas. Continued development in the area will lead to stabilization of water levels, eliminating more wintering habitat. The Service views the listing of the species on the wintering range as a prudent course of action. Listing can aid in the preservation of wintering habitat. The Service's recovery plan for the piping plover will investigate the plover's wintering ecology.

The New York Department of Environmental Protection and the Minnesota Department of Natural Resources recommended that the piping plover have only one designation in each State. The Service had proposed that the plover be designated as endangered in the Great Lakes watershed, including those portions of New York and Minnesota in the watershed, and threatened everywhere else. Both Departments desired the change largely for administrative reasons.

Service response: Only biological factors may be considered in changing the classification of a species, as provided under the Act. The plovers in Lake Ontario are now reduced to a single pair on the eastern end of the lake in New York. Sixteen other pairs are all that remain of this species in the entire Great Lakes watershed. The plovers at Lake of the Woods (24 pairs: 22 in Minnesota, 2 in Ontario) are closer geographically to the plovers at Lakes Winnipeg and Manitoba. The Great Lakes watershed forms a natural boundary around this most endangered segment of the plover's populations. It is considered separate from the Atlantic Coast and Great Plains populations.

Stephen Flemming, Acadia University, Nova Scotia, commented that his research (Flemming 1984) in Nova Scotia presents sufficient data to warrant endangered status for the plover in Nova Scotia. Susan Haig, University of North Dakota, recommended endangered status for the plover throughout its Canadian range.

Service response: The Service recognizes that in certain Canadian Provinces and Atlantic States, taken in isolation, the piping plover might warrant endangered status. Classification under the Act is not being made on a Province-by-Province (or States-by-State) basis. Nova Scotia is on the northern edge of the plover's Atlantic coast range. Changes in status of any species on the periphery of its range is expected to be more dramatic than in the core areas. Ms. Haig provided no data that all Canadian birds are in danger of extinction in the immediate future. The species on the entire Atlantic coast and in the Great Plains is being classified as threatened because these birds are not in immediate danger of extinction.

The Montana Department of Fish, Wildlife and Parks (MDFWP) recommended that the piping plover not be designated as threatened in Montana because the State lies on the periphery of the species range. MDFWP noted that there are few records of regular occurrence and the status of the species is marginal, both historically and presently.

Service response: The Service includes Montana because the species nests at the Ft. Peck Reservoir, where there is high human disturbance, and breeds on alkali wetlands such as those on the Medicine Lake NWR in northeastern Montana, only a few miles from breeding sites in North Dakota.

Dr. Lewis W. Oring, University of North Dakota, commented that there are no data available to support the Service's statement in the proposed rule that the piping plover's breeding population consists of three distinct subpopulations. He stated that this is precisely the question that is being addressed by Susan Haig's doctoral research. Two other comments stated that some taxonomists no longer regard *Charadrius melodus circumcinctus* as valid. The completeness of the breast band is merely variable among individuals (Wilcox, 1959).

Service response: In the proposed rule the Service references the American Ornithologists' Union's (AOU) 1957 treatment of avian subspecies, which has not been addressed since by the AOU. The 1983 edition of AOU's *Checklist of North American Birds* does not address subspecies but refers the reader to the 1957 edition for recognized subspecies. However, the Service is persuaded by the comments and discussions with Susan Haig that further research is necessary to determine the validity of the subspecies, often defined as geographical subpopulations that are distinguishable from others by morphological characteristics. Both the proposed and final regulations promulgation treat the piping plover at the species level, *Charadrius melodus*. The Service simply classifies the species as endangered in the Great Lakes watershed and threatened everywhere else found in the wild. The Service's breakdown of the plover's breeding range into the Atlantic coast breeding range, Great Lakes region, and northern Great Plains is not intended to convey the occurrence of subspecies or totally separate genetic populations, but rather to take note of the discontinuous distribution of the species.

The Missouri River Division (MRD) of the U.S. Army Corps of Engineers commented that both the least tern and piping plover utilize similar habitat for nesting and nest during the same period. MRD stated its intention of protecting selected sandbars from Gavins Point Dam, South Dakota, to Ponca State Park, Nebraska. MRD added that balancing the various project purposes such as navigation and hydropower production may make it impossible to consistently operate in a manner that would maximize piping plover reproduction. MRD commented that there are ongoing studies of alternative ways to increase the hydropower production of dams. One alternative would require raising the level of Lewis and Clark Lake, which

would inundate headwater sandbars. If the plover is listed, MRD believed that any action or project would be subject to the section 7 consultation requirement.

Service response: High flows on the Missouri River caused by discharges from Gavins Point Dam have significantly restricted or eliminated annual production of plovers on habitat between Gavins Point and Ponca, Nebraska. The Service will reserve judgment on the projects until any section 7 consultation is completed. The Nebraska Game and Parks Commission (1985b) has developed a plan than it views is compatible with river operational schemes while providing some protection and recovery of the piping plover and least tern.

Seventeen comments disagreed with the Service's reasons for not designating critical habitat. The Service had stated in the proposed rule that critical habitat designation for the piping plover would not be prudent because of the often ephemeral nature of the plover's nesting habitat. For example, beaches and interior wetlands may or may not be used by plovers each year because of varying water levels or natural changes in beach characteristics. Alluvial islands in rivers appear, disappear, and reappear depending upon water conditions.

Julie Zickefoose, Director of the Nature Conservancy's least tern/piping plover recovery program is in Connecticut, commented that of all the nesting migratory birds in the State, the piping plover is among the most predictable in its choice of nest site. Certain sites have been used consistently for many years. If such areas receive continued protection, plovers are likely to use them consistently.

The New Jersey Department of Environmental Protection commented that an effort should be made to define critical habitat which allows for its ephemeral nature. Several areas of critical habitat in the State would advance the plover's conservation. The non-designation of critical habitat and the section 7 consultation on Federal actions on a case-by-case basis may result in unacceptable continued loss of potential habitat. That is, it may be difficult to protect areas not occupied at the time of a section 7 consultation, but historically used or with a potential for future use.

