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Highlights

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Highlights

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Presidential Documents

Title 3—

The President

Proclamation 4702 of November 12, 1979

Imports of Petroleum and Petroleum Products

By the President of the United States of America

A Proclamation

The Secretary of the Treasury in a memorandum dated November 12, 1979, and the Secretary of Energy in consultation with the Secretaries of State and Defense, have informed me that recent developments in Iran have exacerbated the threat to the national security posed by imports of petroleum and petroleum products. Those developments underscore the threat to our national security which results from our reliance on Iran as a source of crude oil. The Secretaries have recommended that I take steps immediately to eliminate the dependence of the United States on Iran as a source of crude oil.

I agree with these recommendations and that the changes proposed are consistent with the purposes of Proclamation 3279, as amended.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended, (19 U.S.C. 1862) do hereby proclaim that:

Section 1. Section 1 of Proclamation 3279, as amended, is further amended by the addition of a new paragraph (e) to read as follows:

Sec. 1(e). Notwithstanding any other provision of this Proclamation, no crude oil produced in Iran (except crude oil loaded aboard maritime vessels prior to November 13, 1979) or unfinished oil or finished products refined in possessions or free trade zones of the United States from such crude oil, may be entered into the customs territory of the United States.

Sec. 2. Section 11 of Proclamation No. 3279, as amended, is further amended in paragraph (1) to read as follows:

(1) The term "imports", when applied to crude oil other than that produced in Iran, includes both entry for consumption and withdrawal from warehouse for consumption, but excludes unfinished oil and finished products processed in the United States territories and foreign trade zones from crude oil produced in the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, in the year of our Lord nineteen hundred and seventy-nine and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

EDITORIAL NOTE: The President's remarks of Nov. 12, 1979, on oil imports from Iran, are printed in the Weekly Compilation of Presidential Documents (Vol. 15, No. 46).

[FR Doc. 79-35400
Filed 11-13-79; 12:58 pm]
Billing code 3195-01-M

Rules and Regulations

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

CIVIL AERONAUTICS BOARD

14 CFR Part 311

[Reg. PR-216; Amdt. No. 1]

Classification and Declassification of National Security Information and Material

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board amends its recently reissued rule on classification and declassification of national security information and material to incorporate editorial changes requested by the Information Security Oversight Office.

DATES: Effective: December 4, 1979. Adopted: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: James T. McCombs, Office of Administrative Support Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5246.

SUPPLEMENTARY INFORMATION: By PR-203, 44 FR 25627, May 2, 1979, the Board reissued 14 CFR Part 311, *Classification and Declassification of National Security Information and Material,* so that it would conform with the new procedures mandated by Executive Order 12065, 43 FR 28949, June 28, 1978. Shortly after the Board issued that rule, the Information Security Oversight Office, the office resonsible for implementing Executive Order 12065, requested editorial changes in §§ 311.8 and 311.11. This notice adopts the requested amendments. They do not change the substance of those two sections, but only clarify the limitations on declassification of national security information.

The Oversight Office also asked the Board to clarify some statements made in the preamble to PR-203. In the eighth full paragraph at 44 FR 25628, the Board stated that people "may gain access to a classified document in the Board's possession by filing either a Freedom of Information Act (FOIA) request or a request for mandatory review for declassification." The Oversight Office indicated that this may be misleading because one does not necessarily gain access to information merely by filing a request. FOIA requests and requests for mandatory review of the classification of a document could be denied in whole or in part. It is more precise to state that people may request access (rather than "gain access") to a classified document in the Board's possession by filing either an FOIA or a mandatory review request.

Secondly, the Oversight Office indicates that the Executive Order does not, as PR-203 implies, require the issuance of declassification guides. It only requires that there be guidelines governing systematic review of 20-year-old classified information. The Board, however, is issuing instructions to its staff concerning declassification, and that is what was referred to in PR-203.

Finally, the Oversight office objects to the Board's statement concerning documents that were not assigned a declassification date or were assigned one further in the future then now permitted under Executive Order 12065. That statement read that, in such cases, "the derivative document is to be marked with a declassification date 20 years from the date on which the source document was originally classified." It should have read that the "derivative material shall be marked with a date for review for declassification twenty years from the date that the source documents were originally classified."

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 311, *Classification and Declassification of National Security Information and Material,* as follows:

1. Section 311.8 is amended by revising paragraphs (b)(2) and (3) to read:

§ 311.8 Declassification dates on derivative documents.

* * * * *

(b) * * *

(2) If the source has no declassification date or event, or has a date 20 years or more from the date of original classification, the derivative document shall be assigned a date for review for declassification 20 years from the date of original classification of the source information.

(3) If the source contains foreign government information having no date or event for declassification, or has a date 30 years or more from the date of original classification, the derivative document shall be assigned a date for review for declassification 30 years from the date of original classification of the source information.

* * * * *

2. Section 311.11 is amended by revising paragraph (a)(3) to read:

§ 311.11 Board action on declassification requests.

(a) * * *

(3) If the document or any part of it is not released, the Managing Director, consistent with other provisions of law, shall send the declassified portions to the requester along with a brief statement concerning the reasons for the denial, and of the right to appeal that decision to the Board within 60 days.

* * * * *

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Executive Order 12065, 43 FR 28949, June 28, 1978)

Mary M. Schuman,
General Counsel.

[FR Doc. 79-35159 Filed 11-13-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 398

[PSDR-64; Docket 34650; Dated: November 7, 1979]

Guidelines for Individual Determinations of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Request for comments on final rule.

SUMMARY: By PS-89, issued today, the CAB is amending its Guidelines for Individual Determinations of Essential Air Transportation to change the load factor that will be used to determine the capacity that will be guaranteed under the Small Community Air Service Program from 65 percent to 50 percent. The effect of this change is to increase the maximum capacity that will be guaranteed from 60 to 80 seats in each direction from an eligible point. This action is taken on the Board's own initiative as a result of a staff study. In

this proceeding, the CAB invites comments on the rule adopted, with a view to issuing a revised policy statement later if necessary.

DATES: Comments by: January 14, 1980.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: November 26, 1979.

The Docket Section prepares the Service List and sends it to the persons listed on it, who then serve their comments on others on the list.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5408.

(Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35069 Filed 11-13-79; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 398

[Policy Statement Amdt. No. 1 to Part 398; Docket 34650]

Guidelines for Individual Determinations of Essential Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its Guidelines for Individual Determinations of Essential Air Transportation to change the load factor that will be used to determine the capacity guaranteed under the Small Community Air Service Program from 65 percent to 50 percent. The effect of this change is to increase the maximum capacity that will be guaranteed an eligible point from 60 to 80 seats in each direction. This action is taken on the Board's own initiative as a result of a staff study. By PSDR-64, also issued today, the CAB invites comments on this rule with a view to issuing a revised rule later if necessary.

DATES: Effective: November 14, 1979. Adopted: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5408.

SUPPLEMENTARY INFORMATION: On August 31, 1979, we adopted PS-87 (44 FR 52646, September 7, 1979) enacting 14 CFR Part 398, *Guidelines for Individual Determinations of Essential Air Transportation.* This part outlines the policy that we will follow in determining the level of essential air service to be guaranteed communities under the Small Community Air Service Program of section 419 of the Federal Aviation Act. Part 398 addresses essential air service in terms of the following factors: hubs, airports, equipment, frequency of flights, capacity, time of flights and number of stops.

At the time of the adoption of Part 398, we decided to set the total capacity that we would guarantee a point in each direction, inbound and outbound, as the number of seats that would be needed to accommodate the point's average daily enplanements, up to a ceiling of 40 enplanements per day, at 65 percent load factors. We were concerned, however, that requiring a given number of seats based on a 65 percent load factor would not always provide sufficient available capacity. In particular, we recognized that with smaller aircraft or on multi-stop flight itineraries there is a higher potential for turning away prospective passengers during peak travel periods because of the limited number of extra seats above 65 percent of the aircraft's capacity. We noted that we had directed our Office of Economic Analysis (OEA) to undertake an examination of the load factor guidelines and indicated that we would incorporate their findings in our analysis of the capacity required in our individual determinations.

OEA has completed its study [1] showing the probability of obtaining a seat on a given flight for different sizes of aircraft and average load factors. It concluded that when a 65 percent load factor is used for markets served by small aircraft, consumer access to reservations and, in turn, the reliability of the service is dramatically lower than what is experienced in markets served with larger aircraft. OEA suggested that lowering the load factor on which seat capacity is based to 50 percent would achieve a significant increase in access to reservations.

In light of this, we have decided to amend Part 398 to use a 50 percent load factor for determining the capacity that will be required for essential air service rather than the 65 percent level we had adopted. We will continue to guarantee to accommodate up to a maximum of 40 enplanements per day at the eligible point in accordance with our findings in PS-87 that markets with traffic above this level should be capable of attracting air service without our intervention. But by applying a 50 percent load factor, we will now guarantee total seats equal to twice the number of enplanements, up to our ceiling of 40 enplanements. This will increase the maximum capacity that we will guarantee at the eligible point to 80 seats inbound and 80 seats outbound. Based on the evidence in the OEA study, we find that this change is justified to ensure a reasonable quality and reliability of essential service.

In reaching this decision, we considered setting the required capacity by varying load factor levels for different sizes of aircraft that might be operated. For example, we could have set load factor levels so that if aircraft smaller than 10-seat were operated a 40 percent load factor would be used to compute required capacity, for 11-30 seat aircraft a 50 percent load factor would be used, and for aircraft larger than 30 seats a 65 percent load factor would be used. We have decided against such an approach because of the potential problems of such a system. Many carriers are operating several sizes of aircraft and, under a system of varying load factors based on size of aircraft, the computation of required seats and the defining of essential air service capacity would become unnecessarily complex and confusing. Therefore, we have decided to use a general 50 percent load factor that we believe ensures a reasonable availability of seats regardless of the size of aircraft operated.

The use of a 50 percent load factor for computing the total capacity that will be guaranteed the point does not mean that all flights providing essential air service at the point will necessarily have an average on-board load factor of 50 percent. If nonstop, turnaround service between the eligible point and the designated hub were being provided, we would expect that the average load factor on the flights would be approximately 50 percent given the traffic at the point and the capacity we would be requiring. (Traffic growth at the point might result in somewhat higher on-board load factors being experienced.) However, at many eligible points we anticipate that carriers providing essential air transportation will choose to operate flights that serve several points and markets at the same time. In these instances, we would expect on-board load factors greater than 50 percent due to beyond traffic being carried on each sector of the flight.

[1] "Aircraft Size, Load Factor, and On-demand Service." Office of Economic Analysis, Civil Aeronautics Board, September 20, 1979.

In any event, based on the policy we are establishing here, we intend to guarantee that a community has access to aircraft capacity equal to twice its average traffic up to our ceiling level.

In conjunction with this, we indicated in PS–87 our concern about the load factors and availability of seats on flights operated over linear routings where several eligible points are served on the same flight into a hub. For example, on an A–B–C–D routing where A, B, and C are eligible points and D is a common hub, if we were to base the required capacity on a maximum load factor over the most crowded last segment C–D, the carrier might be forced to operate at extremely low load factors over the first and second sectors. On the other hand, if we were to base our requirements on an average load factor over the entire three-sector routing, the load factor on the final sector could greatly exceed our load factor level in our guidelines and point C could be deprived of adequate available capacity to meet its essential air transportation needs.

This potential problem would arise regardless of what load factor we decide to use to compute the required capacity. Moreover, we expect carriers operating over multi-segment itineraries serving several eligible points to allocate seats on their reservation system to each point to ensure that the number of seats designated in our determinations are actually available to the individual communities and that these seats are reasonably divided between all flights serving the points. For example, if we require that 42 seats per day be available into and out of a point based on average enplanements of 21 passengers, we expect the carrier to have 42 seats allocated on its reservation system each day for the point and that seats be available on each flight serving the point. We anticipate that if seats are not available for a community on flights serving it because of traffic in beyond markets filling the plane, the community will apprise us of this situation so that we can take whatever steps are necessary to ensure that the number of seats specified in our determination are being provided to the community. Such steps could include requiring the carrier to operate turnaround service between the eligible point and the designated hub or to increase its frequencies.

Finally, it has come to our attention that at some cities, carriers are unable to utilize all seats on flights operated with certain aircraft because of payload limitations on take-offs and landings. These limitations are due to weather conditions and operating constraints that result from the altitude of the airport. In these instances, the seats that are unavailable for use because of these conditions should not be counted for the purpose of meeting the capacity requirements of our essential air service determinations.

Since this is a statement of general policy and is required to meet the Board's statutory deadline to issue determinations of essential air service, the Board finds that notice and public procedure are impracticable, unnecessary, and contrary to the public interest and that an immediate effective date is in the public interest. We realize, though, that there may be valuable suggestions and views on this policy. By a separate notice also issued today, we are inviting comments on this policy.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 398, *Guidelines for Individual Determinations of Essential Air Transportation*, as follows:

1. In § 398.5, paragraph (a) is amended to read:

§ 398.5 Frequency of flights.

(a) Except in Alaska, it is the policy of the Board to require at least two round-trip flights on each weekday and two round trips over the weekend from the eligible point to the designated hub, unless the point was receiving less than that in 1977 and cannot support such service at 50 percent average load factors.

* * * * *

2. Section 398.6 is amended to read:

§ 398.6 Maximum available capacity to be guaranteed by the Board.

(a) Only under unusual circumstances will an eligible point's essential air service level be fixed at a number of flights that will accommodate more than 80 passengers each day at the point (40 passengers from the eligible point and 40 passengers back to that point). Generally, 80 passengers can be accommodated by guaranteeing 160 available seats each day at the point (80 seats in each direction).

(b) The Board may guarantee an eligible point more than 160 seats each day if:

(1) The number of stops between or beyond the eligible point and the hub results in available aircraft capacity serving at the eligible point being shared with passengers at those intermediate stops or beyond points;

(2) The distance between the eligible point and the designated hub requires the use of large aircraft;

(3) The eligible point is extremely isolated;

(4) The eligible point has suffered an abrupt and significant reduction in its service that warrants a temporary increase in the maximum guaranteed capacity for that point; or

(5) Other unusual circumstances warrant guaranteeing the eligible point more than 160 seats each day.

(c) Eligible points receiving self-sufficient air service will, in the event of service reductions, generally not be guaranteed more than 75 percent of their present level of service to a maximum of 80 available seats each day in each direction (160 seats total).

(Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35091 Filed 11-13-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 281

[Dockets No. RM79-15 and RM79-40]

Interim Rule—Determination of Alternative Fuels for Essential Agricultural Users; Order Denying Rehearing and Denying Motion for Oral Argument

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying applications for rehearing and denying motion for oral argument.

SUMMARY: The Federal Energy Regulatory Commission denies applications for rehearing of (1) a motion by Process Gas Consumers and the Georgia Industrial Group, in Dockets Nos. RM79–15 and RM79–40, to stay issuance of a rule under section 401(b) of the Natural Gas Policy Act and (2) a motion by United Distribution Companies to stay implementation of FERC Order No. 29 (Docket No. RM79–15) and to grant oral argument on its motion.

DATE: The order denying rehearing was issued on November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8432.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Charles B. Curtis, Chairman; Matthew Holden, Jr., and George R. Hall.

In the matter of Final Regulation for the Implementation of Section 401 of the NGPA. Docket No. RM79-15; Interim Rule—Determination of Alternative Fuels for Essential Agricultural Users, Docket No. RM79-40. Order denying rehearing and denying motion for oral argument

Issued: November 1, 1979.

On August 3, 1979, the Process Gas Consumers Group and the Georgia Industrial Group (PGC) joint by filed, in Docket Nos. RM79-15 and RM 79-40, a motion for the immediate issuance of a rule or order under section 401(b) of the Natural Gas Policy Act (NGPA). In the alternative, PGC requested a stay of implementation of the agricultural curtailment priority on both an interim and permanent basis.

On August 24, 1979, United Distribution Companies (UDC) filed, in Docket No. RM79-15, a motion for stay of Order No. 29 and a request for oral argument on its motion.

On October 2, 1979, PGC and UDC each filed applications for rehearing of their respective motions, which they state have been denied by operation of law.

PGC asks that the Commission issue a rule implementing section 401(b) by November 1, 1979, or stay implementation of the agricultural priority beginning on that date until a rule under section 401(b) is adopted. On October 26, 1979, the Commission issued an interim rule under section 401(b) that would exclude certain uses from the agricultural priority by January 1, 1980.[1] Nevertheless, PGC seeks a stay unless an alternative fuel rule is (1) actually implemented by November 1, 1979, and (2) excludes from the agricultural priority those users capable of using middle distillates.

Arguments concerning the need for immediate implementation of a rule under section 401(b) were addressed in the order on rehearing in Docket No. RM79-15. In that order the Commission stated:

> It is the Commission's view that its obligations under the NGPA do not permit any further delay in the final implementation of section 401(a). That section is subject to a statutory deadline. Sections 401(b) and 402 are not. Congress clearly intended that implementation of section 401(a) should be given precedence if similarly expeditious implementation of sections 401(b) and 402 was not possible. Given the different data required for implementing those sections and the need to coordinate rulemaking among the Department of Agriculture (USDA), the Economic Regulatory Administrative (ERA), and the Commission, the simultaneous implementation of all sections of Title IV would be impossible without substantial delay of a final rule under section 401(a).

In this connection, the Commission observes that section 401 does not preclude reclassifying agricultural uses prior to a determination of alternative fuel availability under section 401(b). On the contrary, the curtailment priorities of section 401(a) must apply unless the Commission determines under section 401(b) that alternative fuel is reasonably available and economically practicable [footnote omitted]. The absence of a time limit corresponding to the 120 day limit of section 401(a) also supports this interpretation.[2]

The interim rule issued in Order No. 55 does not find middle distillates to be a reasonably available and economically practicable alternative for most agricultural uses.[3] The reasons for this determination are set forth in the preamble. PGC may find the rule unsatisfactory in this regard, but that in itself does not justify a stay of Order No. 29. If PGC believes that distillate fuel should be deemed reasonably available at present, it is free to seek rehearing of Order No. 55.

Although UDC seeks a stay of Order No. 29 on different grounds than PGC, its application is subject to the same reasons for denial as those that apply to PGC's application. UDC alleges that in Order No. 29 the Commission ruled on a difficult legal question and should therefore grant a stay until a court can rule on its validity. If Order No. 29 is stayed, however, agricultural users will not receive their certified requirements of natural gas during the interim. As already indicated, Congress clearly intended that these requirements be protected from curtailment without delay. Under such circumstances, we cannot agree that the "equities of the case suggest that the status quo should be maintained."[4] On the contrary, whatever public interest considerations would favor a stay are outweighed by the public interest in protecting essential agricultural uses.

UDC's reasons for requesting a stay of Order No. 29 are set forth in detail in its original motion and in its application for rehearing. We do not believe that oral argument will significantly aid the Commission under the present circumstances.

For the reasons set forth above,

The Commission orders:

(A) The applications of PGC and UDC for rehearing are denied.

(B) UDC's motion for oral argument is denied.

By the Commission. Chairman Curtis was present for the quorum and not voting.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35152 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Order No. 55, Docket No. RM79-40 (44 FR 62484, October 31, 1979).

[2] Order No. 29-C, October 22, 1976, at pp. 4-5 (44 FR 61338, October 25, 1979).

[3] However, the rule does exclude from the agricultural priority new boilers (other than turbines and diesels capable of using distillates as the only alternative) with a capacity greater than 300 Mcf per day, even if they are capable of using only distillate fuel as an alternative to gas.

[4] Application of UDC for Rehearing at pp. 3-4, quoting *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559 F. 2d 841, 844 (D.C. Cir. 1977).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-79-736]

Multifamily Housing; Permit To Increase Mortgage Limits Due to Installation of Solar Energy Systems

AGENCY: Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This final rule increases the amount which may be insured for multifamily housing under this part by up to 20 percent to cover costs of purchase and installation of solar energy systems.

EFFECTIVE DATE: December 14, 1979.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. George O. Hipps, Jr., Office of Housing, Multifamily Housing Development, Room 6128, 451 Seventh Street, S.W., Washington, D.C. 20410. (202) 755-5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 248 of the National Energy Conservation Policy Act of 1978 amends section 207(c)(3) of the National Housing Act to permit increased maximum mortgage amounts up to 20 percent higher under section 207 if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system as defined in subparagraph (3) of the last paragraph of section 2(a), as amended, of the Housing Act.

Since these amendments to Part 207 implement statutory requirements which

are beneficial to the public and do not involve the exercise of policy judgment by this Department, the Secretary has determined that advance publication, notice and public procedure would be contrary to the public interest and that good cause exists for making these amendments effective as soon as possible.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 207 is amended as stated below:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

§ 207.4 [Amended]

1. In § 207.4(a), a new subparagraph (3) is added as follows:

(a) * * *

(3) The dollar amount limitations per family unit provided in paragraph (a)(2) of this section may be increased by up to 20 percent if such increase is necessary to account for the cost of the purchase and installation of a solar energy system. Solar energy system means any addition, alteration or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

* * * * *

§ 207.4 [Amended]

2. Section 207.4(b) is revised as follows:

* * * * *

(b) *Increased mortgage amount—elevator type structures.* In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the Commissioner may:

(1) Increase the dollar amount limitations per family unit as provided in paragraph (a)(2) of this section not to exceed:

(i) $22,500 without a bedroom.
(ii) $25,200 with one bedroom.
(iii) $30,900 with two bedrooms.
(iv) $38,700 with three bedrooms.
(v) $43,758 for four or more bedrooms.

(2) Further increase the dollar amount limitation provided in paragraph (b)(1) of this section by up to 20 percent if such increase is necessary to account for the cost of the purchase and installation of a solar energy system as defined in paragraph (a)(3) of this section.

Issued at Washington, D.C., on November 6, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-35007 Filed 11-13-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Record of decision to adopt final rule.

SUMMARY: The Department of Agriculture issued final regulations to guide land and resource management planning in the National Forest System. These rules appeared in the **Federal Register**, 44 FR 53928 of September 17, 1979. The record of Decision, which appears below, documents the selection of the preferred alternative which was discussed and evaluated in the Final Environmental Statement published in the above edition of the **Federal Register**.

DATE: Effective October 29, 1979.

ADDRESS: A copy of the final rules and this record of decision may be obtained from: Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202–447–6697.

Record of Decision

The Final Environmental Impact Statement (FEIS) analyzes alternative regulations for National Forest System Land and Resource Management Planning. Based on the analysis, it is my decision to adopt Alternative No. 8, the Preferred Alternative, as the Regulations for National Forest System Land and Resource Management Planning. This alternative, similar to the Draft Environmental Impact Statement (DEIS) Preferred Alternative, also reflects public comment. Factors which weighed heavily in its selection are that these regulations (1) substantially reflect recommendations by the Committee of Scientists; (2) contain specific language to direct the land management planning process, yet provide for adequate managerial discretion; and (3) provide a high degree of environmental protection while permitting resource development and use.

The FEIS and the regulations were printed in the **Federal Register**, 44 FR 53928 dated September 17, 1979.

The National Forest Management Act has directed the development of the regulations by identifying standards and guidelines to be addressed and by establishing a Committee of Scientists to review and advise on this effort. The Act reduced the range of alternatives available for development of the regulations. Nevertheless, alternatives of terminology, planning processes, regulation language, etc., have been developed through extensive public involvement, by the Committee of Scientists, and evaluated during this process, including preparation of the FEIS.

Implementation of the regulations may take place with publication of this Record of Decision. Questions regarding the Final Environmental Statement should be sent to the USDA, Forest Service, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, (202) 447–6697.

Dated: November 5, 1979.

Jim Williams,

Acting Secretary.

[FR Doc. 79-34970 Filed 11-13-79; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

41 CFR Part 15-7

[FRL 1237-4]

Environmental Protection Agency Procurement Regulations; Fair Labor Standards Act and Service Contract Act Price Adjustments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule adds a new clause to be used when applicable. The objective of the clause entitled "Fair Labor Standards Act and Service Contract Act—Price Adjustments:" is to

reduce financial losses by contractors and provide economies to the Government where contracts subject to the Service Contract Act of 1965, as amended, are impacted by wage and fringe benefits determination of the Department of Labor. The clause "Fair Labor Standards Act and Service Contract Act—Price Adjustments." is adopted from the Armed Services procurement regulation.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: John Comstock, Contracts Policy and Review Branch (PM–214), Environmental Protection Agency, Washington, D.C. 20460, (202) 755–0900.

SUPPLEMENTARY INFORMATION: It is the general policy of the Environmental Protection Agency to provide time for interested persons to participate in the rulemaking process. This rule implements the requirements of 41 CFR Chapter 1 concerning contract clause, and because it is administrative in nature, the public rulemaking process is waived in this instance and the rule stated herein is effective immediately.

(5 U.S.C 301; 40 U.S.C. 486(c))

Dated: November 5, 1979.

C. W. Carter,

Acting Assistant Administrator for Planning and Management (PM–208).

1. Table of contents for Part 15–7 is amended to include the following:

Subpart 15–7.1—Fixed-Price Supply Contracts

* * * * *

Sec.

15.7.150–5 Fair Labor Standards Act and Service Contract Act—Price Adjustments

* * * * *

2. Section 15–7.150 is amended to include the following:

§ 15–7.150 Required clauses for use in fixed-price service contracts.

* * * * *

§ 15–7.150–5 Fair Labor Standards Act and Service Contract Act—Price adjustments.

Insert the following clause only in service contracts other than Research and Development.

Fair Labor Standards Act and Service Contract Act—Price Adjustments

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits, issued pursuant to the Service Contract Act of 1965, as amended (41 U.S.C. 351–357) by the Office of Special Wage Standards, Employment Standards Administration (ESA), Department of Labor, current at the beginning of each renewal option period shall apply to any renewal of this contract. When no such determination has been made as applied to this contract, then the Federal minimum wage as established by Section 6(a)(1) of the Fair Labor Standards Act, as amended, current at the beginning of each renewal option period, shall apply to any renewal of this contract.

(c) When, as a result of (i) the Department of Labor determination of minimum prevailing wages and fringe benefits applicable at the beginning of the renewal option period, or (ii) an increased or decreased wage determination otherwise applied to the contract by operation of law, or (iii) an amendment to the Fair Labor Standards Act enacted subsequent to award of this contract, affecting the minimum wage, which becomes applicable to this contract under law, the Contractor increases or decreases wages or fringe benefits of employees working on this contract to comply therewith, the contract price or contract unit price labor rates will, subject to compliance with the provisions of 31 U.S.C. 665, be adjusted to reflect such increases or decreases. Any such adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the concomitant increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profits.

(d) The Contractor shall notify the Contracting Officer of any increases claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. In the case of any decrease under this clause, the Contractor shall promptly notify the Contracting Officer of such decrease but noting herein shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof, which may reasonably be required by the Contracting Officer. Subject to compliance with the provisions of 31 U.S.C. 665, the contract price or contract unit price labor rates shall be modified in writing. Pending agreement on or determination of, any such adjustment and its effective date, the Contractor shall continue performance.

(e) The Contracting Officer or his authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor.

* * * * *

[FR Doc. 79–35045 Filed 11–13–79; 8:45 am]

BILLING CODE 6560–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1047

[MC–C–3437 (Sub–8)]

Specified Air Terminal Zones

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this document expand the air terminal zones at three specified airport facilities to allow exempt motor carrier operations [conducted pursuant to the "incidental to transportation by aircraft" exemption set forth in section 10526(a)(8) of the Interstate Commerce Act] to be performed at certain specified points previously named in air cargo pickup and delivery tariffs which were properly filed with the Civil Aeronautics Board, but which were outside the geographical scope of the zones as previously defined in 49 CFR 1047.40.

EFFECTIVE DATE: December 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald J. Shaw, Jr., 202–275–7292
or
Frederick Stocker, 202–633–6982

SUPPLEMENTARY INFORMATION: Our recent decision in *Motor Transportation of Property Incidental to Transportation by Aircraft*, 131 M.C.C. 87 (1978), 44 FR 3955, adopted regulations (effective June 26, 1979) which redefined and generally expanded air terminal zones [the areas within which certain motor carrier transportation of property is incidental to transportation by aircraft, and, therefore, within the ambit of the partial exemption from economic regulation set forth in 49 U.S.C. 10526(a)(8)]. The air terminal zone at any particular airport was defined as extending 35 miles from the boundary of the pertinent airport, as well as a geographical area within 35 miles of the corporate limits of any municipality, any part of whose commercial zone falls within 35 miles of the boundary of the pertinent airport.

In our decision, we noted the possibility that our action would reduce the size of the terminal areas of air carriers at certain points, because certain air carriers may have had tariffs on file with the Civil Aeronautics Board (CAB) which provided for motor carrier pickup and delivery service at points beyond the scope of the air terminals as defined in the new rules. This possibility was considered to be remote in light of the significant expansion of the air terminal areas accomplished by the new rules. As we indicated in our notice of proposed rulemaking in this proceeding,

however, it came to our attention that the possibility we perceived is, in fact, a reality.

In our opinion, equity dictates that those points which were properly listed in pickup and delivery tariffs should be included in the exempt zones of the airports through which the air freight traffic from and to the points has previously moved. As we have stated previously, we believe that shippers and receivers of air freight should not be deprived of a service upon which they have come to rely. Consequently, this proceeding was instituted to provide an appropriate and expeditious method of addressing this problem. We indicated in our notice that we envisioned promulgating a rule which states that in addition to operations conducted within a particular airport's exempt zone, as defined in 49 CFR 1047.40(a)(4), the motor carrier transportation of air cargo moving through that airport, to or from named points, is also exempt, provided that the specifics of subsection (a) parts (1), (2), and (3) of that rule are met. The new rule, identifying the concerned airports and points, would be listed as an exception to the pertinent air terminal zone regulations and labeled 49 CFR 1047.40(b)(1). Those parts of subsection (b) of the present regulations labeled (1) and (2) would be renumbered parts (2) and (3).

Only four parties (Airborne Freight Corporation, CF Air Freight, Inc., Emery Air Freight Corporation, and Federal Express Corporation) have filed pleadings in this proceeding, and they identified a sum total of 10 points which were named in air cargo pickup and delivery tariffs which were properly filed with the CAB, but which are outside the scope of the new exempt zones. As required by our notice of proposed rulemaking [44 FR 42737, July 20, 1979], the parties specified the airport facilities through which the air freight traffic from and to these points moves.[1]

Several parties suggest the possibility that not all of the points which were named in pickup and delivery tariffs which were properly filed with the CAB, but which are outside the scope of the new exempt zones, have been identified in this proceeding. In recognition of this possibility, Emergy Air Freight proposes, as an alternative to promulgating a regulation which names specific points served over particular airports:

> That the best course of action permitting air carriers and shippers to retain the benefit of exemptions which have been effective pursuant to CAB regulations, tariffs, and Commission regulations would be to provide in the Commission's current regulations that any exemption pursuant to effective tariffs which had been filed with the CAB prior to May 1, 1979, would continue to apply under the Commission's current regulations.

Similarly, Federal Express made the following general comments:

> 1. An applicant seeking extension on the ground of a prior-existing CAB tariff should be able to rely on points listed in previously-filed tariffs of any direct or indirect air carrier. This would be consistent with the past practice, for example, of allowing CAB-exempt air-taxi operators to conduct pickup and delivery functions at any point listed in any tariff properly filed with the CAB; and with the provision of 1047.40(b)(1), which allows an application to be filed by any person.
>
> 2. The availability of an expansion based on previously-filed CAB tariffs should not be limited to this rulemaking proceeding. In this regard, the general evidentiary requirements of the Commission pertinent to this rulemaking should be retained for future similar petitions.

We reiterate our opinion that equity dictates that those points which were properly listed in pickup and delivery tariffs should be included in the exempt zones of the airports over which the air freight traffic from and to the points has previously moved. This opinion has been reinforced by the fact that no public objection to the action proposed in this proceeding has been forthcoming.

We note, however, that we still believe it is preferable to promulgate a regulation here along the lines proposed in our notice of proposed rulemaking; that is, specifically identifying points located outside the geographical scope of the air terminal zone surrounding a particular airport, which may be served through that facility pursuant to the incidental-to-air exemption. Our recently adopted regulations which greatly expanded air terminal exempt zones are framed to depict such zones as a geographical area indigenous to a particular airport facility. Prior to adoption of the new regulations, the scope of the exemption was determined on the basis of each air carrier's tariff filings. Consequently, different air carriers could have had terminal areas of varying size at the same airport. We believe that the method we suggested for including the identified points within the air terminal exempt zone of the airport facility through which they are served is more in keeping with the concept that the zone is indigenous to each particular airport.

Moreover, we stated in our decision in the *Air Terminal* case, *supra* at 97, our belief that, in the interest of clearing up any uncertainty surrounding the status of the concerned exemption, this Commission's regulations should set forth the exact scope of the exemption. Consequently, we deemed it appropriate to delete from our regulations all reference to, and dependence on, other regulatory entities. In the circumstances, we believe that it would be inappropriate to adopt a regulation here which would require a person to refer to tariffs which had been properly filed with the CAB to determine the scope of the incidental-to-air exemption. In the future, any person wishing to avail himself of this exemption will be able to determine its exact scope solely by reference to our pertinent regulations.

Our decision in the *Air Terminal* case, *supra*, also provided that anyone seeking an expansion of an air terminal area at a particular airport should use the special procedure for individual determination of exempt zones provided for in the new rules set forth in 49 CFR 1047.40(b)(1) [when the rules promulgated in this proceeding become effective, this special procedure will be set forth in 49 CFR 1047.40(b)(2)]. We required that, in petitions seeking individual determinations, interested people should present evidence clearly identifying the location(s) they seek to have included in a particular exempt zone, and setting forth economic data and other supportive facts. Importantly, we also noted that, in proceedings instituted under these special procedures, equitable consideration would be afforded evidence that the concerned location was included at one time in a pickup and delivery tariff properly filed with the CAB. Nothing in this proceeding precludes future expansion of a particular exempt zone. Any interested person can file an appropriate petition to accomplish this result, and equitable consideration will still be afforded evidence that the concerned location was included at one time in a pickup and delivery tariff properly filed with the CAB.

One final point requires comment. As detailed in the *Air Terminal* case, *supra* at 98, we do not believe that the expansion of air terminal zones has had a significant impact on the quality of the human environment. Correspondingly, the minor expansion of specified zones to include that 10 points identified in this proceeding does not alter our environmental conclusion—particularly in light of the fact that these points have

[1] The 10 identified points are Carpenteria, Goleta, Hope Ranch, Montecito, Santa Barbara, and Summerland, CA, served through Los Angeles International Airport; Ormond Beach and Palm Bay, FL, served through the airport facilities of McCoy Air Force Base; and Mount Morris and Pecatonica, IL, served through Chicago O'Hare International Airport.

been served previously by motor carriers conducting exempt operations in conformance with our prior interpretation of the involved exemption.

Final Rules

§ 1047.40 [Amended]

49 C.F.R. 1047.40 is amended by making the changes set forth below:

1. Redesignate present paragraphs (b)(1) and (b)(2) as (b)(2) and (b)(3), respectively.

2. Add new paragraph (b)(1) to read as follows:

§ 1047.40 Motor transportation of property incidental to transportation by aircraft.

* * * * *

(1) In addition to transportation taking place in a geographical zone as described in paragraph (a)(4) above, the motor carrier transportation of property incidental to transportation by aircraft from and to the airport facilities and points specified below is also partially exempt from regulation, provided all other specific requirements of paragraphs (a) (1), (2), and (3) are met:

(i) From and to Los Angeles International Airport and Carpenteria, Goleta, Hope Ranch, Montecito, Santa Barbara, and Summerland, CA; (ii) From and to McCoy Air Force Base and Ormond Beach and Palm Bay, FL; and (iii) From and to Chicago O'Hare International Airport and Mount Morris and Pecatonica, IL.

* * * * *

These final rules are issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: October 16, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Vice Chairman Stafford was absent and did not participate in the disposition of this proceeding. Commissioners Gaskins and Alexis dissenting.

Agatha L. Mergenovich,

Secretary.

Commissioner Gaskins, dissenting:

Since the decision makes clear that (1) equity requires that we include within this exemption all points properly filed with the CAB, (2) we believe there may be such points not yet identified, and (3) the parties commenting request us to hold open the door for bringing such points under the exemption, I see no reason to rule out accepting additional points under this exemption.

Commissioner Alexis, dissenting:

I vote to reject the draft decision because some points entitled to the exemption may not be identified at this time. I agree that tariffs on file with the CAB should continue to be exempt. However, I reject Emory Air Freight's proposal because I believe the better proposal would allow any point which meets the Commission's criteria and is filed with it to be covered by the regulations.

[FR Doc. 79-34998 Filed 11-13-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Recording of Salmon and Halibut

AGENCY: National Oceanic and Atmospheric Administration (NOAA/Commerce).

ACTION: Final regulations.

SUMMARY: Final regulations are promulgated to require the operator of a foreign vessel in the Gulf of Alaska groundfish fishery or the Bering Sea and Aleutian Islands fishery to record and report the numbers of salmon and halibut discarded.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harry L. Reitze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION: Effective management of the fishery resources in the fishery conservation zone off the Alaskan and west coasts requires timely knowledge of both directed and incidental catches of salmon and halibut. The operator of a foreign vessel may not conduct a directed fishery for salmon or halibut and must discard all salmon and halibut caught incidental to other fisheries. The operator of a foreign vessel operating in the Washington, Oregon, and California trawl fishery is required to record and report discards of salmon and halibut. No such requirement has been imposed in the Gulf of Alaska groundfish fishery or the Bering Sea and Aleutian Islands fishery. The Assistant Administrator has found that timely data on salmon and halibut discards are necessary for proper management of the fisheries resources in these additional fisheries. Proposed amendments to the foreign fishing regulations which would require the recording and reporting of salmon and halibut discards by foreign vessels in the Gulf of Alaska groundfish fishery and the Bering Sea and Aleutian Islands fishery, as required in Washington, Oregon, and California trawl fishery were published on July 6, 1979, in 44 FR 39564. No comments were received within the comment period on the proposed regulations. Accordingly, these amendments to the foreign fishing regulations are finalized.

The Assistant Administrator for Fisheries has determined that these regulations are not significant under Executive Order 12044. Environmental impact statements for the fishery management plans concerned are on file with the Environmental Protection Agency.

The Assistant Administrator also finds that the 30-day cooling-off period required under the Administrative Procedure Act is unnecessary because reporting timely data on salmon and halibut discards will lead to better management of these species.

Signed in Washington, D.C., this day the 6th day of October, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

PART 611—FOREIGN FISHING

1. 50 CFR 611.9(d)(4) and (e)(1) are amended as follows:

§ 611.9 Reports and record keeping.

* * * * *

(d) * * *

(4) In the Washington, Oregon, and California trawl fishery, the Gulf of Alaska groundfish fishery, and the Bering Sea and Aleutian Islands fishery, record in addition to allocated species, the prohibited species salmon (species code 210) and halibut (species code 722) which are discarded, in terms of the number of fish.

(e) * * *

(1) Each foreign nation shall submit, through the designated representative, a weekly report stating, on a vessel-by-vessel basis, except as otherwise provided in § 611.90(e)(2), the catch in round weight of the species allocated to that nation, for the weekly period Sunday through Saturday, Greenwich mean time. In the Washington, Oregon, and California trawl fishery, the Gulf of Alaska groundfish fishery, and the Bering Sea and Aleutian Islands fishery, in addition to allocated species, catch of salmon and halibut in number of fish shall be reported.

* * * * *

2. 50 CFR 611.9, Appendix IV, sections A.7 and A.8 are amended as follows:

Appendix IV [Amended]

Appendix IV—Weekly Catch Report

A. * * *

7. Species: Enter the code from Appendix I for each allocated species caught during the reporting period. In addition, in the Washington, Oregon, and California trawl fishery, the Gulf or Alaska goundfish fishery, and the Bering Sea and Aleutian Islands fishery enter the species code 210 for salmon and the species code 722 for halibut.

8. Catch: Enter the round weight, to the nearest tenth of a metric ton (0.1 m.t.). by species and area, of allocated species caught during the reporting period, regardless of whether retained or discarded. In addition, in the Washington, Oregon, and California trawl fishery, the Gulf of Alaska groundfish fishery, and the Bering Sea and Aleutian Islands fishery, for salmon and halibut enter number of fish discarded.