The North Dakota Game and Fish Department recommended critical habitat designation for the chain-of-lakes area in McClean County and the Missouri River from Garrison Dam to Hazelton, North Dakota. These two areas support over 50 percent of the North Dakota breeding population. Dr. Mark R. Ryan and Eleanor M. Prindiville stated that there are two specific regions in North Dakota where piping plovers occur predictably. These two glacial outwash plains (one in McClean County and another area in Kidder and Stutsman Counties) are critical centers of distribution for breeding plovers in North Dakota even though numbers of breeding pairs fluctuate at specific lakes.

The Nebraska Ornithologists' Union commented that specific nest sites of piping plovers may be ephemeral; however, general localities have extremely high fidelity by nesting piping plovers as evidenced by the plover's annual nesting effort at several sites in Nebraska and as documented elsewhere in North America.

Dr. Erica Nol, University of British Columbia, commented that piping plovers are site tenacious from year to year and hence habitats could be set aside for their nesting. Female plovers will return to previous nest sites, if successful in raising young in that site.

Service response: The Service will review the determinability of these and other potential critical habitat areas. In particular, habitats for the Great Lakes population determined to be endangered in this rule will be most closely examined, although all areas under United States jurisdiction that have plovers regularly nesting may be considered. The prudence of such a determination will be reviewed within one year, as allowed under section 4(b)(6)(C) of the Act.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, including the comments received, the Service has determined that the piping plover should be classified as endangered in certain parts of its range and threatened in the remainder of its range. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the piping plover (*Charadrius melodus*) are summarized below.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The enormous loss of appropriate sandy beaches and other littoral habitats due to recreational and commercial developments, and dune stabilization in the Great Lakes region and on the Atlantic coast is evident and responsible for some decline of the species. The breeding range of the plover has declined most drastically in the Great Lakes watershed. In those States and Provinces where the plover has not been extirpated, the species now has fewer available breeding sites. Historic habitat has been destroyed or modified. Such destruction and modification continues. Where breeding does occur, breeding success is curtailed primarily because of human disturbance (The Nature Conservancy, 1985), especially on the Atlantic coast and in the Great Lakes region. Foot and vehicular traffic (including raking of beaches for trash) destroys nests and young.

Damming and channelization of rivers have eliminated nesting sandbar habitat along hundreds of miles of rivers in the Dakotas, Iowa, and Nebraska. For example, along the three short stretches of the Missouri River not inundated by reservoirs, untimely water releases from dams subject remaining sandbar habitat to alteration and flooding during the breeding season. The damming and withdrawal of water for irrigation and other purposes have altered water flows in rivers such as the Platte River. This has led to the establishment of dense vegetation less suitable for nesting plovers (Faanes, 1983; U.S. Fish and Wildlife Service, 1981). The listed interior least tern occupies habitat very similar to that of the plover on the Platte and Missouri Rivers.

Although some saline wetlands in the northern Great Plains have been privately drained or adversely altered, the drainage and modification of these wetlands has been less common than the drainage of other types of wetlands. Several major plover breeding areas are, however, threatened with developments.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not currently applicable for the piping plover.

C. *Disease or predation.* Disease has not been a problem known to occur in this species. Along with increasing urbanization and use of beaches on the Great Lakes and Atlantic coast there has been an increasing number of unleashed pets, as well as feral dogs and cats. The result has been predation of plover chicks and eggs and abandonment of nesting areas. Human developments near beaches have attracted an increased number of predators such as skunks and raccoons.

On the northern plains, the raccoon (*Procyon lotor*) has greatly expanded its range since the 1940's and is a common predator of the American avocet (*Recurvirostra americana*), which nests in habitat similar to that of the plover (Sidle and Arnold, 1982). Gulls (*Larus* sp.), which have increased rapidly in portions of the Great Lakes and Atlantic coast over the past 30 years, may be a significant factor in reducing plover numbers by predation of eggs and young. Trampling by large confined herds of cattle on nesting grounds in the northern plains may be adverse to breeding success.

D. *The inadequacy of existing regulatory mechanisms.* Several States (Iowa, Illinois, Michigan, Minnesota, New Jersey, New York, Virginia, and Wisconsin) list the piping plover as threatened or endangered. At a few nesting sites, human intrusion is prohibited by local conservation efforts during the breeding season. The Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) protects the bird from taking, and bans trade in piping plovers and their parts. However, that Act does not protect habitat and, by itself, will not be adequate to prevent the further loss of the species' habitat. The Endangered Species Act would offer additional protection for the species, largely through the recovery and consultation processes.

E. *Other natural or manmade factors affecting its continued existence.* Over the past forty years the number of vehicles and people on beaches of the Great Lakes and Atlantic coast has greatly increased. Plovers are attracted to unvegetated beach areas in early spring only to be disrupted after human recreational and vehicular activities have intensified in late spring and summer. Foot traffic, dune buggies, and other vehicles can crush eggs and chicks. Human presence can disrupt incubation or interfere with fledging success by separating chicks from parents (Flemming, 1984). A lack of undisturbed habitat has been cited as a reason for the decline of other sand nesting birds, such as black skimmer (*Rynchops niger*) and least tern. On the northern plains, recreational use of rivers is increasing, and remaining bare alluvial islands are subjected to growing human intrusion. Human disturbance in the remote, sparsely populated alkali wetland country of the Dakotas, Montana, and Saskatchewan is small, although even here chicks have been crushed by off-road vehicles.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the piping plover as endangered and threatened. Endangered status seems appropriate for the Great Lakes because of the species' near extirpation from there. Threatened status is warranted for the remainder of the species' range because of continued threats and the bird's low numbers. Although some States already list the plover, their laws do not provide the same degree of protection afforded by the Endangered Species Act. Not to list this bird would be contrary to the evidence gathered to date.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary shall specify any habitat of a species which is considered to be critical habitat at the same time the species is determined to be endangered or threatened. The Service received extensive comments on possible areas for critical habitat designation for the piping plover. Under section 4(b)(6)(C) of the Act, the Service extends for a period of one year the determination of critical habitat for the plover. A proposed regulation may be published, based upon such data as then available, designating, to the maximum extent prudent, such habitat. A final rule must be published within one year, unless the determination is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

The Migratory Bird Treaty Act makes it illegal to take, possess, sell, deliver, carry, transport, or ship piping plovers or their parts, eggs, nests, and young. However, it affords no protection to their habitat. Section 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

As indicated elsewhere in this proposal, the plover is a widely distributed species that has suffered from habitat losses and disturbances throughout most of that range. Those losses and disturbances have been largely caused by the development of coastal beaches, the damming and channelization of rivers, the drainage or altering of wetlands, and human disturbance during the nesting season.