[FR Doc. 79-35148 Filed 11-13-79; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 221
Wednesday, November 14, 1979

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of onions grown in designated counties in South Texas to be inspected and meet minimum size and quality requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due January 14, 1980.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulate the handling of onions grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon recommendations made by the committee at its public meeting in Laredo, Texas, on October 17, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1980 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 3, 1980.

The proposed grade and size requirements are similar to last season's and are designed to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export could be shipped from March 3 through May 10, 1980. Again this season in order to provide more orderly marketing from all districts, the inspection and container requirements would be extended through June 14, 1980.

The container requirements would prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, they would not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is intended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. Again this season handlers would be permitted, with the approval of the committee, to grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This should prevent handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 110 pounds of onions could be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The requirements with respect to special purpose shipments would allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and would encourage exports by allowing the use of containers required for such purposes. Onions for canning and freezing are exempt under the legislative authority for this part. Shipments for relief or charity would be exempt since no useful purpose would be served by regulating such shipments.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." A Draft Impact Analysis is available from D. S. Kuryloski (202) 447–6393.

7 CFR Part 959 would be amended by adding a new § 959.320.

§ 959.320 Handling regulation.

During the period March 3 through June 14, 1980, no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on May 10, 1980.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f), only the following containers may be used:

(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with outside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e) or (f)(1) of this section, unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document is surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessments on all assessable onion according to the provisions of § 959.220.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) of this section shall not be applicable to shipments of onions for charity, relief, canning and freezing if handled in accordance with paragraph (g) of this section.

(2) Onions may be packed in 50-pound cartons or in 2, 3 or 5 pound containers customarily used for the retail trade. Such shipments shall be exempt from paragraph (c) of this section but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section.

(i) Shipments of such containers shall not exceed 10 percent of a handler's total weekly onion shipments.

(ii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iii) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(3) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches × 37½ inches ×36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 40-pound cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed ten percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section. The receiver shall furnish the committee with a report on the arrival condition of each shipment.

(ii) Upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section.

(4) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages and ships onions for export on any Sunday, such handler shall on the first weekday following shipment, cease all grading, packaging and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(5) *Onions failing to meet requirements:* Onions failing to meet the grade, size and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons or 2, 3 or 5 pound containers customarily packed for the retail trade shall:

(1) Apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(h) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 2851.2830–2851.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(i) *Applicability to imports.* Onions imported during the period March 24 through May 10, 1980, will be in most direct competition with onions produced in South Texas and regulated under Marketing Order No. 959, as amended. Therefore, under Section 8e of the act and § 980.117 "Import Regulations" (43 FR 5499) such imported onions shall have not more than 20 percent defects of U.S. No. 1 grade and be at least 1 inch in diameter for white varieties and at least 1¾ inches in diameter for all other varieties. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerance in the U.S. Grade Standards shall apply to in-grade lots.

Dated: November 8, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-35120 Filed 11-13-79; 8:45 am]

BILLING CODE: 3410-02-M

7 CFR Part 1049

[Docket No. A0-319-A30]

Milk in the Indiana Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision changes the present order provisions based on proposals by three cooperative associations that were considered at a public hearing held July 24, 1979. The amendments would increase the funding rate of the Advertising and Promotion program of the order and would tie such rate to the level of the blend price to producers. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued July 6, 1979, published July 11, 1979 (44 FR 40520).

Recommended decision: Issued September 13, 1979, published September 19, 1979 (44 FR 54303).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Indiana marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Indianapolis, Indiana, on July 24, 1979, pursuant to notice thereof issued on July 6, 1979 (44 FR 40520).

Upon the basis of the evidence introduced at the hearing and the record thereto, the Deputy Administrator, Marketing Program Operations, on September 13, 1979, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issued, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

In the issue "Funding rate for the Advertising and Promotion program," four new paragraphs are added at the end of the issue.

The material issues on the record of the hearing relate to the funding rate of the Advertising and Promotion program of the order.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Funding rate for the Advertising and Promotion Program. The funding rate for the Advertising and Promotion Program should be modified by changing the present 5-cent per hundredweight rate to a rate determined yearly by multiplying the simple average of the monthly "weighted average prices" applicable during the last quarter of the preceding calendar year by 0.75 percent. The new rate would become effective on April 1 of each year.

Under the revised funding formula, a simple average of the "weighted average prices" for the last quarter of the calendar year would be computed by the market administrator as soon as possible after the end of that year. This average price would be multiplied by 0.75 percent and rounded to the nearest whole cent to determine the actual rate of assessment to be effective on the following April 1. As soon as possible after the rate of withholding is computed, the market administrator would notify in writing all producers currently on the market and any new producer who enters the market of the new withholding rate. Such notification would be repeated annually thereafter only if the withholding rate changed from the previous period. Beginning March 1, producers would have the option of requesting a refund of the money withheld just as they do presently. The order currently provides that producers may request refunds within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, and these provisions would be continued.

The Advertising and Promotion Program was established under the Indiana order effective October 1, 1972. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the uniform price and is turned over to an agency composed of producer representatives who are chosen each year. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a non-brand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, has the option of requesting a refund of the money withheld from payments due the producer.

An increase in the funding rate was requested by three cooperative associations whose members comprise about 90 percent of the producers supplying the market. The cooperatives' spokesman testified that the costs of operating the agency had increased substantially since the program was initiated while revenue to support the program had not kept pace. It was for this reason that the cooperatives proposed that the revenue for funding the program be fixed as a percentage of the producers' weighted average prices in order to keep pace with the current and prospective inflationary direction of the national economy.

The proposal was supported by a fourth cooperative association through a spokesman affiliated with one of the proponents.

A representative of the United Dairy Industry Association presented data in support of the cooperatives' position that additional funds are needed by the agency. The data established that the cost of advertising by the various media in the Indiana area since 1974 has increased by at least 25 percent. In some instances, advertising costs have increased by 150 percent.

The proposed increase in the funding rate is warranted considering the increased costs for advertising that have occurred since the program was established for the Indiana order. The greatest increase in the cost of advertisIng has occurred in local television, which according to the advertising spokesman, is a preferred advertising outlet. In terms of a dollar's worth of advertising in 1974, television advertising currently costs $2.51. The cost of radio advertising also has increased but not to the same extent as television advertising. One dollar's worth of radio time in 1974 now costs $1.23.

If the proposed funding rate were now in effect, the assessment for the period

April 1979 through March 1980 should be 8 cents per hundredweight. This is based on an average weighted average price of $11.18 for the last quarter of 1978. On the basis of the upward trend in weighted average prices for the months of January through June of 1979, it appears likely that the funding rate for the period from April 1980 through March 1981 would be 9 cents per hundredweight.

The proposed rate as a percent of the weighted average price is in line with the rate at which producers originally funded the program. In 1972 when the advertising and promotion program was adopted for the Indiana order, the 5-cent rate was equal to .83 percent of the weighted average price for the year. While the .75 percent rate adopted herein will not generate funds equivalent in purchasing power to the initial funding of the program, the higher rate nevertheless will aid considerably in maintaining the advertising and promotion thrust initially contemplated by producers.

A minor change should be made in the refund procedure with respect to producers who have transferred to the Indiana market from another Federal order market with an Advertising and Promotion Program. Presently, a producer who has elected not to participate in the Advertising and Promotion Program of another order must, upon becoming a producer under the Indiana order, refile such request with the Indiana market administrator for a refund of the money withheld for the Advertising and Promotion Program under the Indiana order. As proposed by cooperatives, this should be changed so that the Indiana market administrator with respect to the producer's marketings of milk under the Indiana order would recognize the producer's request for refund of program assessments under the other order during the current quarter. This will eliminate the necessity for a producer who happens, during the middle of a quarter, to transfer to the Indiana market from another Federal order market with an Advertising and Promotion Program to file twice in the same quarter for such refund.

A further modification of the refund procedures was proposed by a spokesman for a cooperative association. The witness stated that a producer who does not wish to participate in the Advertising and Promotion program should be able to obtain a refund in any month by filing a request with the market administrator during the first fifteen days of any month. The spokesman stated that the refund request should then apply to the remainder of the calendar year unless the producer rescinds the request.

Under the proposed modification, a refund request would be renewable on an annual basis in the same manner as described previously. The spokesman stated that for a new producer a refund request could be filed at any time during the month. Thereafter, a request could be filed only during the first 15 days of the month.

The proposed modification provided also that a producer would be paid the refund on or before the twentieth day of the second month following the month for which deductions were made.

The spokesman who testified for the proposed modification stated that the present refund provisions are unreasonably complex and burdensome. However, he did not elaborate in any way that would demonstrate that this is in fact the case and that some different refund procedure was warranted. Moreover, there is no evidence that producers in general who are receiving refunds under the program are dissatisfied with the present refund procedures. The spokesman for the cooperative proposing the modification stated that he represented only a very few of the producers supplying the market. It is therefore concluded that the current record does not provide an adequate basis for making the changes proposed.

Changes have been made in the order to recognize that the current references in several provisions to "weighted average price plus 5 cents" will no longer be appropriate. In implementing the revised funding rate for the Advertising and Promotion program, the order has been modified so that the weighted average price would be computed without deducting the amount of money to be withheld for such program. Accordingly, the current references to "weighted average price plus 5 cents" are changed to read "weighted average price." Under the adopted changes, the uniform price computation will continue, however, to reflect the deduction applicable for funding the Advertising and Promotion program.

The changes adopted herein should be implemented in two steps. It is preferable from an operational standpoint that the change in the funding rate become effective at the beginning of a calendar quarter. At this stage of the proceeding, it appears that the rate change might be made effective on April 1, 1980. The order provides, however, that producers who desire not to participate in the program during the April-June quarter must submit their refund requests during the period March 1 through March 15. Therefore, the provisions directing the market administrator to compute the funding rate and to notify producers of the new rate should be made effective prior to March 1, 1980. In this way, producers would be aware of the forthcoming rate change when deciding whether or not they want to participate in the program during the following calendar quarter.

The record established that agency representation is organized annually in August on the basis of a referendum held in July. Present order language requires a referendum within 30 days after an amendment of the Advertising and Promotion program. That language was provided at the outset of the program. There is no reason why the agency should be reformed within 30 days after the adoption of the amendments provided herein if the effective date of these amendments is April 1, 1980. It is provided herein that a referendum for organizing the agency shall continue to be conducted in July of each year.

Three comments were received in response to the recommended decision. One expressed satisfaction at the Department's expeditious handling of the decision. The other two were filed as exceptions to the decision.

An exception filed by an Indian dairy farmer stated that he did not want to participate in the Advertising and Promotion program. As indicated previously, the program is entirely voluntary, and any producer who does not wish to participate is entitled to have the applicable deductions refunded as provided by the order. Since the exception was not addressed to the funding rate issues that were considered at the hearing, no change from the recommended decision would be appropriate on the basis of the exception.

Another dairy farmer took exception to the fact that the advertising and promotion deduction is not indicated on the check a producer receives in payment for milk supplied to the market. This results because the advertising and promotion deduction is made in computing the blend price for the market. Authorized deductions from the blend price would be so indicated. There was no proposal submitted for the hearing, either from the dairy farmer who submitted the exception or from other persons, to change the present method of computing the blend price, including deductions for advertising. Neither was there any testimony offered at the hearing in this connection. Accordingly, no change from the recommended decision would be

appropriate on the basis of the exception.

The dairy farmer also took exception to the recommended decision because it did not adopt a provision whereby a dairy farmer could request quarterly refunds once a year and not have to file for such refund every quarter as the order now provides. As indicated in the recommended decision, there was not evidence introduced at the hearing that producers in general who are receiving refunds under the program are dissatisfied with the present refund procedures. The fact that only one exception was received in connection with this matter reinforces the conclusion of the decision that the current record does not provide an adequate basis for making the changes proposed. The exception, therefore, is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Indiana marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1979 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Indiana marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Note.—This final decision has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on November 7, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

Order[1] amending the order, regulating the handling of milk in the Indiana marketing area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indiana marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *eq seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on September 13, 1979 and published in the Federal Register on September 19, 1979 (44 FR 54303) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. In § 1049.61, paragraphs (c) through (h) and (j) are revised and new paragraphs (k) and (l) are added to read as follows:

§ 1049.61 Computation of uniform price (including weighted average price).

* * * * *

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price";

(f) For the months of January through March and August, subtract from the weighted average price computed in paragraph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e). The result shall be the "uniform price" for the applicable month;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer-settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (i) of this section;

* * * * *

(j) Divide the resulting sum by the hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1049.71 [Amended]

2. In § 1049.71(a)(2)(ii) the words "plus 5 cents" are deleted.

3. Section 1049.75 is revised to read as follows:

§ 1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a), except that the adjusted uniform price plus the withholding rate for the Advertising and Promotion program computed in § 1049.121(e), and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(i) shall be not less than the Class III price for the month.

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1049.76 [Amended]

4. In § 1049.76(a)(4), the words "plus 5 cents" are deleted.

(5) In § 1049.113, paragraph (c)(1) is revised to read as follows:

§ 1049.113 Selection of Agency members.

* * * * *

(c) * * *

(1) In June of each year the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

* * * * *

6. In § 1049.120, paragraphs (b) and (c) are revised and a new paragraph (d) is added to read as follows:

§ 1049.120 Procedure for requesting refunds.

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July and October, respectively.

(c) Except as provided in paragraph (d) of this section, a dairy farmer who first acquires producer status under this part after the 15th day of December, March, June or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1049.121(b).

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed a request for the refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible on the basis of his request filed under the other order for a similar refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1049.121(b).

7. Section 1049.121 is revised to read as follows:

§ 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) In July of each year, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c).

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§ § 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

[FR Doc. 79-35150 Filed 11-13-79; 8:45 am]

BILLING CODE 3410-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM-51-5]

Commitment of Economic Resources Necessitated by Nuclear Waste Management Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of Petition for Rule Making from the States of New York, Ohio, and Wisconsin.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment as a petition for rule making a motion filed before the Commission by the States of New York, Ohio, and Wisconsin, on December 15, 1978, in Docket No. RM 50-3, Amendment of 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection; Uranium Fuel Cycle Impacts from Spent Fuel Reprocessing and Radioactive Waste Management." The petition requests that 10 CFR 51.20(e), Table S-3 be amended to include dollar value impacts to account for the commitment of economic resources necessitated by the various nuclear waste management activities involved in the uranium fuel cycle. The amendment as proposed by the petitioners is in the form of an addition to Table S-3.

On July 27, 1979, the Nuclear Regulatory Commission concluded the rule making proceeding in Docket No. RM-50-3 by approving as a final rule "Table 3", which identifies the environmental impact values for the uranium fuel cycle which are to be included in environmental impact statements for individual light water nuclear power reactors.

The Commission stated in its Statement of Consideration accompanying the final rule that dollar value impacts were outside the scope of S-3 but might be dealt with in a later generic rulemaking. Accordingly, the Commission referred the motion to the staff for treatment as a petition for rulemaking. (See 44 FR 45362, 45367, footnote 17, dated August 2, 1979)

DATE: Comment period expires January 14, 1980.

ADDRESSES: A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: In their motion the petitioners state that although Table S-3 summarizes the environmental costs committed as a result of the fuel cycle, including those resulting from reprocessing and waste management,

> * * * the Table does not state how many dollars will be used or irretrievably committed as a result of reactor operation and the fuel cycle activities, such as waste management, which are crucial to the protection of man and his environment.

The petitioners state that some of the specific activities in the fuel reprocessing and waste management categories which entail significant costs include:

(1) low level waste burial and long term operation of sites;

(2) retrievable spent fuel surface storage facility operations and facility decontamination and decommissioning;

(3) operations of federal repositories for (a) disposal and management of high level wastes from fuel reprocessing and/or; (b) disposal and management of spent fuel;

(4) fuel reprocessing operations and facility decontamination and decommissioning;

(5) reactor operation and reactor decontamination and decommissioning;

(6) governmental monitoring, surveillance, emergency preparedness, technological research and development for waste management and fuel reprocessing.

The petitioners state further that:

> * * * the assessment and inclusion of these costs in Table S-3 are fundamental to compliance with the National Environmental Policy Act * * * and essential to an accurate balancing of costs and benefits by the Commission as mandated in 10 CFR 51.20(b).

The petitioners propose that Table S-3 be amended to account for significant economic impacts, as follows:

Commitment of Economic Resources [1]

Cost category	Cost per RRY (millions of dollars)
Low level waste disposal	0.058 –0.116
Fuel pool storage	0.35 –2.625
Transportation	0.525 –1.75
Spent fuel containers	0.8 –1.05
Geological repository	1.08 –5.25
Dismantling	6.2 –[2]27.6
Total	8.913–38.391

[1] All amounts in 1977 dollars.
[2] Assumed reactor cost $1.3 billion, reactor life 30 years, building costs index (BCI) range considered 4–8%, rate-of-return (ROI) range considered 6–10%.

Note.—To calculate the range of cost per RRY for a reactor costing other than the $1.3 billion used, multiply the appropriate original facility cost in 1977 dollars first by 0.48% and then by 2.1%, enter cost range into table.

Date at Washington, D.C. this 6th day of November 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-35075 Filed 11-13-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

Federal Home Loan Bank System, Federal Savings and Loan System, and Federal Savings and Loan Insurance Corporation; Proposed Amendments Concerning Outside Borrowing; Correction

AGENCY: Federal Home Loan Bank Board.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects the Board's recent proposed amendments concerning outside borrowing, published in the **Federal Register** October 31, 1979 (44 FR 62519). Correction is necessary because certain language was inadvertently omitted from the proposed amendments.

FOR FURTHER INFORMATION, PLEASE CONTACT: Douglas P. Faucette, Associate General Counsel (202–377–6410) or John R. Hall, Attorney (202–377–6445), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Board Resolution No. 79–541, dated October 25, 1979, the Federal Home Loan Bank Board proposed a revision to its regulations regarding outside borrowing. Because certain language was inadvertently omitted from the proposed revision of § 563.8–1, the Board hereby corrects the proposed amendments by adding subdivisions (iii), (iv), and (v) to proposed rules are not needed, and the rulemaking is terminated.

§ 563.8–1 Issuance of subordinated debt securities.

* * * * *

(d) *Requirements as to securities.*

* * *

(1) *Form of certificate.* * * *

(iii) State or refer to a document stating the terms under which the issuing institution may prepay the obligation, which shall include at least the right to prepay without premium or other penalty during the fifteen months immediately prior to the maturity date;

(iv) State or refer to a document stating that no payment of principal shall be accelerated without the approval of the Corporation, if after giving effect to such payment the institution would fail to meet the net worth or Federal insurance reserve requirements of § 563.13; and

(v) Be in a minimum original amount of at least $50,000, except that the minimum original amount shall be $10,000 for securities meeting the requirements of § 563.8(f)(2)(iii) and upon partial prepayment a certificate for the amount then outstanding may be issued in substitution therefor.

* * * * *

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b, 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

Milan C. Miskovsky,

General Counsel.

November 6, 1979.

[FR Doc. 79-35083 Filed 11-13-79; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 296

EDR-244b; Docket No. 25472

Airfreight Forwarders and Cooperative Shippers Associations; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking.

SUMMARY: The CAB is closing a stale rulemaking proceeding. In 1973, it proposed to require C.O.D. remittance rules, and to require special records about C.O.D. shipments be kept by air freight forwarders. The CAB also proposed to require maintenance of surety bonds on C.O.D. shipments. In view of the lack of any present significant problem with C.O.D. shipments, and of the deregulation of domestic air cargo transportation, these proposed § 563.8–1(d)(1), to read as follows:

DATES: Adopted: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In 1973 the Board issued Notice of Proposed Rulemaking EDR–244 (38 FR 110817, May 2, 1973), proposing rules for the handling of C.O.D. shipments by air freight forwarders. The notice also proposed to require freight forwarders to inform the Board of changes in their addresses and of any bankruptcy claims filed by or against them.

Before this rulemaking began, there had been an upsurge in shipper complaints received by the Board about C.O.D. service. Since that time, the number of complaints has stabilized at a lower, normal amount for the volume of cargo shipped. Notice of change in address or of temporary or permanent cessation of operations is now required in 14 CFR 296.22.