It is not possible now to state with certainty all projects or areas of activity which would require consultation and possible modification. Water development projects (e.g., Two Forks, Prairie Bend, Narrows, Catherland, Enders, Twin Valley, Wildcat Reservoirs) and activities (e.g., relicensing of Kingsley Hydropower Project) in the Platte River Basin may require consultation. The Service has already entered into consultation with Federal agencies in regard to the effects of some of these projects on the whooping crane and its critical along the Platte River. Beach development projects on the Great Lakes, Atlantic, and Gulf coasts that involve Federal funding, permits, or licensing might require consultation.

This does not indicate that all such actions will, in fact, be found to require the termination of any such project. Modification of Federal actions rather than termination has been the experience of the Service. Reasonable and prudent alternatives may be implemented to avoid causing jeopardy to the piping plover. The U.S. Army Corps of Engineers and the Bureau of Reclamation are the two principal Federal agencies that are expected to be impacted by the listing of the piping plover. Private developers, who are working without any Federal permits, and other parties not requiring such authorizations or monies, will be

unaffected under this rule with regard to section 7(a).

This listing will bring sections 5 and 6 of the Endangered Species Act into effect with respect to the piping plover. Section 5 authorizes the possible acquisition of lands for the purpose of conserving endangered and threatened species. Pursuant to Section 6, the Service can grant matching funds to affected States for management actions aiding the protection and recovery of the piping plover.

The Service will develop a recovery plan for the plover. Such a plan will bring together both State and Federal efforts for conservation of the plover. The plan will estabilsh an administrative framework, sanctioned by section 4(f) of the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan will set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It will assign appropriate functions to each agency and a time frame within which to complete them. The plan will also identify specific areas needed to be monitored and possibly managed for plovers. Guidelines on protective measures for nesting pairs of plovers would also be established.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species and §§ 17.21 and 17.31 for threatened species, set forth a series of general prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened animal species under certain circumstances. Regulations governing permits are at §§ 17.22, 17.23, and 17.32. For endangered piping plovers (Great Lakes watershed), permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. Since the plover is not allowed in trade by the United States, Canada, or Mexico, no economic hardship cases are expected. A broader category of permits are available at 50 CFR 17.32 for those birds with threatened status. Permits for educational purposes or public exhibition may be issued for threatened species, in addition to the purposes above.

The Service will review the piping plover to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements. Because the plover is not in international trade, the Service does not plan to propose the species for inclusion in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

In addition to the references cited in this document, there exist other references on the piping plover and its habitat, which the Service also has consulted. A bibliograph, including all 51 cited references, on the piping plover is available from the Service's Twin Cities office (see ADDRESSES section) upon request.

Author

The author of this final rule is Mr. John G. Sidle, Endangered Species Division, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276 or FTS 725-3276).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. Amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
Plover, piping	*Charadrius melodus*	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf coasts, PR, VI), Canada, Mexico, Bahamas, West Indies.	Great Lakes watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Province of Ontario.	E	211	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Do	do	do	Entire, except those areas where listed as endangered above.	T	211	NA	NA

Dated: December 4, 1985.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-29414 Filed 12-10-85; 8:45 am]

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federal register

Wednesday
December 11, 1985

Part IV

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Proposed Notice of Sale; Central Gulf of Mexico; Oil and Gas Lease Sale 104

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
Central Gulf of Mexico
Oil and Gas Lease Sale 104

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The following is a proposed Notice of Sale for Sale 104 in the offshore waters of the Central Gulf of Mexico. This Notice is hereby published as a matter of information to the public.

Director, Minerals Management Service
Wm. D. Bettenberg

Approved:

Deputy Assistant Secretary - Land and Minerals Management
J. Steven Griles

December 5, 1985
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
Central Gulf of Mexico
Oil and Gas Lease Sale 104

1. Authority. This Notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1356), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256).

2. Filing of Bids. Sealed bids will be received by the Regional Director (RD), Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person or by mail to the above address during normal business hours (8:00 a.m. to 4:00 p.m., c.s.t.) until the Bid Submission Deadline at 10:00 a.m., April __, 1986. Hereinafter, all times cited in this Notice refer to Central Standard Time (c.s.t.) unless otherwise stated. Bids will not be accepted the day of Bid Opening, April __, 1986. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RD prior to 10:00 a.m., April __, 1986. Bids may not be withdrawn unless written withdrawal is received by the RD prior to 8:30 a.m., April __, 1986. Bid Opening Time will be 9:00 a.m., April __, 1986, at the _____. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at 50 FR 40618 on October 4, 1985.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 104 (insert map number(s), map name(s), and block number(s)), not to be opened until 9:00 a.m., c.s.t., April __, 1986," must be submitted for each block or prescribed bidding unit bid upon. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease Sale 104, NG 16-1, Atwater Valley, Block 701, not to be opened until 9:00 a.m., c.s.t., April __, 1986." For those blocks which must be bid upon together as a bidding unit (see paragraph 12), it is recommended that all numbers of blocks comprising the bidding unit appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Mangement Service.

No bid for less than all of the unleased portions of a block or bidding unit as described in paragraph 12 will be considered. Bidders are advised to use the description "All the Unleased Federal Portion" for those blocks having only aliquot portions currently available for leasing.

All documents must be executed in conformance with signatory authorizations on file. Partnerships also need to submit or have on file in the Gulf of Mexico Regional Office a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point; e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $150 or more per acre or fraction thereof. All leases awarded will provide for a yearly rental payment of $3 per acre or fraction thereof. All leases will provide for a minimum royalty of $3 per acre or fraction thereof. The bidding systems to be utilized for this sale apply to blocks or bidding units as shown on map 2 (see paragraph 12). The following bidding systems will be used:

(a) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline stated in paragraph 2 the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS-2033 (June 1985) and the Affirmative Action Representation Form, Form MMS-2032 (June 1985). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, or other applicable regulations, may be returned to the person submitting that bid by the RD and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid together with the first year's annual rental as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I.

Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment, for each lease issued, by electronic funds transfer (EFT) utilizing the Federal Reserve Communications System and the Treasury Financial Communications System, payable to the Department of the Interior--MMS. Bidders are referred to 30 CFR 218.155.

11. Leasing Maps and Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Leasing Maps or Official Protraction Diagrams which may be purchased from the Gulf of Mexico Regional Office (see paragraph 14):

(a) Outer Continental Shelf Leasing Maps--Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(b) Outer Continental Shelf Official Protraction Diagrams:

NH 16-4	Mobile	(revised April 19, 1983).
NH 16-7	Viosca Knoll	(revised December 2, 1976).
NH 15-12	Ewing Bank	(revised December 2, 1976).
NH 16-10	Mississippi Canyon	(revised December 2, 1976).
NG 15-3	Green Canyon	(revised December 2, 1976).
NG 15-6	Walker Ridge	(revised December 2, 1976).
NG 16-1	Atwater Valley	(revised November 10, 1983).
NG 16-4	(No Name)	(approved December 2, 1976).

These sell for $2 each.

12. Description of the Areas Offered for Bids.

(a) Acreages of blocks are shown on Leasing Maps and Official Protraction Diagrams. Some of these blocks, however, may be partially leased, bisected by administrative lines such as the Federal/State jurisdictional line, or the section (big) line, or a combination of such lines. In these cases, the following supplemental documents to this Notice of Sale are available from the Gulf of Mexico Regional Office (see paragraph 14 (a)):

(1) Central Gulf of Mexico Lease Sale 104 Proposed - Unleased Split Blocks

(2) Central Gulf of Mexico Lease Sale 104 Proposed - Unleased Acreages of Blocks with Aliquots Under Lease

(3) Central Gulf of Mexico Lease Sale 104 Proposed - Unleased Blocks Split by the Big) Line

(b) References to maps 1, 2, and 3 in this Notice refer to the following maps which are available on request from the Gulf of Mexico Regional Office:

Map 1 entitled "Central Gulf of Mexico Lease Sale 104 Proposed, Stipulations, Lease Terms, and Warning Areas."

Map 2 entitled "Central Gulf of Mexico Lease Sale 104 Proposed, Bidding Systems and Bidding Units," refers largely to Royalty Rates and Bidding Units.

Map 3 entitled "Central Gulf of Mexico Lease Sale 104 Proposed, Detailed Maps of Biologically Sensitive Areas," pertains to areas referenced in Stipulation No. 2.

(c) In several instances two or more blocks have been joined together into bidding units totaling less than 5,760 acres. Any bid submitted for a bidding unit having two or more blocks must be for all of the unleased Federal acreage within all of the blocks in that bidding unit. The list of those bidding units and their total acreages appears on map 2.

(d) The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11 (a) and (b), except for those blocks or partial blocks described as follows:

December 2, 1985

DESCRIPTIONS OF BLOCKS LISTED REPRESENT ALL FEDERAL ACREAGE LEASED UNLESS OTHERWISE NOTED

Sabine Pass

3
7
9
10
11
12
13
14
15
16

West Cameron

17
18- (SW¼)
20
21- (SW¼SW¼)
22
23
24
28- (N½; N½N½S½ Zone 2)
33
34
35
40
41 (E½)
43
44- (NW¼NW¼; Portion seaward of 8g Line)
45
47 (NW¼)
48
49 (NW¼)
53
54
56
57

West Cameron (continued)

58
59
61
62
63
64
65
66
67
68
69 (N½)
71
72
73
75
77
78
79
81
90
91
92
93
95
97
98
100
101
102
108
109
110
111
112
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116
117
118
128
130
131
132
134

West Cameron (continued)

135
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143
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204
205
206

West Cameron (continued)

211
212
215
216
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222
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255
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266
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279
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283
284

West Cameron, West Addition

157

West Cameron, West Addition (continued)

161
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West Cameron, West Addition (continued)

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West Cameron, South Addition

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West Cameron, South Addition (continued)

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West Cameron, South Addition (continued)

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West Cameron, South Addition (continued)

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656
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661
663

East Cameron

2
8
9
11-
(Portion Landward of 8g Line)
14-
(E½NW¼; NE¼)

East Cameron (continued)

15
16
23
24
25
26
29
30
31
32
33
34
35
36
38
39-
(Portion seaward of 8g line)
40
42
43
44
45
46
47
48
49
50
56
57
58
60
61
62
63
64
65
66
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76
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81
82
87
88

East Cameron (continued)

89
96
97
99
100
102
104
106
111
113
114
116
117
118
119 (N½)
121
122
123
125
128
129
131
133
134
135
136
137
140
142
143
148
151
157
158
160 (E½)
161
172
178
185
187
194-
(E½E½SE¼)
195 (S½)
196
198
202
203
204-
(N½N½)
205

East Cameron (continued)

206
208
209
213
215
216
217
219
220
221
222
226
229
231
232
235

East Cameron, South Addition

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239
240
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245
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255
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263
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East Cameron, South Addition (continued)

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East Cameron, South Addition (continued)

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378
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Vermilion

12
16
17
18
21
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27
28
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30
31
33
34
(W½NW¼)
35
36
(E½NE¼)
37
38
39
40
42
44
45
46 (N½)
47
48
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Vermilion (continued)

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72
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98
101 (S½)
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Vermilion, (continued)

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186
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191
197
198
201
203
204
214
215
216
217-
(SW¼;
W½W½SE¼)
218-
(E½SE¼;
E½NW¼SE¼;
NE¼SW¼SE¼)
219
220
221
222
223
224
225-
(E½NE¼;
NE¼SE¼)

Vermilion, (continued)

226
227
228
231
232
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245
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251

Vermilion, South Addition

252
253
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Vermilion, South Addition (continued)

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Vermilion, South Addition (continued)

397
412

S. Marsh Island, North Addition

207
208
209
210
211
212
213
214
215
216
217
218
219
220
(Landward of lease 0310 stip. line)
221-
(Landward of lease 0310 stip. line)
222
223
224
225
226
227
228
229
230-
(Landward of lease 0310 stip. line)
231
232
233
234
235
236
237
238
239
240