More important, however, are the changes in the conduct of air cargo that have taken place since 1973. Domestic cargo transportation has been substantially deregulated by the cargo deregulation amendments of 1977 (Pub. L. 95–163) and the Airline Deregulation Act of 1978 (Pub. L. 95–504) and more recent Board rules. In particular, indirect cargo carriers, such as freight forwarders, have had regulations governing their carriage of cargo almost totally eliminated. (See ER–1094, 44 FR 6634, February 1, 1979).

Thus the type of regulation proposed in EDR–244 is no longer needed to meet any problem, and is out of step with the present concept of air cargo regulation. There is no reason, therefore, to continue this rulemaking.

Accordingly, the Civil Aeronautics Board terminates the rulemaking proceeding in Docket 25472.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35093 Filed 11-13-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 451

Advertising for Over-the-Counter Antacids

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On August 31, 1978, the

Presiding Officer published in the **Federal Register** (43 FR 38851) Final Notice of the proposed trade regulation rulemaking proceeding. The Presiding Officer's Report, required by the Commission's rules of practice for rulemaking (16 CFR 1.13(f)) consisting of his Summary and Conclusions relating to issues arising during the proceeding has been made public and placed on rulemaking record 215–56.

DATE: The 60-day period which the rules of practice for rulemaking (16 CFR 1.13(h)) provide for comment on both the Report by the Presiding Officer and a report of the staff (16 CFR 1.13(g)) will not commence until the staff's report has been made public and placed on the record. Therefore, comment on the Presiding Officer's Report alone would be considered premature at this time.

ADDRESS: Copies of the Presiding Officer's Report may be obtained by written request to Federal Trade Commission/SSD, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James P. Greenan, Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, DC 20580, 202–724–1045.

SUPPLEMENTARY INFORMATION: A limited number of copies of the Presiding Officer's Report are being printed for distribution and requests for the Report should be filed in writing to the Federal Trade Commission, SSD, Washington, DC. Copies will be sent as soon as they are received from the printer.

When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the **Federal Register.** The Presiding Officer's Report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission and its publication should not be interpreted as reflecting the present views of the commission or any individual Commissioner.

Issued: November 2, 1979.

James P. Greenan,

Presiding Officer.

[FR Doc. 79–35084 Filed 11–13–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF STATE

22 CFR Part 51

Docket No. SD–150

Passports Invalid for Travel Into or Through Restricted Areas

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to revise its regulations to render passports invalid for travel into or through restricted areas.

DATES: Comments are invited from the public on or before January 14, 1980.

ADDRESS: Send comments to Elliott B. Light, Office of Citizenship, Nationality and Legal Assitance (PPT/C), Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, (202) 632–7172/0897.

SUPPLEMENTARY INFORMATION: The present regulation sets forth three circumstances in which a passport shall be invalid for travel into or through an area. The proposed revision would eliminate the third ground of the current regulation and would substitute a new basis. The revision is required by Pub. L. 95–426, effective October 7, 1978.

Accordingly, it is proposed to revise § 51.72 of Title 22, Code of Federal Regulations as set forth below.

§ 51.72 Passports invalid for travel into or through restricted areas.

(a) Unless specifically validated therefore, U.S. passports shall cease to be valid for travel into or through a country or area which the Secretary has determined is:

(1) A country with which the United States is at war; or

(2) A country or area where armed hostilities are in progress; or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travellers.

(b) Any determination made under paragraph (a) of this section shall be published in the Federal Register along with a statement of the circumstances requiring this restriction.

(c) Unless limited to a shorter period, any such restriction shall expire at the end of one year from the date of publication of such notice in the **Federal Register,** unless extended or sooner revoked by the Secretary by public notice.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 comp., 507.)

Dated: October 19, 1979.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 79–35143 Filed 11–13–79; 8:45 am]

BILLING CODE 4710–06–M

22 CFR Part 51

Docket No. SD–149

Persons Who May Be Included in one Passport

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the regulation governing persons eligible for inclusion in one passport. As amended, a bearer's spouse would not be eligible for inclusion in a passport. If adopted, the regulation as amended would take effect on January 14, 1980.

DATE: Comments must be received on or before January 14, 1980.

ADDRESS: Send comments to the Chief, Advisory Opinions Division, Office of Citizenship, Nationality and Legal Assistance, Bureau of Consular Affairs, Department of State, PPT/C/O, Room 5813, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Anthony Saridakis (202) 632–3728.

SUPPLEMENTARY INFORMATION: The practice of permitting the inclusion of a spouse in a passport was at one time viewed as desirable both from an economic and convenience standpoint.

However, the use of the family type passport has been declining in popularity. A thirty-day analysis of applications filed within the United States during the busy travel month of May 1979 indicated that only nine tenths of one percent (0.9%) of all passports issued included the bearer's spouse.

This decline reflects increased recognition by the traveling American public of the difficulties they may encounter in using these passports. An included person may not use the passport for travel unless accompanied by the actual bearer. Foreign governments may question the bearer's use of the passport when unaccompanied by those persons included in the passport. Foreign governments also have complained in the past that such passports do not contain adequate identifying data on those persons who are included. Finally, amending passports either to include or exclude persons subsequent to issuance is costly and time consuming, not only for the Department of State, but also for the traveling American public.

Accordingly, it is proposed to amend Title 22 Code of Federal Regulations, Part 51, § 51.5 to read as set forth below:

§ 51.5 Persons who may be included in one passport.

(a) The following persons may be included in one passport:

(1) Children of the bearer under the age of 13 years, including stepchildren and adopted children;

(2) Brothers and sisters of the bearer under the age of 13 years.

(b) * * *

* * * * *

(Section, 44 Stat. 887 sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; CFR 1966–70 Comp., p. 507.)

Dated: October 26, 1979.

Hume Horan,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 78-35145 Filed 11-13-79; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

Memorandum of Understanding; Extension of Comment Period

AGENCIES: United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), and the United States Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Comment Period.

SUMMARY: OSM and EPA are today extending the period for commenting upon the notice of proposed memorandum of understanding (MOU) and Advance Notice of Proposed Rulemaking (ANPR), published in 44 FR 55322 on September 25, 1979. The close of the comment period is changed from November 9, 1979 to November 24, 1979.

DATE: Comment period is extended to November 24, 1979.

ADDRESSES: Comments may be submitted to either:

(1) Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, South Building, 1951 Constitution Avenue NW. (Attn: Administrative Record—Room 135), Washington, D.C. 20240;

or

(2) Dov Weitman, Office of Water Enforcement (EN–336), United States EnvironmentaL Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

(1) Lewis NcNay, Office of Surface Mining Reclamation and Enforcement, United States Department of Interior, 1100 L Street NW., Room 5315, Washington, D.C. 20018, Telephone number (202) 343–8032;

or

(2) Bill Jordan, Office of Water Enforcement (EN–336), United States Environmental Protection agency, 401 M Street SW., Washington, D.C 20460, Telephone number (202) 755–2545

SUPPLEMENTARY INFORMATION: On September 25, 1979, OSM and EPA published a notice which announced the availability of and solicited public comment on a proposed MOU which integrates the National Pollutant Discharge Elimination System (NPDES) permit program under the Clean Water Act with the permanent regulatory program permit system for surface coal mining and reclamation operations under the Surface Mining Control and Reclamation Act of 1977. In addition, OSM and EPA announced their intention to engage in rulemaking to implement the MOU and solicited comments for purposes of drafting the proposed rules.

The September 25, 1979 notice provided a 45-day comment period ending on November 9. The National Coal Association has requested a 15-day extension of the comment period, indicating its intention to submit detailed comments on issues relating to both the MOU and the proposed rulemaking proceeding. OSM and EPA have agreed to grant the request and extend the comment period to November 24, 1979.

Dated: November 7, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement, Environmental Protection Agency.

Joan M. Davenport,

Assistant Secretary for Energy and Minerals, Department of Interior.

[FR Doc. 79-35088 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 169, 169a and 169b

[DOD Directive 4100.15, DOD Instruction 4100.33, and DOD Handbook 4100.33-H]

Commercial or Industrial-Type Activities

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense proposes to revise its rules regarding commercial and industrial-type activities to conform with and implement the policies of OMB Circular A–76 and its Supplement No. 1. By so doing, the Department of Defense reaffirms the Government's general policy of reliance on the private sector for commercial or industrial activities while recognizing that Government personnel must perform intrinsic governmental functions and must consider cost effectiveness.

DATE: Written comments must be received on or before December 22, 1979.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Supply, Maintenance and Transportation), OASD (MRA&L), The Pentagon, Room 2B322, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: LTC Albert L. Russell, USAF, Telephone 202–659–0037/0337.

SUPPLEMENTARY INFORMATION: The Office of the Defense previously published Part 169 in FR Docs. 67–10186 (32 FR 12607), August 31, 1967; 69–6119 (34 FR 8107) May 23, 1969; and 71–10943 (36 FR 14184) July 31, 1971; and Part 169a in FR Docs. 67–10188 (32 FR 12675); 69–6120 (34 FR 8108); and 71–12003 (36 FR 15747). This proposed rulemaking further revises Parts 169 (DoD Directive 4100.15), 169a (DoD Instruction 4100.33) and establishes a new Part 169b (DoD 4100.33–H), "DoD In-House versus Contract Commercial and Industrial-Type Activities Cost Comparison Handbook."

Proposed Part 169 (DOD Directive 4100.15)

The proposed revision of Part 169 provides more definitive guidelines to ensure consistency and equity to all parties in its implementation.

Proposed Part 169a (DOD Instruction 4100.33)

The proposed revision of Part 169a provides detailed procedures for DoD Components in implementing the policies of the revised Part 169. Part 169a includes provisions for an inventory of DoD Commercial and Industrial-Type activities and contract services and provides for a 5 year review schedule to determine whether each acitivity should be performed in-house or by contract.

New Part 169b (DOD Handbook 4100.33–H)

The new Part 169b is provided to ensure that cost comparison studies reflect all significant costs to the Government for both in-house and contract performance and provide a valid basis for DoD decisions. Such analyses are made to justify (a) an in-house, DoD Commercial or Industrial-

Type activity on the basis of cost; and (b) conversion of an in-house, DoD Commercial or Industrial-Type activity to contract performance; and to determine whether (a) new requirements will be met by in-house or contract performance; and (b) contract performance will be continued when there is a probability that an in-house, DoD Commercial or Industrial-Type activity would be more economical.

Accordingly, we propose to revise Chapter I, 32 CFR Parts 169 and 169a, reading as follows:

PART 169—COMMERCIAL OR INDUSTRIAL-TYPE ACTIVITIES

Sec.
169.1 Purpose.
169.2 Applicability and Scope.
169.3 Policy.
169.4 Responsibilities.
169.5 Definitions.

Authority: Title 5, U.S.C. 301, title 5, U.S.C. 552, and Pub. L. 93–400.

§ 169.1 Reissuance and purpose.

This Part is being reissued to accommodate substantive changes required by OMB Circular No. A–76. It prescribes DoD policy for the establishment and operation of commercial and industrial-type activities (CITA).

§ 169.2 Applicability and scope.

(a) The provisions of this Directive apply to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) Its provisions encompass DoD policy for the establishment and operation of CITA by DoD Components in the United States, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) Its provisions further encompass the establishment (new start) or expansion of Government-Owned, Contractor-Operated (GOCO) CITA.

(d) This Part does not apply to:

(1) Government functions, including in-house core capabilities for research, development, test, and evaluation needed for technical analysis and evaluation and technology base management and maintenance.

(2) Expert and consulting services of a purely advisory nature relating to the governmental functions of DoD Component administration and management and program management. Assistance in the management area may be provided either by Government staff organization or private sources, in accordance with DoD Directive 1442.4.

(3) Nonappropriated Fund Instrumentalities.

(e) Further, thie Part shall not be applied when to do so would be contrary to law, or inconsistent with the terms of any treaty or international agreement.

§ 169.3 Policy.

(a) It is the policy of the Government to rely on competitive private enterprise to supply the products and services it needs. This policy is reaffirmed in OMB Circular A–76, which also recognizes that governmental functions must be performed by Government personnel to support national defense, that in some instances there may be no satisfactory private commercial source available, and that proper attention must be given to relative cost.

(b) In conformance with this policy, the Department of Defense shall depend upon both Government and private, commercial sources for the provision of products and services with the objective of meeting its military readiness requirements with maximum cost effectiveness as follows:

(1) No DoD Component shall engage in or contract for commercial or industrial activities, except in accordance with the provisions of this Part or as otherwise provided by law.

(2) DoD CITA may be continued in operation or initiated as new starts, as exceptions to this policy, only when a clear determination is made that one or more of the following circumstances exist:

(i) The Government's cost for providing a product or service can be shown by a cost comparison analysis, conducted in accordance with OMB Circular A–76, to be lower than the commercial cost.

(ii) No satisfactory private, commercial source is available.

(iii) The CITA is operated by military personnel who are assigned to the activity and the activity or military personnel are required to support national defense.

(iv) The activity provides depot or intermediate-level maintenance and the Secretary of the Military Department or the Director of the Defense Agency determines that the activity is required to support national defense, in accordance with criteria in DoD Directive 4151.1.

(v) The activity provides wholesale logistic support other than depot maintenance and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) determines that the activity is required to support national defense.

(3) In each instance, specific justification for in-house performance must be documented and approved on a case-by-case basis. The proposed Part 161a provides guidance to be used in determining whether a specific DoD CITA qualifies under one of these exceptions.

(4) Excess property or services available from other Federal agencies should be used in preference to new starts or new contracts, unless the needed product or service can be obtained more economically from a private, commercial source or unless there is a formal program established for managing the excess capacity of the other Federal agencies.

(i) When a CITA operated by a DoD Component primarily to meet its own needs has excess capacity, that capacity can be used to provide products or services to other agencies provided that it is done according to DoD Directive 4000.19 and OMB Circular A–76.

(ii) All other DoD CITAs providing products or services to other Federal agencies must be reviewed under this Part to determine whether continued in-house operation is justified.

(5) Implementation of this policy is subject to the following:

(i) This Part does not provide authority to enter into contracts. Guidelines governing contracts for goods and services are set forth in the Defense Acquisition Regulation.

(ii) This Part shall not be used as authority to enter into contracts that establish a situation tantamount to an employer-employee relationship between the Government and individual contract personnel. Additional guidance on this subject is in the Federal Personnel Manual issued by the Office of Personnel Management.

(iii) This Part shall not be used to justify a conversion to contract solely to meet personnel ceilings or to avoid salary limitations. When in-house performance of a new start or expansion is justified under this Directive but cannot be accommodated within DoD Component personnel ceilings, an appeal for necessary adjustment to the Component's personnel ceiling shall be made to the OSD in connection with the annual budget review process.

(iv) Major system acquisitions are governed by the provisions of DoD Directive 5000.1. Reliance on the private sector is one of the general policies contained in DoD Directive 5000.1 to ensure competitive consideration of all alternatives before making a decision as to the best method of satisfying a DoD Component's mission need.

(v) This Part applies to printing and binding only to the extent that the printing and binding by the DoD Component are exempted by law from the provisions of 44 U.S.C.

§ 169.4 Responsibilities.

(a) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Formulate and develop policy consistent with this Directive for the DoD CITA program.

(2) Issue instructions to implement the requirements of this Directive.

(3) Maintain an inventory of DoD CITAs and contract support service functions.

(4) Monitor program implementation.

(5) Conduct, in collaboration with the Assistant Secretary of Defense (Comptroller), a continuing program for improving management and cost effectiveness in the performance of DoD CITAs and contract support service functions.

(6) Exempt selected DoD CITAs from review, as provided in paragraph 10.c.(5) of OMB Circular A–76.

(7) Establish the use of automatic data processing (ADP) for CITA program surveillance and managerial control.

(8) Develop, register, coordinate, and maintain data elements for use in ADP systems and reporting in accordance with the requirements of the DoD Data Element and Data Code Standardization Program (DoD Directive 5000.11.

(9) Approve requests for changes in each DoD Component's review schedule when it is determined that the change is in the best interest of the Government, as provided in paragraph 10.c.(4) of OMB Circular A–76.

(10) Act for the Secretary of Defense in approving DoD CITAs that provide wholesale logistic support other than depot maintenance, when required to support national defense. This authorization may not be redelegated.

(b) The *Secretaries of the Military Departments and the Directors of Defense Agencies* shall:

(1) Implement this Part in accordance with the instructions issued by the ASD(MRA&L) under § 169.4(a)(2).

(2) Act for the Secretary of Defense in approving or disapproving new starts involving a capital investment or annual operating cost of $500,000 or more. Further, they are authorized to redelegate approval and disapproval for new starts involving a capital investment or annual operating cost of $500,000 or more, but not below the level of a Deputy Assistant Secretary or an official of equivalent rank. This authority does not apply to DoD CITAs that provide wholesale logistic support other than depot maintenance and that are justified on the basis of national defense.

(3) Have the authority to determine that certain CITAs except those that provide wholesale logistic support other than depot-level maintenance, are required to support national defense. This authority may be redelegated but not below the Assistant Secretary of the Military Department or equivalent level.

(4) Act for the Secretary of Defense subject to § 169.4(a)(10) in approving or disapproving requests to continue, discontinue, expand, or convert CITAs operated by their respective DoD Component and to continue or discontinue particular service contracts. This authority may be redelegated but not below the level of commanding officer of a major command.

(5) Ensure that high standards of objectivity and consistency are maintained in conducting the reviews and in compiling and maintaining the inventory.

(6) Maintain the technical competence necessary to ensure effective and efficient management of the total CITA program.

§ 169.5 Definitions.

(a) *DoD Commercial or Industrial-Type Activity.* An activity operated and managed by a DoD Component that provides a product or service obtainable from a private, commercial source. A representative, but not comprehensive, listing of such activities is provided in enclosure 3, Part 169a. A CITA can be identified with an organization or a type of work, but must be: (1) separable from other functions to be suitable for either in-house or contract; and (2) a regularly needed activity of an operational nature, not a one-time operational activity of short duration associated with support of a particular project.

(b) *Private, Commercial Source.* A private business, university, or other non-Federal activity located in the United States, its territories and possessions, or the Commonwealth of Puerto Rico that provides a commercial or industrial product or service required by Government agencies.

(c) *Governmental Function.* A function that must be performed in-house due to a special relationship in executing governmental responsibilities. Such governmental functions can fall into several categories:

(1) *Discretionary application of Government authority,* as in investigations, prosecutions and other judicial functions; in management of Government programs requiring value judgements, as in directing the national defense; management and direction of the Military Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers, and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* as in Government benefit programs; tax collection and revenue disbursements by the Government; control of the public treasury, accounts, and money supply; and the administration of public trusts.

(3) *In-house core capabilities.* The research, development, test, and evaluation needed for technical analysis and evaluation and technology base management and maintenance. However, requirements for such services beyond the core capability that have been established and justified by each DoD Component are not considered governmental functions.

(d) *New Start.* A newly established DoD CITA, of any dollar value, including a transfer of work from contract to in-house performance. Also included is any expansion which would increase capital investment or annual operating cost by 100% or more. New start does not include interim in-house operation of essential services pending reacquisition of the services prompted by such action as the termination of an existing contract operation. Also not included are actions required solely to comply with the requirements of the National Environmental Protection Act or the Occupational Safety and Health Act.

(e) *Expansion.* The modernization, replacement, upgrade, or enlargement of a DoD CITA that involves adding a capital investment of $100,000 or more or increasing the annual operating costs by $200,000 or more, provided the increase exceeds 20 percent of the capital investment or annual operating cost. A consolidation of two or more activities is not an expansion unless the capital investment or annual operating cost exceeds the total from the individual activities by the amount of the threshold.

(f) *Conversion.* The transfer of work from a DoD CITA to a private, commercial source under contract.

PART 169a—OPERATION OF COMMERCIAL OR INDUSTRIAL-TYPE ACTIVITIES

Sec.

Authority: Title 5, U.S.C. 301, Title 5, U.S.C. 552, and Pub. L. 93–400

§ 169a.1 Reissuance and purpose.

(a) This Part is reissued to accommodate substantive changes required by Part 169 and OMB Circular A–76. It implements the policies established in Part 169; and establishes procedures and criteria for use by the Department of Defense to determine whether needed commercial or industrial-type (CITA) work should be accomplished by:

(1) Contractor-Owned, Contractor-Operated (COCO) activities,

(2) Government-Owned, Contractor-Operated (GOCO) activities,

(3) Government-Owned, Government-Operated (GOGO) activities,

(b) This Part authorizes the Deputy Assistant Secretary of Defense (Management Systems), Office of the Assistant Secretary of Defense (Comptroller), in conjunction with the Deputy Assistant Secretary of Defense (Supply, Maintenance, and Services), Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), to issue the publication DoD 4100.33–H, "DoD In-House vs Contract Commercial and Industrial-Type Activities Cost Comparison Handbook," (proposed Part 169b) that establishes DoD procedures for conducting cost comparisons.