S. Marsh Island, North Addition (continued)

241-
Landward of lease 0310 stip. line)
242-
(Landward of lease 0310 stip. line)
243
244
245
246
249
250
251
252
253-
(Landward of lease 0310 stip. line)
254
256
257
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S. Marsh Island

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S. Marsh Island (continued)

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S. Marsh Island, South Addition

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S. Marsh Island, South Addition (continued)

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S. Marsh Island, South Addition (continued)

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Eugene Island

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31
(Landward of 8g Line)
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Eugene Island (continued)

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82
83
84
85
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89
90
93 (E½)
94
95
97
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100
101
102
105
106
107
108
109
110
111
112
113A
116
119
120
125
126
128
128A
129

Eugene Island (continued)

129A
133
136
138
142
145
146
147
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205
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208
210
211
212
214-
(W½W½E½; W½),
215
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219

Eugene Island (continued)

221
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227
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251
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253
(E½; E½W½; E½W½W½;
W½NW¼NW¼; W½W½SW¼)
254 (S½)
255 (S½)
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Eugene Island, South Addition

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Eugene Island, South Addition (continued)

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301 (S½)
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Eugene Island, South Addition (continued)

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Ship Shoal

11
13
14
15
16
25-
(Seaward of
Zone 2)
26
27
28

Ship Shoal (continued)

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49
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52
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58
59
62
(Landward of 8g Line)
63
64 (W½)
65
66
68
69
70
71 (W½)
72
78
79
80
81
82
84
85
86
87 (N½)
89
90
91
92
93
94-
(S½NE¼;
N½SE¼;
S½NE¼ in
Zone 3)
97
98
99
100

Ship Shoal (continued)

102
104
107
108
111
112
113
114
115
117 (N½)
118 (N½)
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Ship Shoal (continued)

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224
225 (N½)
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233
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Ship Shoal, South Addition

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Ship Shoal, South Addition (continued)

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288
290
291-
(N½; SE¼)
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Ship Shoal, South Addition (continued)

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367
368

South Timbalier

21
22
23
24
26
27-
(N½; N½SW¼)
28 (NE¼)
29
33-
(Portion seaward of 8g line)
34
35
36
37
38
44
47

South Timbalier (continued)

48
50
51
52
53
54
55
63
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South Timbalier (continued)

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185
186
188 (NW¼)
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South Timbalier, South Addition

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212
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South Timbalier, South Addition (continued)

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South Timbalier, South Addition (continued)

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South Pelto

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18
19 (W½)
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Bay Marchand

2
3
5

Grand Isle

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24
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26
27

Grand Isle (continued)

29 (N½)
30-
(Portion in Zone 2)
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51
52
53
63
72
75
76
78 (N½; SE¼)
79
81 (NE¼; S½)
82 (NW¼; S½)
83
85

Grand Isle, South Addition

86
90
91
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106

Grand Isle, South Addition (continued)

109
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118
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West Delta

16
17
18
19
20
21-
(S½N½S½; S½S½)
22 (E½)
23
24
27
28
29
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31
32
33
34 (N½)
35
36-
(S½; NW¼)
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West Delta (continued)

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79
80
(N½; N½S½; SW¼SW¼)
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West Delta, South Addition

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West Delta, South Addition (continued)

152

South Pass

6
17-
(Portion lying 1 ft. seaward of 3rd Supp. Decree)
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45
46
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South Pass, South & East Addition

62
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64
65
66-
(Seaward of 1965 Decree Line)
67
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71
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South Pass, South & East Addition (continued)

74
75
76-
(Portion landward of 8g line)
77
78
80
81
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93
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Main Pass

6
7-
(N½; N½S½; Seaward of 1975 Decree Line)
18 (S½)
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38
39
40
41
42
43
44-
(SE¼NE¼; NE¼SE¼)
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56
57
58
59-
(Portion landward of Zone 3 line)

Main Pass (continued)

62
63
64
65
68
69
72
73
74-
(Portion landward of 3rd Supp. Decree)
77
78
86
87
89
91
92
93
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126
127 (N½)
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Main Pass (continued)

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151
152-
(Seaward of 1965 Decree Line)
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Main Pass, South & East Addition

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Main Pass, South and East Addition (continued)

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Main Pass, South and East Addition (continued)

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Breton Sound

39
41
42
53 (W½;
Seaward of 75 decree line)
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56

Chandeleur

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Chandeleur (continued)

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30 (Seaward of the 8g Line)
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Chandeleur, East Addition

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Mobile

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Mobile (continued)

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1002

Mobile (continued)

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1006

Viosca Knoll

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Viosca Knoll (continued)

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Viosca Knoll (continued)

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Ewing Bank

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526
658
743
744
746
781

Ewing Bank (continued)

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Ewing Bank (continued)

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Mississippi Canyon

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Mississippi Canyon (continued)

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Mississippi Canyon (continued	Mississippi Canyon (continued)	Mississippi Canyon (continued)	Green Canyon (continued)	Green Canyon (continued)	Green Canyon (continued)
356	506	807	23	97	181
357	507	808	24	98	182
358	530	809	25	102	183
360	533	837	26	103	184
361	542	838	27	104	185
363	543	839	29	105	186
365	545	840	30	108	188
366	546	843	31	109	190
370	573	852	32	110	191
382	575	853	34	111	192
383	576	881	35	112	198
385	584	884	38	113	199
386	589	885	39	114	200
397	617	890	40	115	202
398	618	893	41	116	204
399	620	925	45	117	205
400	621	928	46	118	206
401	627	929	48	121	207
402	635	931	49	123	210
405	636	933	50	133	212
407	642	934	52	134	213
408	661	935	53	135	224
409	663	936	54	136	225
410	665	937	58	137	227
411	686	940	59	138	228
412	687	941	60	139	230
414	705	971	61	140	232
426	707	972	62	141	233
427	709	975	64	142	234
429	710	978	65	144	235
441	711		66	145	236
443	713	Green Canyon	67	146	237
444	714		68	147	245
445	718	4	69	148	246
454	728	5	70	149	247
455	730	6	71	152	248
456	731	7	72	153	249
459	751	8	73	154	250
460	755	9	74	155	251
461	756	10	75	156	252
485	762	11	76	158	253
486	763	13	78	160	254
487	772	14	79	161	256
490	793	15	80	162	257
493	794	16	81	163	258
494	795	18	89	165	271
495	798	19	90	166	272
502	799	20	91	167	285
503	801	21	92	179	286
505	806	22	96	180	287

Green Canyon (continued)

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Atwater Valley (continued)

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Atwater Valley

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13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms as shown on map 1 and will be on Form MMS-2005 (August 1982). Copies of the lease form are available from the Gulf of Mexico Regional Office.