§ 169a.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) Its provisions encompass all commercial or industrial activities providing goods and services needed by the DoD Components in the United States, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) This Part also applies to the establishment (new start) or expansion of GOCO CITAs.

§ 169a.3 Procedures.

(a) Implementation of these procedures and responsibilities shall take account of the overall mission of the Department of Defense and the defense objective of ensuring that enough trained personnel are available to mobilize the defense force and support structure. Heads of DoD Components shall:

(1) Designate an official at the Assistant Secretary or equivalent level to implement this Part.

(2) Establish one or more offices as central points of contact to maintain cognizance of specific implementation actions. These offices shall have access to all decision documents and data pertinent to actions taken under this Part and shall respond, in a timely manner, to all requests concerning inventories, schedules, reviews, cost comparisons, and results of reviews and cost comparisons. However, no provision of this Part shall require the disclosure of information that is protected from disclosure by section 6 of Pub. L. 86–36. This provision shall not be construed to foreclose the intraagency dissemination of information required by this Part. When considering requests that include information supplied by contractors or prospective contractors, DoD Components shall be guided by OFPP Letter 78–3.

(3) Ensure that contracts resulting from reviews conducted under this Part:

(i) Are awarded in accordance with the Defense Acquisition Regulation.

(ii) Contain applicable clauses and provisions relating to equal employment opportunities, safety and occupational health, veterans' preference, and minimum wages and fringe benefits as established by applicable labor standards acts and OFPP Letter 78–2.

(iii) Include a provision, consistent with Government post employment conflict of interest standards, that the contractor shall give DoD employees, displaced as a result of the conversion to contract performance, the right of first refusal for employment openings on the contract in positions for which they are qualified.

(iv) Are performance-oriented to the maximum extent possible rather than prescribing in detail a single approach on how to do the work.

(4) Exert maximum effort to find suitable employment for any displaced DoD employee, including:

(i) Giving them priority consideration for suitable positions within the Department to Defense.

(ii) Paying reasonable costs for training and relocation when these will contribute directly to placement.

(iii) Arranging for gradual transition when conversions are made to provide greater opportunity for attrition and placement.

(iv) Coordinating with the Department of Labor and other agencies to obtain private sector employment for separated workers.

(b) *Inventories.* DoD Components shall compile an inventory of all of their commercial and industrial activities subject to this Part. Specifically, Heads of DoD Components shall prepare and maintain an inventory that identifies:

(1) Their individual DoD CITAs, as defined in § 169a.4.

(2) Service contracts in excess of $100,000 annually (including those awarded under a duly authorized set-aside program) that the Component determines could reasonably be performed in-house, including any contracts performed by private, commercial sources in Government-owned facilities.

(3) Information in these inventories shall be used for management purposes at headquarters levels to assess DoD implementation of OMB Circular A–76 and for other purposes. Consequently, validity, accuracy and completeness of the data are vitally important. Inventories shall be updated at least annually to reflect the results of each review conducted. Updated inventories for all DoD Components except National Security Agency/Central Security Service (NSA/CSS) shall be submitted to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) within 120 days after the end of each fiscal year. Inventory data pertaining to NSA/CSS shall be held at that Agency for subsequent review by properly cleared personnel.

(c) *Review Schedules.*—(1) *Purpose of Reviews.* A review of a commercial or industrial activity is the examination of a DoD CITA or a service contract to determine whether the present method of performance should be continued, whether the function should be scheduled for conversion to contract, or if the function should be designated for a cost comparison for possible change in method of performance.

(i) For DoD CITAs, the review determines applicability of exceptions based on the requirement to support national defense or on the lack of a satisfactory private, commercial source. If continued in-house performance of the activity cannot be justified under one of the above exceptions then:

(A) Activities with annual operating costs under $100,000 will normally be scheduled for conversion to contract without a cost comparison. A cost comparison may be conducted if there is reason to believe in-house performance may be less expensive;

(B) Activities with annual operating costs of $100,000 or more will be scheduled for a cost comparison. The review and cost comparison will not necessarily be completed in the same year. The requirement to budget for adequate funds for alternative modes of performance as well as the requirement to notify interested parties may result in the cost comparisons being completed in a fiscal year subsequent to the year the review is made.

(ii) For contracted functions, the review determines if there is a likelihood that the services could be performed in-house at a cost that is lees than contract performance by 10 percent of Government personnel-related costs plus 25 percent of the cost of ownership of equipment and facilities. The assessment as to whether there is a likelihood should be based on an estimate of in-house and contract costs for the period in which the work was performed. A detailed cost comparison is not required. However, the assessment should be based on an appraisal of data available and reflect the best judgment of the Commander. If a determination is made that a likelihood exists that in-house performance would meet the cost differential criteria, use of the cost comparison procedure is required.

(2) *General Requirements.* An initial review of all inventoried commercial and industrial activities, in-house and contract, will be completed within five years, during FY 1980 through FY 1984.

(3) *Preparation of Initial Review Schedules.* DoD Components shall be permitted to establish their own initial review schedule as deemed appropriate. However, DoD CITAs that are also part of the Defense Retail Interservice Support (DRIS) program should be scheduled with consideration for scheduled DRIS reviews.

(i) In preparing their initial review schedules, DoD Components should consider that:

(A) DoD CITAs may be grouped into any logical combination determined to be of potential interest to prospective contractors. The grouping may be of the functional areas of subfunctions or groups of subfunctions, by geographical area, across DoD Components, or within any other framework considered appropriate.

(B) Reviews of Interservice Support Activities such as the San Antonio Real Property Maintenance Agency, should be scheduled by the lead service.

(ii) The review schedule for DoD CITAs shall show the installation or activity, function, and fiscal year in which initiation of the next review is planned.

(iii) The schedule for review of contracts shall show the principal place of performance; contract number; function; private, commercial source; contract period; and fiscal year that review of the workload requirement will be initiated to determine if commercial performance is to be continued.

(iv) When the number of CITAs and the number of contracts in a Component's inventory is so great that reviews cannot be completed in the prescribed time period, the DoD Component may request approval from the ASD (MRA&L) to schedule the reviews over a longer period.

(v) When a proposed expansion exceeds the threshold for capital investment or annual operating costs, it will be reviewed as though it were a scheduled review of an existing activity. At least 60 days notice shall be given to all affected parties.

(4) *Announcement of Review Schedules.* Each DoD Component shall complete the preparation of both review schedules and provide them to the ASD (MRA&L) within 90 days of issuance of this Instruction. Thereafter, review schedules shall be updated annually. Upon approval by the ASD (MRA&L) these schedules will be made available by each Component to potentially affected employees, and to interested members of Congress and shall be published for the information of contractors.

(5) *Changes to the Review Schedule.* Each DoD Component shall conduct the review of its CITA's and contracts in accordance with the Component's approved schedule unless a change is determined to be in the best interest of the Government. Schedule changes must be approved and processed in the same manner as the initial schedule. Schedule changes will become effective only after 60 days' notice to all affected parties.

(6) *Subsequent Reviews.* After the initial review, activities and contracts approved for continuation shall be reviewed at least once every 5 years. When it is determined by the ASD (MRA&L), or designee, that the circumstances that supported the initial approval are not subject to change, subsequent reviews may be waived. These activities and contracts shall be retained in the Component's inventory, and so identified. A copy of the justification and waiver will be made available to all interested parties upon their request to the DoD Component's contact point.

(d) *Review Procedures.*—(1) *National Defense.* The first step of the review process for an in-house activity addresses the national defense requirement. In most cases, application of this exception must be made on a case-by-case basis considering the specific positions involved rather than in terms of broad functions.

(i) A DoD CITA, operated by military personnel who are assigned to the activity, may be justified without a cost comparison analysis when the activity or military personnel are:

(A) Utilized in, or subject, to, deployment in a direct combat support role;

(B) Essential for training in those skills that are exclusively military in nature; or

(C) Needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments.

(ii) If the Component has a large number of similar activities with a small number of essential military personnel in each activity, management actions should be initiated to consolidate the military positions that economical contracting can be explored for accomplishing the workload.

(iii) A DoD CITA providing depot or intermediate-level maintenance or wholesale logistics other than depot maintenance support may be justified in accordance with Proposed Part 169 when it is needed to satisfy the requirement for:

(A) DoD Components to ensure a ready and controlled source of technical competence and resources for depot level maintenace to meet effectively and efficiently peacetime, mobilization, and sustained combat equipment readiness requirements, in accordance with 32 CFR Part 179.

(B) Combat and combat support activities in the DoD Components to be self-sufficient insofar as possible in providing direct (intermediate-organizational) maintenance support for assigned weapons systems and equipment. Contract engineering technical service activities will conform to the policies of 32 CFR Part 168.

(C) Wholesale logistic support other then depot maintenance when the ASD (MRA&L) has determined that the DoD activity is required to support national defense.

(iv) Detailed documentation is required for in-house activities operated by military personnel justified for national defense reasons under Part 169a(d)(1)(i) (A), (B) or (C). For in-house activities providing intermediate or depot-level maintenance or for wholesale logistics support other than depot maintenance justified for national defense reasons under Part 169a(d)(1)(ii), a detailed explanation, on a case-by-case basis, as to why the needed capability cannot be supplied by a private commercial source, or contract operation of Government-owned facilities must be included.

(v) Justificatioin for each intermediate and depot-level maintenance activity based on support of national defense must be approved by the Secretary of the Military Department or Director of Defense Agency except as delegated in Part 169.4(b)(4).

(2) *No Satisfactory Commercial Source Available.* If the activity is not

required for national defense, the review process proceeds to the next step.

(i) Application of this exception must also be made on a case-by-case basis. Generally, a DoD CITA may be authorized without a cost comparison when it can be demonstrated that:

(A) There is no satisfactory private, commercial source capable of providing the product or service that is needed; or

(B) Use of a private, commercial source would cause an unacceptable delay or disruption of a program considered essential by the DoD Component.

(ii) Before concluding that there is no satisfactory private, commercial source available, the DoD Component must make all reasonable efforts to identify available sources.

(A) As a minimum, the DoD Component concerned must place at least there notices of the requirement in the *Commerce Business Daily* over a 90-day period. In the case of urgent requirements, the publication period in the *Commerce Business Daily* may be reduced to two notices over a 30-day period.

(B) DoD Components' efforts to find satisfactory commercial sources, especially small and minority-owned businesses, should include seeking assistance from the General Services Administration, Small Business Administration, and the Domestic and International Business Administration in the Department of Commerce.

(iii) Authorization of a DoD CITA on the basis that use of a private, commercial source would cause an unacceptable delay or disrupt an essential DoD program requires a specific documented explanation.

(A) Delay or disruption must be specific as to cost, time, and performance measures.

(B) Disruption must be shown to be of a lasting or unacceptable nature. Transitory disruption by conversions is not a sufficient ground for the use of this exception.

(iv) The fact that an activity involves a classified program, or is part of a DoD Component's basic mission, or that there is the possibility of a strike by contract employees is not adequate reason for in-house performance of that activity. Further, urgency by itself is not an adequate reason for starting or continiung a DoD CITA. It must be shown that private, commercial sources are not able and the Government is able to provide the product or service when needed.

(v) Detailed documentation is required for DoD CITAs when no satisfactory commercial source is available.

(vi) If operation of a DoD CITA cannot be authorized for national defense requirements, and if a private, commercial source is available, the review process generally ends with the conclusion that a cost comparison must be undertaken to determine if continued in-house performance is justified on the basis of lower cost.

(e) *Cost Comparisons.* A DoD CITA may be authorized if a comparative cost analysis, prepared in accordance with this Part indicates that the Government can provide or is providing a product or service at a cost lower than if it were obtained from a private, commercial source.

(1) *Criteria.* Ordinarily, Components should not incur the delay and expense of conducting a cost comparison analysis to justify a DoD CITA for products or services estimated to cost the Government less than $100,000 in annual operating costs. Activities below this threshold should be performed by contract unless in-house performance is justified in accordance with Part 169a.3(d)(1) and (2). However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison should be conducted. (A cost comparison analysis is never required to justify in-house performance under 169a.3(d)(1) and (2)). When in-house performance to meet a new requirement is not feasible, or when contract performance would be under an authorized set-aside program, a contract can be awarded without conducting a cost comparison analysis.

(2) *Public Notification.* To comply with DoD's commitments to Congress and to provide interested parties adequate advance notification, public announcement, including notification to Congress and the unions, after approval in each case by the ASD (MRA&L), is required before the initiation of a conversion without a cost comparison and before the intitiation of a cost comparison associated with a possible conversion. Because the requirements for these notifications are subject to change, care should be taken to make certain that DoD Components comply with the most recent guidance.

(3) *Common ground rules are:*

(i) Both Government and commercial cost estimates must be based on the same scope or work and the same level of performance. This requires the preparation of a precise work statement with performance standards that can be monitored for either mode of performance. DoD Components shall attempt to make maximum use of common work statements before undertaking the development of new ones.

(ii) Standard cost factors shall be used as prescribed by proposed § 169b (DoD 4100.33–H) and as supplemented by DoD Components for particular operations. It shall be incumbent on each DoD Component to document and defend any variations in costing from one case to another. Therefore, each DoD Component should develop and annually update common factors. They should also issue specific definitional instructions and computational methods compatible with their existing accounting structures and the guidelines of § 169b. Common factors addressed should include:

(A) For each installation, a general and administrative baseline for the CITAs supported by the installation staff elements.

(B) For each installation material support activity, a material overhead rate for material acquired, handled, and controlled through the activity.

(C) For major organizations, installations, or commands, personnel fringe benefits, severance pay, home owner's assistance, or pay rate retention.

(iii) Cost comparisons are to address full cost, to the maximum extent practicable in all cases. All significant Government costs including allocation of overhead and indirect costs must be considered both for direct Government performance and for administration of a contract.

(iv) In the solicitation of bids or offers from contractors for workloads that are of a continuing nature, solicitations should provide for prepriced or renewal options for the out-years. These measures guard against buy-in pricing by contractors. While recompetition also guards against buy-in, the use of prepriced or renewal options provides advantages, such as continuity of operation, the possibility of lower contract prices when the contractor is required to provide equipment or facilities, and reduce turbulence and disruption.

(v) The cost comparison shall use a rate of 10 percent per annum as the opportunity cost of capital investments and of the net proceeds from the potential sale of capital assets, as prescribed in proposed § 169b.

(4) *Calculating Contractor Cost.*

(i) The contract cost estimate must be based on a binding firm bid or proposal, solicited in accordance with the Defense Acquisition Regulation. Bidders or offerors must be told that an in-house cost figure is being developed and that a contract may or may not result.

depending on the comparative cost of the alternatives.

(ii) The factor to be used for the Government's cost of administering contracts, in addition to other costs of using contract performance as specified in § 169b is 4 percent of the contract price.

(5) *Calculating Costs of Government Operation.*

(i) Each DoD Component should ensure that the in-house activity is organized and staffed for efficiency. This includes consideration of intraservice support or interagency support programs such as those covered by DoD Directive 4000.19. In accordance with DoD Component manpower and personnel regulations, DoD Components should precede reviews under this Part with internal management studies and reorganizations. Care must be exercised to ensure that changes, if any, resulting from reorganization of in-house activities are reflected in the statement of work, as appropriate. No changes to the planned in-house activity that would affect the in-house estimate shall be made after submission of the in-house estimate to the contracting officer. If a change in the statement of work is appropriate, sufficient time must be given prospective contractors to adjust their proposals. DoD Components must ensure that sufficient resources will be available to accommodate specifications that reflect increases in workload as compared to work currently being performed.

(ii) The Government cost factor for Federal employee retirement benefits is 20.4 percent.

(iii) The Government cost factor for Federal employee insurance (life and health) benefits is 3.7 percent.

(iv) The Government cost factor for Federal employee worker compensation, unemployment programs, and bonuses and awards is 1.9 percent.

(v) An existing in-house activity shall not be converted to contract performance on the basis of economy unless it will result in savings of at least 10 percent of the estimated Government personnel-related costs for the period of the comparative analysis.

(vi) The conclusion that an activity will be the subject of a cost comparison reflects a management decision that the workload need not be accomplished by military individuals. Therefore, all direct personnel costs should be estimated on the basis of civilian performance. Funds should be budgeted in the operations and maintenance appropriation to cover either the cost of the appropriate in-house civilians required to accomplish the workload or the estimated cost of the contract. Staffing of in-house activities with civilian personnel should be based on the scope of work, level of performance required, and the productivity of civilian personnel. Civilian grades should be established on civilian grade standards and not on equivalency with military grade. Indirect military personnel costs, however, should be estimated in accordance with DoD 7220.9–H.

(6) *Independent Review.* All cost comparisons must be reviewed by an activity independent of the cost analysis preparation to ensure conformance to the guidance in this proposed Part 169b.

(f) *Documentation of Decisions.* The results of all reviews and cost comparisons shall be documented and signed by the appropriate officials and will show the rationale and the data upon which the decision was reached to continue, discontinue, convert, or expand each DoD CITA and contract.

(g) *New Starts.*

(1) A new start should not be initiated by any DoD Component unless the justification for establishing the activity under the provisions of this Part has been reviewed and approved by the appropriate senior official of the Component. A new start that involves a capital investment or annual cost of $500,000 or more must be approved by the Secretaries of the Military Departments and Directors of Defense Agencies, except as delegated in § 169.4(b)(4). New starts for activities that provide wholesale logistic support other than depot maintenance and justified for support of national defense must be approved by the ASD(MRA&L).

(2) The actions relating to new starts to be taken under this Part should be completed before the Component's budget request is submitted to OSD. Data in support of budget requests shall be submitted in accordance with DoD 7220.9–H. In the case of a proposed new start involving a major capital investment where the item to be acquired requires a long lead time, approval of budget resources shall not constitute OSD approval of that method of meeting the DoD need. A final determination to initiate the new start or to rely upon a private, commercial source, within the resources approved, shall be made in accordance with this Part and other applicable policies, prior to any commitment to a particular acquistion strategy. See OMB Circular A–11.

(3) When Government ownership of facilities is necessary, the possibility of contract operation must be considered before in-house performance is approved as a new start. If justification of Government operation is dependent on relative cost, the comparative cost decision may be delayed to accommodate the lead time necessary for acquiring the facilities.

(4) A new start may not be approved on the basis of economy unless it will result in savings compared to contract performance at least equal to 10 percent of Government personnel-related costs, plus 25 percent of the cost of ownership of equipment and facilities for the period of the comparative analysis.

(5) Bakery, laundry, dry cleaning facilities, and scrap metal facilities are subject to this Instruction and subject to provisions of DoD Directives 5126.8 and 5126.15. Regardless of, and in addition to, any new start requirement imposed by this Part, a specific approval by the ASD(MRA&L) is required before the expenditure of any funds for the construction, replacement, and reactivation of these facilities. This authority cannot be redelegated. Failure to obtain ASD(MRA&L) approval could result in violation of applicable statutes.

(6) Telecommunications projects and services are CITAs requiring new start approval and periodic review under this Part. They are also subject to the provisions of DoD Directive 4630.1.

(7) Audiovisual activities, including motion picture processing, are CITAs requiring new start approval and periodic review under this Part. They are also subject to the provisions of DoD Directive 5040.2.

(8) When in-house performance to meet a new requirement is not feasible, a contract may be awarded without conducting a cost comparison.

(h) *Set Aside Programs.*

(1) Contracts currently awarded under authorized set-aside programs may not be subjected to a cost comparison for possible in-house performance. Additionally, new requirements that would be suitable for award under a set-aside program shall be satisfied by such a contract without a detailed cost comparison.

(2) In-house activities (in excess of $100,000 annually) may not be considered for performance under a set-aside contract except when the conversion is justified by a cost comparison.

(i) *Request for Reviews of Decisions.*

(1) Each DoD Component shall establish a procedure for an informal administrative review of decisions made under this Part. This procedure shall only be used to resolve questions concerning the decision between contract and in-house performance, and may not apply to questions concerning award to one contractor in preference to another. DoD Component procedures shall provide for consideration of written requests filed by directly

affected parties and raising specific objections. Such requests must be filed at the installation where the decision was made. Further, requests for review of decision must be filed within the time period (set forth in proposed § 169b) for the type of case involved. Each Component's review procedure shall provide for:

(i) An independent, objective review of the initial decision and the rational upon which the decision was based.

(ii) An expeditious determination, within 30 days, made by an official who is independent of the activity under study and at the same or a higher level than the official who approved the original decision.

(2) The objective of the procedure for review of decisions is to provide an administrative safeguard to ensure that DoD Component decisions are fair, equitable, and in accordance with established policy. The procedure does not authorize a request for review of decision outside the Component or a judicial review.

(3) Because the procedure for review of decisions is intended to protect the rights of all affected parties, such as Federal employees and their representative organizations, contractors and potential contractors, and contract employees and their representatives, this procedure and DoD Component decisions may not be subject to negotiation, arbitration, or agreements with any one of those parties. DoD Component decisions are final.

(4) DoD Component procedures for review of decisions shall be submitted to ASD(MRA&L) for review as part of the implementing regulations of this Part.

§ 169.4 Definitions.

(a) *DoD Commercial or Industrial-Type Activity (CITA).* An activity operated and managed by a DoD Component that provides a product or service obtainable from a private, commercial source. A representative, but not comprehensive, listing of such activities is provided in enclosure 4. A DoD CITA can be identified with an organization or a type of work, but must be (1) separable from other functions so as to be suitable for performance either in-house or by contract; and (2) a regularly needed activity of an operational nature, not a one-time activity of short duration associated with support of a particular project.

(b) *Government-Owned, Contractor-Operated (GOCO) Commercial or Industrial-Type Activity.* Any activity that provides commercial or industrial-type goods or services needed by the Government involving operation of a facility owned by the Federal Government by a private, commercial source.

(c) *Private, Commercial Source.* A private business, university, or other non-Federal activity located in the United States, its territories and possessions, or the Commonwealth of Puerto Rico that provides a commercial or industrial product or service required by Government agencies.

(d) *Conversion.* The transfer of work from a DoD CITA to a private, commercial source.

(e) *Direct Combat Support Function.* Work that is essential to the support of combat operations; that is, work that if not performed could cause immediate impairment of combat capability.

(f) *Displaced Employee.* Any employee adversely affected (including actions such as job elimination, grade reduction, or reassignment to another position) by the conversion to contract.

(g) *Expansion.* The modernization, replacement, upgrade, or enlargement of a DoD CITA that involves adding a capital investment of $100,000 or more or increasing the annual operating costs by $200,000 or more, provided the increase exceeds 20 percent of the capital investment or annual operating cost. A consolidation of two or more activities is not an expansion unless, the capital investment or annual operating cost exceeds the total from the individual activities by the amount of the threshold.

(h) *Governmental Function.* A function that must be performed in-house due to a special relationship in executing governmental responsibilities. Such governmental functions can fall into several categories including:

(1) *Discretionary application of Government authority,* as in investigations, prosecutions and other judicial functions; in management of Government programs requiring value judgments, as in directing the national defense; management and direction of the Military Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* as in Government benefit programs; tax collection and revenue disbursements by the Government; control of the public treasury, accounts, and money supply; and the administration of public trusts.

(3) *In-House core capabilities* in the area of research, development, test, and evaluation needed for technical analysis and evaluation and technology base management and maintenance. However, requirements for such services beyond the core capability that have been established and justified by each DoD Component are not considered governmental functions.

(i) *New Start.* A newly established DoD commercial or industrial-type activity of any dollar value, including a transfer of work from contract to in-house performance. Also included is any expansion that would increase capital investment or annual operating cost by 100 percent or more. New start does not include interim in-house operation of essential services pending reacquisition of the services prompted by such action as the termination of an existing contract operation. Also not included are actions required solely to comply with the requirements of the National Environmental Protection Act or the Occupational Safety and Health Act.

(j) *Nonappropriated Fund Instrumentality (NAFI).* A DoD organizational entity that acts in its own name to provide or assist other DoD organizations in providing morale, welfare, and recreational programs for military personnel and authorized civilians. It is established and maintained individually or jointly by the heads of the DoD Components. As a fiscal entity, it maintains custody of and control over its non-appropriated funds. It is also responsible for the exercise of reasonable care to administer prudently, safeguard, preserve, and maintain those appropriated fund resources made available to carry out its function. With its nonappropriated funds, it contributes to the morale, welfare, and recreational programs of other authorized organizational entities when so authorized. It is not incorporated under the laws of any State or the District of Columbia and it enjoys the legal status of an instrumentality of the United States.

(k) *Review of a DoD Commercial or Industrial Activity.* The examination of an in-house CITA or a service contract to determine whether the present method of performance should be continued, whether the function should be scheduled for conversion to contract, or whether the function should be scheduled for a cost comparison for possible change in method of performance.

(h) *Cost Comparison (or Cost Comparison Analysis).* An accurate determination of whether it is more economical to acquire the needed products or services from a private,

commercial source or from an existing or proposed DoD CITA, using the procedures in DoD 4100.33–H (Part 169b).

Moreover, the Office of the Secretary of Defense proposes to amend Chapter I, 32 CFR, by adding a new part, 169b (DoD 4100.33–H), as set forth below.

PART 169b—COST COMPARISON HANDBOOK

Subpart A—General

Sec.
169b.1 Introduction.
169b.3 Purpose.
169b.5 Background.
169b.7 Policy.

Subpart B—Overview of the Cost Comparison Process

169b.11 General.
169b.13 Initial Planning.
169b.15 Statement of work.
169b.17 Procedure.
169b.19 Organization of the Handbook.

Authority: Title 5, U.S.C. 301, title 5, U.S.C. 552, and Pub. L. 93–400.

Subpart A—General

§ 169b.1 Introduction.

(a) This Cost Comparison Handbook implements the cost comparison principles contained in OMB Circular A–76, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government." Official use of this Handbook is prescribed in OMB Circular A–76, which directs Federal agencies to ensure that their comparative cost analyses conform with these instructions.

(b) This Handbook is issued under the authority of DoD Instruction 4100.33, 'Operation of Commercial and Industrial Activities.' Its purpose is to provide detailed instructions for developing a comprehensive and valid comparison of the estimated cost to Government of acquiring a product or service by contract and of providing it with in-house, Government resources. This Handbook is intended to establish consistency, assurance that all substantive factors are considered when making cost comparisons, and a desirable level of uniformity among DoD Components in comparative cost analyses.

(c) This Handbook is mandatory for use by all DoD Components.

(d) Future republications will be accomplished only on an "as needed" basis with the approval of the Deputy Assistant Secretary of Defense (Supply, Maintenance, Transportation, and Services), OASD (MRA&L), and the Deputy Assistant Secretary of Defense (Management Systems), OASD(C)."

§ 169b.3 Purpose.

The purpose of this Handbook is to provide detailed instructions for developing a comprehensive and valid comparison of the estimated cost to the Government of acquiring a product or service by contract and of providing it with in-house, Government resources. This Handbook is intended to establish consistency, assurance that all substantive factors are considered when making cost comparisons, and a desirable level of uniformity among agencies in comparative cost analyses.

§ 169b.5 Background.

(a) The American people have a right to expect economical performance of Federal activities. Some activities are inherently governmental functions or, for other reasons, must be performed by Federal employees. Many activities, however, may be performed either by contract or by Federal employees. The choice between these alternatives must be based on a finding as to which method of performance would be more economical.

(b) Government reliance on the private sector was first formally expressed by the executive branch as a general policy in 1955. Since then, Federal agencies have struggled to make rational judgments as to the cost considerations that should be included in a comparative analysis to establish whether the Government's interest would be served best by contract or in-house performance. Assistance was provided by OMB Circular A–76, initially issued on March 3, 1966 and revised August 30, 1967, which contained guidelines for agencies in making those analyses.

(c) As Government cost accounting techniques progressed, it became obvious that Circular A–76 guidelines were too general to achieve desirable uniformity, and were insufficient as a basis for comprehensive cost studies. Providing more precise guidance in developing cost estimates and analyzing comparative cost was the most prevalent suggestion made when, in 1977, agency and public comments were invited for consideration in the review and subsequent revision of Circular A–76. The proposed solution, a detailed cost comparison handbook, was widely and strongly supported by the numerous respondents to OMB's November 1977 request for comments on proposed changes to Circular A–76.

§ 169b.7 Policy.

Under certain circumstances, a Government agency is authorized by OMB Circular A–76 to establish in-house capability or to continue an existing activity to provide a product or service that is obtainable from a private source. One justifying circumstance is when a comparative cost analysis, prepared as provided in this Handbook, indicates that the cost of in-house performance would be lower than the cost of obtaining the product or service from a commercial or other non-Federal source. Detailed instructions for making a cost comparison are set forth in this Handbook for use by all Federal agencies. The guidelines are based on the following policy principles, quoted from the revised Circular A–76.

"9.a. *Common Ground Rules*

(1) Both Government and commercial cost figures must be based on the same scope of work and the same level of performance. This requires the preparation of a sufficiently precise work statement with performance standards that can be monitored for either mode of performance.

(2) Standard cost factors will be used as prescribed by the Cost Comparison Handbook and as supplemented by agencies for particular operations. It will be incumbent on each agency to defend any variations in costing from one case to another.

(3) Cost comparisons are to be aimed at full cost, to the maximum extent practical in all cases. All significant Government costs (including allocation of overhead and indirect costs) must be considered, both for direct Government performance and for administration of a contract.

(4) In the solicitation of bids or offers from contractors for workloads that are of a continuing nature, unless otherwise inappropriate, solicitations should provide for prepriced options or renewal options for the out-years. These measures will guard against "buy-in" pricing on the part of contractors. While recompetition also guards against "buy-ins," the use of prepriced or renewal options provides certain advantages such as continuity of operation, the possibility of lower contract prices when the contractor is required to provide equipment or facilities, and reduced turbulence and disruption.

(5) Ordinarily, agencies should not incur the delay and expense of conducting cost comparison studies to justify a Government commercial or industrial activity for products or services estimated to cost the Government less than $100,000 in annual operating costs. Activities below this threshold should be performed by contract unless in-house performance is justified in accordance with paragraph 8.a. or b. However, if there is reason to believe that inadequate competition or other factors are causing commercial prices to be unreasonable, a cost comparison study may be conducted. Reasonable efforts should first be made to obtain satisfactory prices from existing commercial sources and to develop other competitive commercial sources.

(6) The cost comparison will use a rate of 10% per annum as the opportunity cost of capital investments and of the net proceeds from the potential sale of capital assets, as prescribed in the Cost Comparison Handbook.

b. *Calculating Contract Costs*

(1) The contract cost figure must be based on a binding firm bid or proposal, solicited in accordance with pertinent acquisition regulations. Bidders or offerors must be told that an in-house cost estimate is being developed and that a contract may or may not result, depending on the comparative cost of the alternatives.

(2) The factor to be used for the Government's cost of administering contracts, in addition to other costs of using contract performance as specified in the Handbook, is 4% of the contract price or expected cost.

c. *Calculating Costs of Government Operation*

(1) Each agency should assure that Government operations are organized and staffed for the most efficient performance. To the extent practicable and in accordance with agency manpower and personnel regulations, agencies should precede reviews under this Circular with internal management reviews and reorganizations for accomplishing the work more efficiently, when feasible.

(2) The Government cost factor to be used for Federal employee retirement benefits, based on a dynamic normal cost projection for the Civil Service Retirement Fund, is 20.4%

(3) The Government cost factor to be used for Federal employee insurance (life and health) benefits, based on actual cost, is 3.7%.

(4) The Government cost factor to be used for Federal employee workmen's compensation, bonuses and awards, and unemployment programs is 1.9%.

d. An existing in-house activity will not be converted to contract performance on the basis of economy unless it will result in savings of at least 10% of the estimated Government personnel costs for the period of the comparative analysis.

e. A "new start" will not be approved on the basis of economy unless it will result in savings compared to contract performance at least equal to 10% of Government personnel costs, plus 25% of the cost of ownership of equipment and facilities for the period of the comparative analysis.

f. All cost comparisons must be reviewed by an activity independent of the cost analysis preparation to ensure conformance to the instructions in the Cost Comparison Handbook."

Subpart B—Overview of the Cost Comparison Process

§ 169b.11 General.

A valid comparative cost analysis under Circular A–76 requires an accurate determination of the costs of acquiring the needed products or services from the private sector and from the existing or proposed Government commercial or industrial activity. To ensure an equitable comparison, both cost figures must be based on the same scope of work, and include all significant identifiable costs that would be incurred by the Government under either alternative.

§ 169b.13 Initial planning.

(a) The comparative cost analysis and implementation of the conclusions reached involve the responsibilities of many functional and staff offices of the agency. For best coordination of these responsibilities, a task group should be formed by representatives of the various organizations and offices concerned, such as: the functional or operational organization, the manpower and/or personnel office, the finance and accounting office, the management analysis group (if available), the budget office, the procurement office, the legal office, and other staff functions as appropriate. The task group chairman should be thoroughly familiar with this Handbook.

(b) This group should establish a plan and time schedule for orderly completion of the necessary steps to conduct the study and reach a timely conclusion to either award a contract or to continue or initiate the Government commercial or industrial activity. The schedule must allow adequate time for preparation of a comprehensive work statement, solicitation of bids or proposals, determination of in-house costs, evaluation of bids and the Government estimate, independent audit of the Government cost estimate, and review and approval of the conclusions. Close coordination with the procurement office and the personnel office is required to ensure compliance with procurement regulations and to provide maximum consideration for Government personnel who would be displaced in the event of a conversion from in-house to contract performance.

§ 169b.15 Statement of work.

(a) The preparation of the work statement is a critical step. It must be comprehensive enough to ensure that performance in-house or by contract will satisfy the Government requirement. It must also serve as the basis for determining both the contract and Government cost, to ensure comparability and equity in the cost analysis. The work statement should clearly state *what* is to be done without prescribing *how* it is to be done. It should also provide performance standards to ensure a comparable level of performance with either alternative and to provide a basis for evaluation. Maximum flexibility should be permitted in staffing to permit each potential performer to propose the most efficient approach consistent with its organization and resources.

(b) The work statement should describe all duties, tasks, responsibilities, frequency of performance of repetitive functions, and requirements for furnishing facilities and materials. Where the workload is variable, historical data for a representative period on workload, material and parts consumption, etc, will be provided, when available, along with the best estimate of future requirements. Bid solicitations will normally call for use of contractor facilities, unless performance on Government property is essential or would be more economical. When the work is currently being performed in a Government-owned facility or appropriate Government facilities are available, and contractor use of those facilities would be in the Government's interest, bids will be requested on that basis. Requirements regarding the proximity of the contractor's facility to the Government installation will be used only when clearly justified in terms of operational necessity to meet Government needs.

(c) The work statement will be reviewed by the contacting officer to ensure that it is adequate and appropriate for a contract specification. The contracting officer will be responsible for advertising the requirement, through the Commerce Business Daily and by other means, and the functional organization will identify any known commercial sources—this is particularly important in the case of unique products or services which have not been previously obtained from a commercial source.

§ 169b.17 Procedure.

(a) When the statement of work has been completed, firm bids or proposals will be solicited. Formal advertising, with firm fixed price bids, will be used when appropriate for the requirement. Proposals may be requested for competitive negotiations when this method would be more suitable and warranted under current acquisition regulations. It is essential that the invitation for bids or request for proposals provide for a common standard of performance to permit an equitable comparison of Government and contract costs for performing the same task. This is particularly important when the proposed contract will contain flexible pricing provisions, such as incentive or award fees. Use of the maximum incentive or award fee available would be inappropriate if it reflects a different standard of performance from the level which provided the basis for the in-house cost estimate. The contract cost figure

ultimately entered in line 10 of the Cost Comparison Form (Exhibit 1) must include an estimate of the incentive or award fee that corresponds to the level of performance expected of the Government in performing the same task.

(b) Concurrent with the contracting procedure, the in-house cost estimate will be prepared, based on the same work statement that is used in the contract solicitation, by completing the Cost Comparison Form in accordance with the instructions in this Handbook. When the cost analysis concerns an existing Government activity manned by civilian personnel, and the proposed staffing plan differs from the existing activity, the proposal plan must be consistent with agency manpower and personnel regulations and implementation must be initiated within 30 days after a determination is made to continue Government performance.

(c) When all the costs connected with in-house performance have been estimated (lines 1 through 9, 18 through 22, and 31, if appropriate), they should be totaled and entered on line 33 of the Cost Comparision Form. The Form should then be signed and dated by the person responsible for its preparation in the line entitled, "In-House Estimate Prepared By". If the Form was prepared by a task force, the Chairman of the group should sign, indicating that he was the Chairman. The sealed in-house cost estimate must then be submitted to the contracting officer by the required submission date for bids or proposals. The confidentiality of both the in-house estimate and contract prices will be maintained to ensure that they are completely independent.

(d) After the contracting officer opens the bids or completes negotiations, he will determine the lowest acceptable contract price, conducting preaward surveys as required to establish the lowest responsible and responsive bidder. The contracting officer will enter the dollar amount of the lowest responsible bid or proposal in line 10 of the Cost Comparison Form, and will return it to the preparer for completion.

(e) If the contract figure in line 10 is higher that the Government's in-house estimate in line 33, the preparer may be able to make a shortened cost comparison in accordance with Chapter V.B. If, on the other hand, the contract price is less that the total in-house costs, the detailed cost comparison must be completed, giving due consideration to all types of costs which could add to or subtract from the cost of either mode of performance (Chapter V.C.)

(f) After the comparison is completed and the Form is signed, it will be submitted to a qualified activity independent of the cost analysis preparation to ensure that the Government's estimated costs have been prepared in accordance with the provisions of this Handbook. If no, or only minor, descrepancies are noted during the review, the reviewing activity will execute the audit certificate and return the Form to the preparer. If significant descrepancies are noted during the review, they will be reported to the party which prepared the cost comparison. The reviewing agency should indicate the impact of the discrepancy or recommend that the preparer correct and resubmit its estimate. If the solicitation pertains to a new-start and the estimate cannot be corrected in a timely manner, the in-house figure will be rejected and the contract awarded. Conversely, if the contemplated contract pertains to an activity presently being performed in-house, and the estimate connot be corrected within the validity date of the bids or proposals, the solicitation may be cancelled and the comparison rescheduled for a later date.

(g) When the cost comparison has been audited and, with any necessary corrections approved by the reviewing agency, the party responsible for preparing the cost comparison will originate the Decision Summary Form (Exhibit 2), including the recommendation to award a contract or to perform the work in-house. When the amount in line 35 of the Cost Comparison Form indicates that the cost of in-house performance exceeds the cost of contracting-out, the recommendation should be for contract performance. Conversely, when the cost of in-house performance is less that (under) the cost of contracting out, the recommendation should be to perform in-house.

(h) The Decision Summary Form and the Cost Comparison Form will be forwarded to the approving authority for review and approval. The approving authority is an official with responsibility for the organization in which the activity reviewed is or would be located.

(i) The approving authority will send the approved Forms to the contracting officer, who will announce the results of the cost study and make available the detailed analysis to any interested parties: bidders, affected employees, and unions representing affected employees. If no significant discrepancy in the cost comparison is reported within five working days after the announcment, the contracting officer will award a contract or cancel the solicitation, as appropriate. When warranted by the complexity of the analysis, the contracting officer may extend this review period to a maximum of 15 working days.

(j) If a discrepancy in the cost analysis is reported during the public review period, every effect will be made to correct it in a time frame that corresponds to the requirement and the validity date of the bids or proposals. If the analysis is for a new start, and there is a serious defect in the in-house cost estimate, the in-house figure will be rejected and a contract will be awarded. When the analysis concerns a Government commercial or industrial activity, and the discrepancies cannot be corrected within the validity date of proposals, the solicitation may be cancelled and the review rescheduled.

§ 169b.19 Organization of the Handbook.

(a) This Handbook (Chapters III through VI) is organized by the major subjects which must be considered in developing bottom line in-house and contract cost estimates. The significance of each topic (usually an element of cost) and related terms are discussed in sufficient detail to explain all points which must be considered, computations which must be made, and documentation which must be retained to support the cost analysis and estimates. This method of presentation is intended to allow the user to approach the specific tasks of analysis and estimating with an adequate general understanding of the type of cost under review.