(b) The applicability of Stipulations Nos. 1 through 5 that will be included in leases resulting from this sale is as shown on map 1 and supplemented by references in this Notice.

Stipulation No. 1--Protection of Archaeological Resources.

(This stipulation will apply to all blocks offered for lease in this sale.)

(a) "Archaeological resource" means any prehistoric or historic district, site, building, structure, or object (including shopwrecks); such term includes artifacts, records, and remains which are related to such a district, site building, structure, or object. (Section 301(5), National Historic Preservation Act, as amended, 16 U.S.C. 470w(5)). "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Director (RD) believes an archaeological resource may exist in the lease area, the RD will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RD, to determine the potential existence of any archaeological resource that may be affected by operations. The report, prepared by an archaeologist and a geophysicist, shall be based on an assessment of data from remote sensing surveys and of other pertinent archaeological and environmental information. The lessee shall submit this report to the RD for review.

(2) If the evidence suggests that an archaeological resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be; or

(ii) Establish to the satisfaction of the RD that an archaeological resources does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RD. A report on the investigation shall be submitted to the RD for review.

(3) If the RD determines that an archaeological resource is likely to be present in the lease area and may be adversely affected by operations, the RD will notify the lessee immediately. The lessee shall take no action that may adversely affect the archaeological resource until the RD has told the lessee how to protect it.

(c) If the lessee discovers any archaeological resource while conducting operations in the lease area, the lessee shall report the discovery immediately to the RD. The lessee shall make every reasonable effort to preserve the archaeological resource until the RD has told the lessee how to protect it.

Stipulation No. 2--Protection of High Relief Banks.

(This stipulation will be included in leases located in the areas so indicated on maps 1 and 3 described in paragraph 12. The high relief banks with their appropriate "no activity" isobaths are listed below.)

Bank Name	Isobath (meters)
McGrail Bank	85
Bouma Bank	85
Rezak Bank	85
Sidner Bank	85
Sonnier Bank	55
Sackett Bank	85
Ewing Bank	85
Diaphus Bank	85
Alderdice Bank	80
Parker Bank	85
Fishnet Bank	76
Jakkula Bank	85
Sweet Bank[1]	85
Rankin Bank	85
29 Fathom Bank	64
Bright Bank	85
Geyer Bank[2]	85
MacNeil Bank[2]	82

[1]The Sweet Bank Stipulation will contain only this sentence: "No structures, drilling rigs, or pipelines will be allowed within the 85-meter isobath."

[2]Western Gulf of Mexico bank with portion of 3-Mile Zone in Central Gulf of Mexico.

(a) No structures, drilling rigs, pipelines, or anchoring will be allowed within the isobaths (i.e., the "no activity zone" shown on map 3) of the banks listed above.

(b) Operations within the area shown as "1-Mile Zone" on map 3 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom

through a down-pipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

(c) Operations within the area shown as "3-Mile Zone" on map 3 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a down-pipe that terminates an appropriate distance, but no more than 10 meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent, scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Director (RD) on a schedule established by the RD, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the RD shall require shunting as specified in subparagraph (1) above or other appropriate operational restrictions.

Stipulation No. 3--Live Bottom Areas.

[This stipulation will be included in leases located in the areas indicated on map 1 described in paragraph 12.]

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including, but not limited to, anchoring, well drilling, and pipeline and platform placement, the lessee will submit to the Regional Director (RD) a bathymetry map prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 meters radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as seagrass communities; or those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached

to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or areas whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the RD photodocumentation of the sea bottom within 1,820 meters of the proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the RD will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas;

(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;

(c) the transportation of drilling fluids and cuttings to approved disposal sites; and

(d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 4--Military Warning Areas.

[This stipulation will be included in leases located within Warning Areas and Eglin Water Test Areas 1 and 3, as shown on map 1 described in paragraph 12.]

Warning Areas Command Headquarters
Central Planning Area

Warning Areas	Warning Areas Command Headquarters
W-155	Naval Air Training Command Training Wing Six Naval Air Station Pensacola, Florida 32508
W-453	(Preliminary Planning Stage) Air National Guard Training Site Gulfport, Mississippi 39543
W-453	(Operations Stage) 159th Tactical Fighter Group Air National Guard U.S.N.A.S. NOLA New Orleans, Louisiana 70143-0200

W-92	Naval Air Station New Orleans, Louisiana 70143
Eglin Water Test Areas 1 and 3	Commander Armament Division Eglin Air Force Base, Florida 32542

(a) Hold Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table above.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors, emanating from individual designated Department of Defense (DOD) warning areas in accordance with requirements specified by the commander of the command headquarters listed in the table above to the degree necessary to prevent damage to, or unacceptable interference with, DOD flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors will be effected by the commander of the

appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emission shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(c) Operational Controls

The lessee agrees that, prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with instructions from the commander of the individual command headquarters listed in the table above. Such coordination and instruction will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation No. 5--8-Year Lease Terms.

(This stipulation will be included in leases on blocks in the 400-meter to 900-meter depth range as shown on map 1.)

The lessee must commence the drilling of an exploratory well within 5 years of the date the lease becomes effective if there has been no suspension of operations (SOO). (In the event of a SOO, the 5-year period will be extended accordingly.) The exploratory well shall meet the depth and other criteria established in an approved exploration plan.