(b) The user's ultimate goal is to complete the Cost Comparison Form (Exhibit 1) so that an informed decision can be made and documented on the Decision Summary Form (Exhibit 2). To facilitate achieving this goal, Cost Comparison Form line numbers are referred to in the text.

(c) The three appendices to the text serve three distinct purposes. Appendix 1 provides a table for estimating the amount of federal income tax payable on the contract price, supplementing guidance on this subject in Section V.G. Appendix 2 is a glossary of pertinent terms in one alphabetical listing.

(d) Appendix 3 is provided to put the entire cost comparison process in a chronological perspective. It lists the actions which must be taken to properly complete the cost comparison process, from start to finish. The party responsible for each action is noted in parentheses. Beside each numbered action is a reference to the paragraphs in the text which discuss the action in detail.

(e) Appendix 3 provides an overview of the cost comparison process. However, it can also be used in initial planning, assigning specific tasks to group members, and noting progress throughout the process. Users must ensure that the actual performance of each action is consistent with the guidance provided in the referenced paragraphs of the Handbook.

Note.—Appendix 1, 2, and 3 referred to above are not reprinted here. They were printed in the **Federal Register** on April 5, 1979 at 44 FR 20567.

Appendix 4.—DOD Supplemental Guidance

Costing Military Personnel

Military personnel will not be considered in estimates of direct labor costs. Rather, a civilian space will be used. The civilian grade level will be determined by the nature of the work requirement, not by linking military grades and civilian grades.

Military personnel may be considered in estimates of indirect labor costs. For this purpose, the most current tables, 252–1 through 252–4, in DoD 7220.29H will be used. The annual composite standard rate needs to be adjusted as follows:

1. Add a factor for Permanent Change of Station (PCS) costs. this is determined by dividing the PCS budget by the military man-years. Each Military Service will have two rates; one for officers; one for enlisted personnel. Cadets are treated separately but are not germane to costing industrial commercial activities. For Fiscal Year 1979, the rates are:

	Army	Navy	Marine Corps	Air Force
Officers	$1,702	$1,542	$1,251	$1,362
Enlisted	642	533	489	746

2. Add 8% for officers and 23% for enlisted personnel to cover operating appropriations support.

3. Add 26.5% for retirement.

4. Add the latest inflation factors:

From fiscal year	To fiscal year	Add %
1979	1980	7.1
1980	1981	5.8

These rates are published from time to time by OASD(C) in connection with budget guidance.

Costing DOD Wholesale Material

Until a more specific DoD-wide factor(s) is developed, the add-on for DLA material will be used.

Wholesale Stock Fund—add 24.5%.

Direct Delivery; i.e., not stored by the Wholesale Stock Fund—add 13.4%.

Each Military Service and DLA should develop and/or validate its own factors using costs for Central Supply Operations, Procurement Operations and Inventory Control Point Operations obtained from data recorded in accordance with DoD Instruction 7220.17 and placed in the Operations Subsystem Data Bank in accordance with DoD Instruction 7000.5. Contract administration costs should be separated and the data for validating a contract administration rate accumulated.

The data should be forwarded annually to OASD(MRA&L) for use in validating the add-on factors for the DoD-wide wholesale supply system and the contract administration rate.

Price Escalation

The following factors are to be used for various appropriations:

From—	To—	Add the listed percentages					
		Procurement	RDT&E	Mil Con	O&M [1] Pay	O&M [1] Nonpay	Ships
Fiscal year:	Fiscal year:						
1979	1980	8.6	8.2	9.2	7.0	8.1	8.2
1980	1981	8.4	8.2	8.3	5.5	8.4	7.6

[1] Includes operation and maintenance, military personnel and O&M family housing.

These rates are updated from time to time by OASD(C). The rates will be prorated between separate Fiscal Years involved in the performance year in the ration of the months in each year; e.g., Procurement:

9 months in FY 1980: 9×8.6=77.4
3 months in FY 1981: 3×8.4=25.2
102.6 ÷12=8.6 (8.55 rounded)

Costing Premature Retirement

The actuarial model to compute the standard retirement cost factor (20.4%) provides for normal levels of early retirement and withdrawals, but any significant number of actions could have additional impact. If it can be determined that additional cost or savings are appropriate, the situation will be called to the attention of OASD(MRA&L)MD for considerations. There is considerable doubt, even by the GAO Actuary as to how to compute additional cost or savings; therefore, unless a satisfactory model is developed additional cost or savings should not be estimated.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
November 2, 1979.
[FR Doc. 79-35151 Filed 11-13-79; 8:45 am]
BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL 1358-7]

Availability of Additional Modeling Data and of the Closing of the Record of Proceedings Under Section 126 of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Additional Modeling Data and of the Closing of the Record of Proceedings under Section 126 of the Clean Air Act.

SUMMARY: The purpose of this is to announce the availability of additional modeling data regarding sulfur dioxide emissions of the Indiana-Kentucky Power Company, Clifty Creek Power Plant, located in Jefferson County, Indiana, prepared in connection with the hearing under section 126 of the Clean Air Act which took place on June 20, 1979, to solicit any additional public comment concerning the above issues, and to give notice that the comment period will close on December 5, 1979.

DATES: Modeling analysis available immediately; Deadline for submission of written materials and closing of public hearing record December 5, 1979.

ADDRESSES: The modeling data and analysis, a verbatim transcript of the hearing, and copies of other material are available during normal working hours at the U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604; at U.S. Environmental Protection Agency Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, at the Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Harrison, Hearing Panel Chairman, Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2016.

SUPPLEMENTAL INFORMATION: In a notice dated May 21, 1979, 44 **Federal Register** 29495, EPA announced that a hearing would be held on June 20, 1979 in Louisville, Kentucky to initiate proceedings under section 126 of the

Clean Air Act on the issue of whether the Indiana-Kentucky Power Company, Clifty Creek Power Plant emits sulfur dioxide in violation of section 110(a)(2)(E)(i) of the Clean Air Act. The hearing was held, at which time it was announced that since final EPA modeling data was not yet available, the panel had decided to hold the record open until 30 days after the date when the final data and technical support documentation became available. This notice announces the availability of final modeling data and technical support documents and announces the closing of the record on December 5, 1979.

USEPA solicits and will accept written materials relevant to the issue set forth above from all interested parties. Eight copies of the material should be submitted, if possible. Written materials should be submitted to Mr. Harrison at the above address.

The EPA recommendation for a final determination under these proceedings will be based upon the preponderance of the evidence of record and will be announced in the **Federal Register** in the form of a proposal upon which the public will be given an opportunity to comment. Final action, following the public comment period, will be announced in the **Federal Register.**

Dated: November 1, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-35090 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1358-4]

Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted two Consent Orders, for Beall Jr./Sr. High School, Frostburg, Maryland and Mount St. Mary's College, Frederick County, Maryland respectively, as a proposed revision of the State Implementation Plan (SIP). They are consistent with the State of Maryland's intent to amend certain regulations applicable to small boilers in rural areas. The orders would allow the boilers to be constructed as an exception to the current Maryland regulations. Studies submitted with the proposed changes show that no ambient air quality standards or Prevention of Significant Deterioration (PSD) increments will be violated due to the construction and operation of these two boilers. It is therefore the tentative decision of the Administrator to approve the proposed revision.

DATE: Comments must be submitted on or before December 14, 1979.

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

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Attn: Edward A. Vollberg

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston St., Baltimore, MD 21201, Attn: George Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M. Street, SW. (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted on or before December 14, 1979 will be considered and should be directed to: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH016MD

FOR FURTHER INFORMATION CONTACT: Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8179.

SUPPLEMENTARY INFORMATION: On February 7, 1979 and March 16, 1979, respectively, the State of Maryland submitted Consent Orders to allow the construction of two boilers; one in Frostburg, Maryland at the Beall Jr./Sr. High School and one in Frederick County, Maryland at Mount St. Mary's College. The State, in its submittal, certified that the orders were adopted in accordance with the public hearing and notice requirements of 40 C.F.R. Part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Orders as a revision of the State Implementation Plan. The orders allow construction of the boilers as an exception to the current Maryland Air Quality Regulations. (COMAR 10.18.02.02B, 10.18.03.02B, 10.18.02.03B(2)b, 10.18.03.03B(2)b, 10.18.02.03B(2)c(2), 10.18.03.03B(2)c(2), 10.18.02.06D(2) and 10.18.03.06D(2)). The orders grant exceptions to the two sources, to allow construction and operation of the new boilers, subject to the following conditions:

1. Operation of boilers are not to result in visible emissions exceeding 20 percent opacity and an outlet particulate grain loading of 0.10 grains per standard cubic feet dry.

2. Boilers are to be constructed so as to provided for a stack test, which is to be conducted within ninety (90) days after they have come into operation.

3. The boilers are to be fired with the fuel mixtures stated in the orders with the sources maintaining accurate records of the fuel ratios.

4. The boilers shall be constructed so as to provide for the installation of pollution control equipment if necessary.

Presently, there are no violations of the ambient air quality standards in the vicinity of either sources. In addition, modeling performed by the State of Maryland indicate that the proposed sources will not cause a violation of the ambient air quality standards or the PSD increments.

Therefore, it is the tentative decision of the Administrator to approve the proposed revision of the Maryland State Implementation Plan.

The public is invited to submit to the address stated above, comments on whether the Beall Jr./Sr. High School or the Mt. St. Mary's College Consent Orders should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C 7401-7642)

Dated: October 30, 1979.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 79-35046 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1357-7]

Special Conditions for Offsetting Emissions Under the California New Source Review Provisions of the State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The application for an Approval to Construct submitted by Watson Energy Systems, Inc. is subject to the requirements of the Agency's emission offset policy published on December 21, 1976 in the **Federal Register** (41 FR 55524). The source is required to obtain nitrogen oxide emission offsets from an existing source in the area. These offsets have been proposed in the form of a contract between Watson Energy Systems, Inc. and the Atlantic Richfield Company (ARCO). This notice proposes adoption of changes to 40 CFR Part 52 incorporating emission reductions by ARCO creditable as offsets for Watson Energy Systems, Inc.

DATES: Comments may be submitted up to December 14, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Enforcement Division, Permits Branch (E-4-3), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California 94105.

Copies of the permit application materials and Authority to Construct are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812

South Coast Air Quality Management District, 9420 Telstar Avenue, El Monte, California 91731

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Lloyd Kostow, Chief, Air Permits Section E-4-3, Enforcement Division, EPA Region IX, 215 Fremont Street, San Francisco, California 94105, (415) 556-8005.

SUPPLEMENTARY INFORMATION:

Background

Under the Agency's Interpretative Ruling published December 21, 1976 at 41 FR 55524 a major new source may locate in an area with air quality worse than a national standard only if the following conditions are met:

(1) The new source's emissions will be controlled to the lowest achievable emissions rate.

(2) More than equivalent offsetting emissions reductions will be obtained from existing sources.

(3) There will be progress towards achievement of the standards.

(4) All sources within the State owned or operated by the applicant are in compliance with applicable emissions regulations.

On October 28, 1976, with subsequent information submitted on December 26, 1978 and September 20, 1979, Watson Energy Systems, Inc. applied to the EPA for a permit to construct a resource recovery steam generating facility in Wilmington, California. The proposed plant would emit more than 100 tons per year of nitrogen oxides and sulfur oxides. The facility would be located in an area which is not attaining the National Ambient Air Quality Standard (NAAQS) for nitrogen oxides. The proposed plant is, therefore, subject to the Agency's December 21, 1976 Interpretative Ruling and must obtain emission offsets for nitrogen oxide emissions. The emissions total a maximum of 360 tons per year based on the percent nitrogen in the fuel supply, excess combustion air control and combustion temperature control. Offsetting nitrogen oxide emissions estimated at 432 tons per year were proposed by Watson Energy Systems. These offsets would be realized through a contractual agreement between Watson and ARCO which was signed on September 20, 1979. The sale of steam from the Watson Energy Systems project to ARCO would result in a reduction in steam generated by ARCO at its refinery.

Nitrogen Oxide Offsets

The nitrogen oxide offsets proposed by Watson Energy Systems could be considered enforceable if certain conditions are placed on ARCO by the EPA concerning refinery steam production. The EPA proposes to incorporate these conditions as listed below into 40 CFR Part 52 to insure their enforceability.

(1) The total steam load comprised of the steam purchased from Watson Energy Systems and the amount generated by boilers # 31, # 32, # 33, # 42, # 51, and # 52 at the the ARCO Watson Refinery shall not exceed 1,355,000 pounds per hour at 680°F, 600 psig.

(2) Continuous records of steam purchased from Watson Energy Systems and of the steam produced by boilers # 31, # 32, # 33, # 42, # 51, and # 52 at the ARCO Watson Refinery, during the receipt of steam from Watson Energy Systems, shall be maintained and made available for inspection by the EPA and the South Coast Air Quality Management District. These records shall be kept in terms of pounds per hour of steam at 680°F, 600 psig.

(3) The steam purchased from the Watson Energy Systems facility shall be used as a 'first-on, last-off' source of steam for the ARCO Watson Refinery, except for steam produced by waste heat or as part of the refining process, or as required to maintain fired boilers in service for emergency use.

(4) Any produced changes in equipment that would increase the oil fired steam generating capacity or decrease oil fired steam generating efficiency of boilers # 31, # 32, # 33, # 42, # 51, or # 52 at the ARCO Watson Refinery must be reviewed and approved by the EPA prior to implementation of the proposed changes.

(5) ARCO shall maintain written records of oil consumption at boilers # 31, # 32, # 33, # 42, # 51, and # 52 during receipt of steam from Watson Energy Systems. These records shall be available for inspection by the South Coast Air Quality Management District and the EPA. The total oil consumption of these boilers shall not exceed a monthly average of 226,000 gallons per day when receiving steam from the Watson Energy Systems plant at a rate of 350,000 pounds per hour. When receiving steam at a lower rate, ARCO shall be allowed to increase its boiler fuel oil consumption to achieve a total steam load not to exceed the limit of condition one (1).

Sulfur Oxide Offsets

The Watson Energy Systems project is subject to the Agency's Prevention of Significant Deterioration (PSD) regulations for sulfur oxide emissions. Watson Energy Systems proposes wet scrubbers as best available control technology. In lieu of a detailed ambient air quality assessment, Watson Energy Systems proposes equivalent offsets for all sulfur oxide emissions. These offsets result from the contractual agreement between Watson Energy Systems and ARCO mentioned above. The EPA feels that these conditions meet the requirements of the PSD regulations provided that the contract conditions on ARCO are enforceable by the EPA.

Proposed Action

The EPA feels that the Watson Energy Systems plant will meet the requirements of the Agency's Interpretative Ruling of December 21, 1976. This decision is based on:

(1) The use of technology resulting in the lowest achievable emissions rate for nitrogen oxides.

(2) The fact that the proposed offsets are greater than one-for-one.

(3) The emissions offsets contribute to attainment of the NAAQS for nitrogen oxides.

(4) The proposed Watson Energy Systems project is their only major source in the State.

In this notice EPA is proposing to grant approval of the nitrogen oxide and sulfur oxide emissions offsets as discussed above, creditable to the Watson Energy Systems project. This notice is based on the finalization of the contract between Watson Energy Systems and the Atlantic Richfield Company. The offsets are being proposed in a new section to 40 CFR Part 52 to ensure their enforceability under the Clean Air Act. Interested persons may participate in this rulemaking by submitting comments to the address given above. Comments submitted within 30 days of this notice will be considered.

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

Dated: November 6, 1979.

Paul De Falco, Jr.,

Regional Administrator.

Part 52 Chapter I, Title 40 of the code of Federal Regulations is proposed to be amended as follows:

Subpart F—California

1. Section 52.233, paragraph (k) is being added as follows:

§ 52.233 Review of new sources and modifications.

* * * * *

(k) *Conditions on steam production.* (1) Notwithstanding any provisions to the contrary in the California State Implementation Plan, the Watson petroleum refinery owned by Atlantic Richfield Company, located at 1801 East Sepulveda Boulevard, Carson, California, shall operate under the following conditions listed in paragraphs (k) (2) through (6) of this section.

(2) The total steam load comprised of the steam purchased from Watson Energy Systems and the amount generated by boilers #31, #32, #33, #42, #51, and #52 at the ARCO Watson Refinery shall not exceed 1,355,000 pounds per hour at 680°F, 600 psig.

(3) Continuous written records of steam purchased from Watson Energy Systems and of the steam produced by boilers #31, #32, #33, #42, #51, and #52 at the ARCO Watson Refinery, during receipt of steam from Watson Energy Systems, shall be maintained and made available for inspection by the EPA and the South Coast Air Quality Management District. These records shall be kept in terms of pounds per hour of steam at 680°F, 600 psig.

(4) The steam purchased from the Watson Energy Systems facility shall be used as a "first-on, last-off" source of steam for the ARCO Watson Refinery, except for steam produced by waste heat or as part of the refining process, or as required to maintain fired boilers in service for emergency use.

(5) Any proposed changes in equipment or fuel that would increase the oil fired steam generating capacity or decrease oil fired steam generating efficiency of boilers #31, #32, #33, #41, #51, or #52 at the ARCO Watson Refinery must be reviewed and approved by the EPA prior to implementation of the proposed changes.

(6) ARCO shall maintain written records of oil consumption at boilers #31, #32, #33, #42, #51, and #52 during receipt of steam from Watson Energy Systems. These records shall be available for inspection by the South Coast Air Quality Management District and the EPA. The total oil consumption of these boilers shall not exceed a monthly average of 226,000 gallons per day when receiving steam from the Watson Energy Systems plant at a rate of 350,000 pounds per hour. When receiving steam at a lower rate, ARCO shall be allowed to increase its boiler fuel oil consumption to achieve a total steam load not to exceed the limit of condition two (2).

* * * * *

[FR Doc. 79-35047 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 65

[Docket No. DCO-78-4; FRL 1359-3]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for PPG Industries in Shelby, N.C.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior **Federal Register** notice proposing a Delayed Compliance Order for PPG Industries at Shelby, North Carolina. This action is being taken because PPG Industries has demonstrated by an inspection that it is no longer in violation of North Carolina State Implementation Plan provisions covered by the proposed Order.

DATE: This withdrawal is immediately effective on November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Floyd Ledbetter, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, Telephone number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: A **Federal Register** notice published at Vol. 44, No. 73, FR page 22131 on April 13, 1979, solicited public comments and offered the opportunity to request a public hearing on a proposed State-issued Delayed Compliance Order to be issued by EPA to PPG Industries at Shelby, North Carolina. No public comments or request for a public hearing were received on this proposed delayed compliance order. PPG Industries has subsequently achieved compliance with the North Carolina State Implementation Plan regulations covered by the Order; compliance was demonstrated in an inspection conducted by the North Carolina Environmental Management Commission.

In consideration of the foregoing, the proposal published in the **Federal Register** Vol. 44, No. 73, FR, page 22131 on April 13, 1979, entitled "Proposed Delayed Compliance Order for PPG Industries in Shelby, North Carolina," is hereby withdrawn.

Dated: October 22, 1979.

John A. Little,

Acting Regional Administrator, Region IV.

[FR Doc. 79-35044 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 257

[FRL 1356-4]

Criteria for Classification of Solid Waste Disposal Facilities and Practices; Extension of Public Comment Period on Proposed Amendment

AGENCY: Environmental Protection Agency.

ACTION: Extension of Public Comment Period.

SUMMARY: On September 13, 1979, EPA issued final rules under Sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act and Section 405(d) of the Clean Water Act (44 FR 53438). Also on September 13, 1979, EPA issued a proposed amendment to these rules (44 FR 53465). Comments were originally due

November 13, 1979. The Agency is now announcing an extension in the period of time provided for submission of comments on the proposed amendment.

DATES: The public comment period will extend through December 13, 1979. All comments postmarked on or before the above date will be considered for purposes of this regulation.

ADDRESSES: The mailing address for all comments is: Office of Solid Waste (WH-562), EPA, Washington, D.C. 20460, Attention: Docket Clerk, Docket 4004.2.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Stoll at the above address or at (202) 755-9116.

SUPPLEMENTARY INFORMATION: The purpose of the Criteria for Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 257) is to provide the basis for determining whether solid waste disposal facilities or practices pose a reasonable probability of adverse effects on health or the environment. This proposed amendment would expand the list of maximum contaminant levels (MCL's) used in the ground-water quality standard of the criteria.