14. Information to Lessees.

(a) Information on Supplemental Documents. For copies of the various documents identified as available from the Gulf of Mexico Regional Office, prospective bidders should contact the Public Information Unit at the address stated in paragraph 2, either in writing or by telephone (504) 838-0519 or 838-0527. For additional information, contact the Regional Supervisor for Leasing and Environment at the address stated in paragraph 2 or by telephone at (504) 838-0755 or 838-0765.

(b) Information on Navigation Safety. Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended; or in connection with the Louisiana Offshore Oil Port for Blocks 57 and 59, Grand Isle area. U.S. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) Information on MOU with DOT on Pipelines. Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Information on Unitization. Bidders are advised that, in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

(e) Information on 10-Year Leases. For those blocks identified as having lease terms with an initial period of 10 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the Minerals Management Service either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Information on Affirmative Action. Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, August 1982) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Submission of Form MMS-2032 (June 1985) and Form MMS-2033 (June 1985) will not invalidate an otherwise acceptable bid, and the revised regulations requirements' will be deemed to be part of the existing affirmative action forms.

(g) Information on Ordnance Disposal Areas. Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Mississippi Canyon area, as shown on map 1 described in paragraph 12. These areas were used to dispose of ordnance of unknown composition and quantity. The western most area has not been used for over 15 years. Water depths in this area range from 750 to 1,525 meters. Bottom sediments in both areas are generally soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards.

The U.S. Air Force has released an indeterminable amount of unexploded ordnance throughout Eglin Water Test Areas 1 and 3. The exact location of the unexploded ordnance is unknown, and lessees are advised that all lease blocks included in this sale within these water test areas should be considered potentially hazardous to drilling and platform and pipeline placement.

(h) Information on Shallow Hazards. Federal regulation (30 CFR 250.34) requires a lessee to conduct shallow hazards and other geological and geophysical surveys that are necessary for the evaluation of activities to be carried out under a proposed exploration or development/production plan or activities being carried out under approved plan.

Data collection by the lessee on a lease, and when necessary, off a lease, will be analyzed and submitted by the lessee and then reviewed and, when necessary, reanalyzed by the Regional Director (RD) to ensure that drilling, development, and production activities can be conducted in an acceptable manner with minimum risk or damage to human, marine, and coastal environments. Based on the review and analysis of the data received and other available data and information, the RD either approves or requires modification to an exploration or development/production plan or application for permit to drill, or recommends that the Director, Minerals Management Service, temporarily prohibit or suspend the conduct of exploration or development/production activities, according to provisions of the OCS Lands Act, as amended, and appropriate regulations. Existing regulations authorize the RD to take whatever steps are necessary to assure safe operations offshore, whether shallow hazards are delineated before or after the lease sale.

(i) Information on Coastal Zone Management. Lessees are advised that the States of Mississippi and Alabama have expressed concern about the possible effects of drilling discharges on their coastal zones. The States have advised that they might not concur in consistency certifications for exploration plans pursuant to section 307(c)(3) of the Coastal Zone Management Act unless, at minimum, there is monitoring of discharges proposed near State territorial waters.

(j) Information on Stipulation No. 5. Any lease subject to Stipulation No. 5 will be cancelled after 5 years, following notice pursuant to the OCS Lands Act, if, within the initial 5-year period of the lease, the drilling of an exploratory well has not been initiated, or, if initiated, the well has not been drilled in conformance with the approved exploration plan criteria, or there is not a suspension of operations in effect, etc. For further information, see the Federal Register Notice published April 3, 1985, subject: Notification of Outer Continental Shelf (OCS) Programwide Policy of Water-depth Criterion for Longer Primary Lease Terms for OCS Oil and Gas Leases.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

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Vol. 50, No. 238

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FEDERAL REGISTER PAGES AND DATES, DECEMBER

49341–49504	2
49505–49664	3
49665–49824	4
49825–49918	5
49919–50156	6
50157–50268	9
50269–50608	10
50609–50754	11

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

5414	49665
5415	49825
5416	49827
5417	50269
5418	50271

Administrative Orders:

Presidential Determinations:

No. 86-03 November 25, 1985	50273

Executive Orders:

12345 (Amended by EO 12539)	49829
12539	49829

4 CFR

6	49505
8	49505
9	49505
30	49505
33	49505
51	49505
52	49505
75	49505
82	49505

7 CFR

6	49919
226	49341
403	50275
404	49505, 50275
408	49505, 50275
409	49505
411	49505
413	49505
415	49506
416	49920
417	49506
418	49506
419	49506
423	49507
427	49506
428	49513
429	49506
430	49506
433	49518
439	49505
450	50276
800	49667
907	49343
958	50157
959	49831
971	49831
989	49831, 50158
991	49831
1002	49674
1004	49674
1136	50159
1446	50280
1540	49524
1965	49832

Proposed Rules:

70	50310
210	49933
225	49933
226	49933
440	49854
971	50171
980	50621
1032	49395
1137	50622
1140	50622
1941	49395
1943	49395
1980	49395

8 CFR

211	49921

9 CFR

77	49922
92	49344
318	50282
381	50282

Proposed Rules:

71	49937
80	49937
92	49702

10 CFR

9	50283
440	49912

12 CFR

204	50284
217	50160
227	49524
563	49345
564	49524

Proposed Rules:

205	50623
207	50606
556	49937
571	49940

13 CFR

120	49832

14 CFR

39	49349–49351, 49832, 49833, 49923, 50609, 50610
71	49353, 49528, 49529, 50254, 50285, 50610
73	50611
93	50264
95	49674
97	50161

Proposed Rules:

1	50624
27	50624
29	50624

39 ..... 49858, 49944, 49945, 50172
71 ..... 49704, 49902, 50173, 50174, 50310
91 50588
121 50588
125 50588
129 50588
135 50588

15 CFR

Proposed Rules:
10 50177

16 CFR

13 ..... 49834, 49835
305 49679
455 50162

Proposed Rules:
444 50178

17 CFR

200 50286
210 49529
229 49529
239 49529
250 ..... 49354, 50611
259 50611
276 49835

Proposed Rules:
1 49859
240 50624
250 49705

18 CFR

2 49679
32 49924
33 49924
34 49924
35 49924
36 49924
45 49924
101 49924
260 49534
284 ..... 49359, 49371, 49534
292 49924
375 49924
381 49924

19 CFR

162 50287
171 50287

20 CFR

404 ..... 50068, 50118
416 50118

Proposed Rules:
404 ..... 49397, 49558, 50630
655 ..... 50311, 50313

21 CFR

172 49535
173 ..... 49535, 49684
175 ..... 49535, 49684
176 49684
178 ..... 49684, 50611
181 49535
184 49535
193 49687
310 49371
510 ..... 49372, 49537
520 ..... 49372, 49537, 49840, 50291
522 ..... 49372, 49840, 50292
524 ..... 49372, 49840
555 ..... 49372, 49924
558 ..... 49372, 49840, 50292, 50612, 50613
561 49687
1020 50293

Proposed Rules:
163 ..... 49398, 49405
201 49947
343 49409
357 49409
870 50179

22 CFR

514 49373

Proposed Rules:
41 49705

23 CFR

658 49688

Proposed Rules:
1325 49409

24 CFR

232 49538
235 49538
300 49842
511 50594

29 CFR

1 49822
1625 50614
2642 49539

Proposed Rules:
1910 ..... 49410, 51412, 50512

30 CFR

901 49541
904 49374
906 49924
915 49925
917 50293
936 ..... 49376, 50296
944 49542
950 49544

Proposed Rules:
800 50631

31 CFR

Proposed Rules:
357 49412

32 CFR

54 49927
78 49930
828 49688
880 49688

Proposed Rules:
553 50315

33 CFR

110 49843
117 ..... 49550, 50163
165 ..... 49844, 50164
334 50297

Proposed Rules:
66 50179
166 49861
167 49861
209 50316

37 CFR

304 49551

38 CFR

3 50615

Proposed Rules:
19 50632
21 50632–50642

39 CFR

10 ..... 49387, 49689
111 49689

40 CFR

52 49389
180 49690

Proposed Rules:
60 49442
122 49904
124 49904
125 49904
141 49423
166 50643
180 ..... 49705, 50643
271 ..... 49561, 49947, 49949
799 49863

41 CFR

101–40 ..... 49551, 49845

42 CFR

52a 49692
75 50710
405 50165
412 49930
432 49389
433 49389

43 CFR

2740 50298
2910 50298

Public Land Orders:
6610 Corrected by 6611 50165
6611 50165

Proposed Rules:
431 49563

44 CFR

64 ..... 49390, 50617
205 50618

Proposed Rules:
67 49951
205 49959

45 CFR

96 49552
305 49392

46 CFR

308 50165
309 50165

Proposed Rules:
38 49563
151 49563

47 CFR

22 50167
68 49930
73 ..... 49392, 49553
87 49554
97 49555

Proposed Rules:
Ch. I 50316
22 50181
43 49423
64 50182
69 50183
73 ..... 49426–49428, 49565, 49566, 49707, 49863, 50329

48 CFR

514 50169
536 50170
552 50170
701 50301
702 50301
715 50301
728 50301
731 50301
732 50301
737 50301
750 50301
752 50301
753 50301

Proposed Rules:
Ch. 5 50502
31 49662
5242 49819
5252 49819
5350 49708

49 CFR

90 49930
171 49393
173 49849
175 49393
391 49849

Proposed Rules:
171 49866
173 49866
177 49866
178 49866
180 49866
192 ..... 49429, 49575
195 49429
1039 49576

50 CFR

17 ..... 50304, 50726
20 49695
216 49696
611 49852
652 ..... 49852, 49931
663 50309
671 49853
675 49852

Proposed Rules:
14 49709
17 ..... 49868, 49967, 49970, 50646
18 49577
20 49870
80 50185
651 49582
655 50186
663 49590

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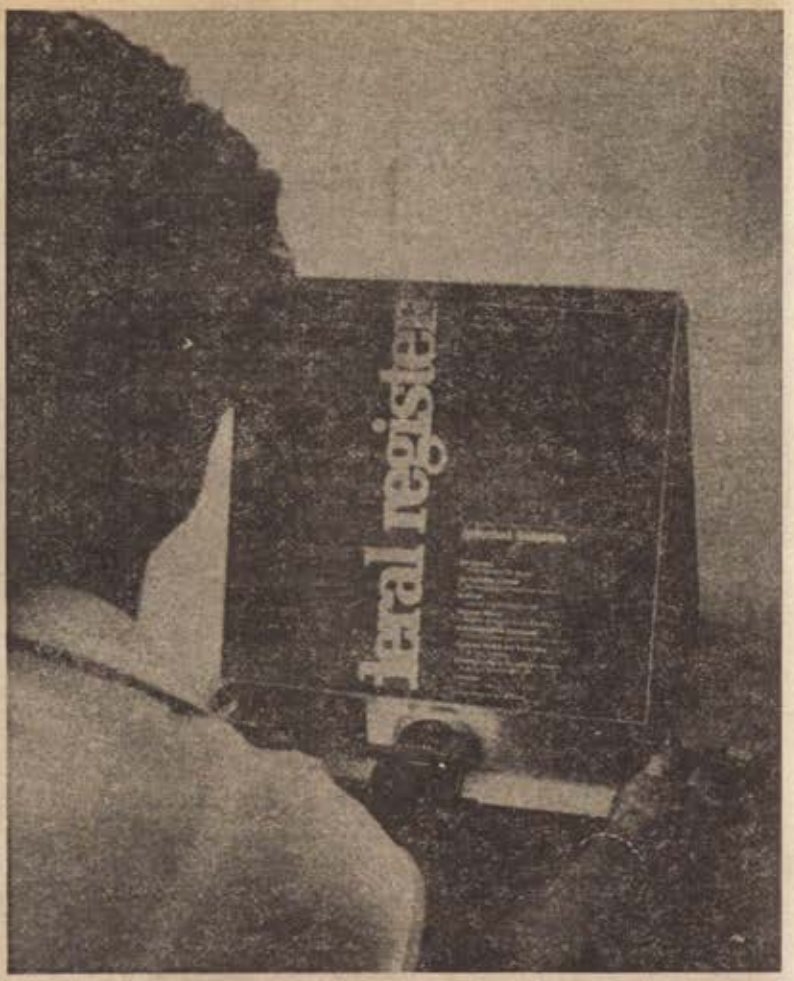

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892

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