The ground-water quality standard which was promulgated in the criteria contains maximum contaminant levels for health-related parameters (specific inorganic and organic chemicals, coliform bacteria, and radioactive contamination). This amendment proposes limits for the following additional contaminants: Chloride, color, copper, foaming agents, iron, managanese, odor, pH, sulfate, total dissolved solids, and zinc. These additions are designed to protect ground water from odor, discoloration, and taste-causing contaminants.

Dated: November 7, 1979.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 79-35043 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 254

Operating-Differential Subsidy for Dry Bulk Cargo Vessels; Extension of Comment Period

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed Regulations—Extension of time for comments.

SUMMARY: On September 6, 1979, Notice was published in the **Federal Register** (44 FR 52002) that the Maritime Administration proposes to promulgate Part 254 setting forth regulations governing the payment of operating-differential subsidy to operators of dry bulk cargo vessels pursuant to Title VI of the Merchant Marine Act of 1936, as amended (the Act) (46 USC 1171-1180).

Notice is hereby given that the closing date of this notice has been extended.

DATE: Comments are now due on or before November 30, 1979.

ADDRESS: Comments from any interested person desiring to offer views on the proposed regulations for consideration by the Maritime Administration should be submitted in writing, with 15 copies to the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Frederick R. Larson, (202) 377-5532.

So ordered by the Maritime Subsidy Board, Maritime Administration.

Dated: November 5, 1979.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-35070 Filed 11-13-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

50 CFR Ch. VI

New England Fishery Management Council and Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils announce a joint meeting of the Regulatory Measures Committees.

DATE: The meeting will convene on Wednesday, November 28, 1979, at approximately 10 a.m., and adjourn at approximately 5 p.m.

ADDRESS: The meeting will take place at the Best Western Airport Inn, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Douglas G. Marshall, Executive Director New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535-5450

or

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331

SUPPLEMENTARY INFORMATION: The two Councils in conjunction with the U.S. Coast Guard and the National Marine Fisheries Service conducted a series of public meetings on proposed gear conflict regulations. These meetings were held at several locations within the geographic area of each Council in September 1979. It is the intention of the two Councils to establish gear conflict regulations applicable to fishing operations carried out within a portion of the Fishery Conservation Zone under their combined jurisdictions.

The purpose of the meeting is to review public comments received as a result of those public meetings, prepare final gear conflict regulations, and to discuss further steps toward implementation of such regulations.

Dated: November 7, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-35147 Filed 11-13-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 44, No. 221
Wednesday, November 14, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding the Operation and Maintenance Programs of the Walla Walla District of the Corps of Engineers

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memoroandum of Agreement pursuant to Section 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Corps of Engineers, Walla Walla District and the State Historic Preservation Officers of Washington, Idaho, Oregon, and Wyoming, concerning the operation and maintenance programs for water resource projects in the Walla Walla District. The Agreement provides a System that will insure that the Corps of Engineers gives adequate consideration to historic and cultural properties in the operation and maintenance of water resource projects in order to meet the requirements of Section 106 of the National Hisotoric Preservation Act (16 U.S.C. 470f).

COMMENTS DUE: December 14, 1979.

ADDRESS: Comments should be addressed to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Suite 536, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Louis S. Wall, Chief, Western Division of Project Review, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225; Telephone: (303) 234–4946.

SUPPLEMENTARY INFORMATION: This notice of the proposed Agreement invites comments from interested parties. Copies of the proposed Agreement are available from either the Western Division of Project Review, Denver, Colorado, or the Division of Federal Program Review, Washington, D.C.

Under Section 106 of the National Historic Preservation Act (16 U.S.C. 470), the Council reviews and comments on Federal undertakings that affect properties listed or eligible for lisitng in the National Register of Historic Places. Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal, federally assisted or licensed undertaking affecting National Register or eligible properties shall afford the Council a reasonable opportunity for comment. The Council's regulations are published at 36 CFR Part 800.

The Walla Walla District of the Corps of Engineers operates and maintains 6 multi-purpose lakes (lock, dam, and reservoir systems) and 2 flood control dams in Idaho, Oregon, Washington, and Wyoming. In the course of this work, the Corps encounters National Register and eligible properties. Under the terms of the proposed Agreement, the Corps will develop Cultural Resource Management Plans for water resource projects for the States within the Walla Walla District. Such plans would contain recommendations for nomnination of sites, districts, and multiple resource areas to the National Register, data recovery, preservation, interpretation, and related treatment of such property. Plans developed pursuant to the proposed Agreement would be reviewed by both the appropriate State Historic Preservation Officer and the Council. The proposed Agreement also provides that Corps projects covered by the Agreement will be designed to avoid National Register and eligible properties unless it is not prudent and feasible to do so. In that event, the Corps, in consultation with the appropriate State Historic Preservation Officer, may develop mutually acceptable mitigation measures for impacts on National Register and eligible properties. The comments of the Council will be requested in accordance with published regulations in certain situations.

The parties to the proposed Agreement believe that it provides a workable system for expediting review of actions taken by the Corps to operate and maintain water resource projects in the Walla Walla District.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 79-35008 Filed 11-13-79; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln National Forest Grazing Advisory Board; Meeting

The Lincoln National Forest Grazing Advisory Board will meet at 10:00 a.m., December 6, 1979 in the Conference Room of Bank Securities, Inc., Security Center, 1701 Tenth Street, Alamogordo, New Mexico. The purpose of this meeting is to provide grazing permittees of the Lincoln National Forest means for offering advice and recommendations concerning the development of allotment management plans and utilization of range betterment funds for the Lincoln National Forest.

The meeting will be open to the public. Persons who wish to attend should notify Don Cunico, Lincoln National Forest Supervisor's Office, Federal Building, 11th & New York, Alamogordo, New Mexico 88310, Telephone (505) 437–6030. Written statements may be filed with the Board before or after the meeting.

Rules for public participation will be established at the meeting. Election of officers and adoption of by-laws will also be conducted.

Dated: November 5, 1979.

James R. Abbott,
Forest Supervisor.

[FR Doc. 79-35048 Filed 11-13-79; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 34681]

Interim Essential Air Transportation at Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, Ogdensburg, N.Y., and Rutland, Vt.; Change of Date of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on December 12, 1979, at 10:00 A.M. (local time), in Room 1027,

Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before November 30, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., November 7, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35062 Filed 11-13-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-22; Docket 34802]

Wien Air Alaska, Inc.; Fair and Reasonable Service Mail Rates; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of November, 1979.

By this order, the Board proposes to establish new final service mail rates for the transportation of priority and nonpriority mail over the intra-Alaska routes of Wien Air Alaska, Inc. (Wien) on and after February 24, 1979.

Wien petitioned the Board on February 22, 1979, to establish increased service mail rates per ton-mile of $2.3956 for priority mail and $1.1822 for nonpriority mail. These rates would produce an estimated overall yield of $1.90 per mail ton-mile and were based on operating data for the year ended June 30, 1978. Subsequently, on May 17, 1979, Wien filed Amendment No. 1 to its petition requesting the Board to establish per ton-mile service mail rates of $2.5503 for priority mail and $1.2282 for nonpriority mail resulting in an estimated overall yield of $2.0146 per mail ton-mile. Wien submitted supportive economic justification for the requested rate relief based on its reported operating results for calendar year 1978.

By letter dated February 27, 1979, the United States Postal Service (Postal Service) requested that the date for submission of answers be extended until July 13, 1979, so that traffic density tests could be conducted early in May. On June 15, 1979, the Postal Service requested a further extension of time to August 14, 1979, in which to file answers to Wien's amended petition.

The Postal Service filed its answer to Wien's petitions on July 30, 1979, setting forth the results of the density tests and proposing establishment of priority and nonpriority rates of $2.2162 and $1.0352 per great circle mail ton-mile, respectively. Wien authorized the Postal Service to state that it supports these rates and joins in the request of the Postal Service that these rates be established for Wien's intra-Alaska service effective February 24, 1979. The Postal Service also proposes that the rates should be adjusted in the future based on a methodology similar to that used to update the domestic and international service mail rates so as to avoid the necessity of another service mail rate case in the near future. In addition, the Postal Service proposes that the order establishing the rates contain authority permitting Wien to elect to transport mail between competitive points at a reduced rate equal to the rate then in effect for such service by any other carrier.

After reviewing all the pleadings, the rationale utilized, and the reported fuel data for August 1979, we believe that the rates set forth in the attached Appendix A[1] are the fair and reasonable rates of compensation for Wien's intra-Alaska mail services. While these rates are at a somewhat higher level than those agreed upon by the parties, as discussed below, the establishment of these higher rates will reflect more accurately the costs and investment required to provide the intra-Alaska mail service.

In our analysis, as set forth in the attached appendices, we have attempted to apply all of the policies and methodologies adopted in the *Priority and Nonpriority Domestic Service Mail Rates Investigation,* Docket 23080-2. The one exception is in the method used to determine used and useful investment. The method used in Docket 23080-2 to determine carrier investment varies from that proposed in Class Rate IX for use in subsidy mail rate cases. We believe that it is logical to use the same methodology in determining a carrier's recognized investment in both service and subsidy mail rate cases. Therefore, we propose to use here the same methodology we adopted in the Supplementary Statement of Provisional Findings and Conclusions attached to our Order to Show Cause[2] in the *Investigation of The Local Service Class Subsidy Rate—Class Rate IX,* Docket 32484, which we also intend to apply in setting Wien's subsidy mail rate in Docket 35351.

In addition to the use of a different method for determining investment, there are two other areas where the methodology used by Wien and the Postal Service differs from that used by the Board. First, we have used regulatory instead of reported depreciation.[3] This affects not only capacity costs and investment but return and taxes as well. Second, we have incorporated fuel data through August 1979 in projecting fuel cost increases. In our view, these changes are required in order to arrive at a fair and reasonable rate of compensation for Wien.

The rates proposed in the attached Appendix A are estimated to produce an additional $5.775 million mail revenues, based on 1978 volumes. This constitutes an increase of 53.8 percent.

Based on the foregoing, the Board tentatively finds and concludes that:

1. The fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, on and after February 24, 1979, to Wien Air Alaska, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, shall be $2.5752 per nonstop great-circle ton-mile for priority mail and $1.0944 per nonstop great-circle ton-mile for nonpriority mail;

2. The mail ton-miles used in computing the service mail payment at the foregoing rates shall be based upon the nonstop great-circle mileage between the points of origin and destination of each shipment of priority and nonpriority mail;

3. Wien, by notice, may elect to transport mail between points for which rates here established are applicable at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(a) An original and three copies of each notice of election and agreement shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notice shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed and shall similarly describe the charge with which it is being equalized.

(b) Any rate established shall be effective for the electing carrier or carriers on the date of filing of the notice, or such later date as may be specified in the notice, until such election is terminated. Elections may be terminated by any electing carrier upon ten days notice filed with the Board and

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[1] $2.5752 for priority mail and $1.0944 for nonpriority mail. Appendices A through K filed as part of the original document.

[2] Order 79-7-207, July 31, 1979.

[3] For rate-making purposes, it is Board policy to base flight equipment depreciation on the conventional straight-line method of accrual, employing the service lives and residual values set forth in Part 399.42.

served upon the Postmaster General and each carrier providing service between the stated points; and

4. The rates here established shall be adjusted semi-annually based on an update methodology similar to procedures established in the *Priority and Nonpriority Domestic Service Mail Rates Investigation,* Docket 23080–2 and the *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation,* Docket 26487. See Orders 79–7–16 and 79–7–17, July 3, 1979.

Final future rates will be established every six months based on the latest available four quarter Form 41 data projected forward to the midpoint of the prospective rate period. Thus, final mail rates for the period January 1, 1980, through June 30, 1980, will reflect the application of a cost escalation factor to the base period calendar year 1978 costs for intra-Alaska mail service. The cost escalation factor will be based on a comparison of FY 1979 costs with FY 1978 costs plus a factor for anticipatory costs through March 31, 1980, the midpoint of the period. The factor for anticipatory costs will assume a rate of change equal to the rate change experienced from FY 1978 to FY 1979. Unit costs will be determined by dividing total costs, excluding passenger and transport related items, by available ton-miles.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly Sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons, particularly Wien Air Alaska, Inc. and the Postmaster General, to show cause why the Board should not adopt the foregoing tentative findings and conclusions, and fix, determine and publish the final rates specified above to be effective on and after February 24, 1979.

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within thirty (30) days after the service of this order.

3. If no notice, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix A.

4. We shall serve this order upon the Postmaster General and Wien Air Alaska, Inc.

We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[4]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–35079 Filed 11–13–79; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:30 p.m., on December 10, 1979, at the Airport Marina, 2910 Yale Boulevard., S. E. 2nd Floor, Albuquerque, New Mexico 87119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to plan the meeting for the Boom Town Subcommittee members.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, November 8, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79–35013 Filed 11–13–79; 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on December 8, 1979, at the Natrona County Library, Cooper Room, 307 East 2nd Street, Casper, Wyoming 82601.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan forthcoming projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 8, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79–35014 Filed 11–13–79; 8:45 am]

BILLING CODE 6335–01–M

[4] All Members concurred.

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Executive Committee of the President's Export Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Executive Committee of the President's Export Council will be held on Thursday, December 6, at 3:00 p.m. in the Rayburn House Office Building, Washington, D.C., Room B–354. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Executive Committee has been formed to make recommendations to the Council as to actions or positions to be taken by the Council and to act on behalf of the Council between Council meetings. The Executive Committee is composed solely of members of the Council.

The purpose of the meeting is to consider various projects undertaken by the Council. The agenda is as follows:

Report by the Chairman on the Direction of Council Activities,
Reports by the Chairmen of the various subcommittees,
Comments or Reports by other Executive Committee members,
Discussion and other Business.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes, Room 3818, Industry and Trade

Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone, (202) 377–5719.

Dated: November 1, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79–35004 Filed 11–13–79; 8:45 am]

BILLING CODE 3510–25–M

Subcommittee on Agriculture of the President's Export Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Subcommittee on Agriculture of the President's Export Council will be held on Thursday, November 29, at 9:30 a.m. in the U.S. Department of Agriculture's South Building, Room 5066. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including implementation of the President's National Export Policy. The Subcommittee on Agriculture has been formed to deal with all aspects of U.S. governmental policies, GATT rules, Toyko Round trade agreements, or other domestic or foreign developments that affect U.S. agricultural exports. The Subcommittee on Agriculture is composed solely of members of the Council.

The purpose of the meeting is to allow the Subcommittee to continue discussions on issues that it identified at its September meeting as being of primary importance in expanding the exportation of agricultural products. The agenda is as follows:

Opening remarks by the Chairman
Transportation
Increasing Consumption of Agricultural Exports Overseas
Status Report on the Structure of Agriculture
Other Business

A limited number of seats at the meeting will be available to the public on a first come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made available on written request, addressed to Vernon L. Harness, Director, Planning and Evaluation Division, Foreign Agricultural Service, Room 4932, U.S. Department of Agriculture, Washington, D.C. 20250.

Further information concerning the Subcommittee on Agriculture may be obtained from Mr. Harness at the above address, telephone (202) 447–4327.

Dated: October 30, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79–35003 Filed 11–13–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) which will meet to consider amendments to the Fishery Management Plan (FMP) for the High Seas Salmon Fishery Off the Coast of Alaska, East of 175° East Longitude; various amendments to the Gulf of Alaska Groundfish FMP, including sablefish optimum yield; FMP for Herring in the Bering-Chukchi Seas and a report on the public hearings; presentation of the halibut-limited entry research proposal (RFP); Office of Technology Assessment staff planning paper; SSS membership (a new Oregon alternate and designee, as well as eleventh member); and review contracts.

DATES: The meeting will convene on November 27–28, 1979 at 9 a.m., both days, and adjourn at approximately 5 p.m., both days. The meeting is open to the public and may be lengthened or shortened depending upon progress on the agenda.

ADDRESS: The meeting will take place at the North Pacific Fishery Council Conference Room 333 West 4th Avenue, Suite 32, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: November 7, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–35144 Filed 11–13–79; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels Under New Multifiber Agreement With Haiti

November 7, 1979.

AGENCY: Committee for the Implementaiton of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on May 1, 1979, pursuant to the terms of a new multifiber agreement.

SUMMARY: On August 17, 1979, the Governments of the United States and Haiti exchanged notes establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the three-year period beginning on May 1, 1979 and extending through April 30, 1982. Among the provisions of the agreement are those establishing levels of restraint for cotton textile products in Categories 331, 337, 340, 359 and man-made fiber textile products in Categories 632, 635, 637, 649, 651 and 652, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on May 1, 1979.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 331, 337, 340, 359, 632, 635, 637, 649, 651 and 652, in excess of the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 28773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: December 3, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S.

Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 7, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 3, 1979, and for the twelve-month period beginning on May 1, 1979 and extending through April 30, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 331, 337, 340, 359, 632, 635, 637, 649, 651 and 652 in excess of the following levels of restraint:

Category	12-mo level of restraint[1]
331	533,429 dozen pairs.
337	85,600 dozen.
340	112,500 dozen.
359	695,652 pounds.
632	1,630,435 dozen pairs.
635	130,751 dozen.
637	328,638 dozen.
649	992,708 dozen.
651	96,154 dozen.
652	500,000 dozen.

[1]The levels of restraint have not been adjusted to reflect any imports after April 30, 1979.

Textile products in the foregoing categories, produced or manufactured in Haiti, which have been exported to the United States prior to May 1, 1979, shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 17, 1979, between the Governments of the United States and Haiti which provide, in part, that: (1) For the second and third agreement years, each specific limit shall be increased by seven percent annually; (2) any specific ceiling may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent decrease in one or more specific limits; (3) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39406), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35171 Filed 11-13-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for a Proposed 700 MW Fossil Fuel Power Plant on the Arthur Kill at Staten Island, New York

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Description of Proposed Action—The Power Authority of the State of New York (PASNY) has requested a permit from the New York District Corps of Engineers under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act of 1977 to construct docking and waterfront facilities and to perform associated dredging for a proposed 700 MW fossil fuel power plant on the Arthur Kill at Staten Island, New York. Approximately 309,000 cubic yards of graded filler material and 173,000 cubic yards of riprap will be used for embankment construction generally along the mean low water line. Most of the fill material will be obtained by dredging unsuitable foundation material and the offshore area to provide vessel access. The power plant will operate with a closed cycle cooling system consisting of a single natural draft cooling tower. In conjunction with the power plant, PASNY has also requested approval to construct docking and conveyor facilities on the Hudson River at the Town of Catskill, New York, and to install a subaqueous transmission line across The Narrows in New York Harbor. The Catskill facility will be used for the disposal of ash, sludge and other plant by-products at an adjacent abandoned quarry. Approximately 270,000 cubic yards of material will be dredged from the Catskill site to provide barge access and disposed of at the plant site. Approximately 110,000 cubic yards of material will be dredged and backfilled for the cable installation.

2. Reasonable Alternatives:

a. No action.

b. Alternate project sites.

3. Scoping Process:

a. Public Involvement:

(1) Comments on public notice issued for project which will contain preliminary EIS scope of work.

(2) Comments at public hearings, if required.

b. Significant Issues Requiring In-depth Analysis:

(1) Air Quality
(2) Water Quality
(3) Wetlands
(4) Terrestrial Habitat
(5) Fish and Wildlife
(6) Drainage and Flood Storage Capacity
(7) Historical/Archeological Resources
(8) Socio/Economics
(9) Navigation
(10) Ground Water Resources
(11) Recreation
(12) Cumulative Impacts
(13) Alternatives
(14) Mitigating Measures

c. Assignments: None proposed.

d. Environmental review and consultation—Meetings with concerned Federal, State and local governmental agencies as well as interested environmental groups.

4. Scoping Meeting will ☒ * will not ☐ be held

5. Estimate date of statement availability December 1980.

*Date: November 30, 1979. Time: 10 a.m. Location: Federal Building, 26 Federal Plaza, room 2038, New York, N.Y. 10007.

ADDRESS:

Project Manager: Carmine Leone, Attn: NANOP–E, Tel No. (212) 264–0185.
EIS Coordinator: George Reyels, Attn: NANEN–E, Tel No. (212) 264–4662.
US ARMY ENGINEER DISTRICT, NEW YORK, 26 Federal Plaza, New York, N.Y. 10007.

Dated: October 26, 1979.

P. A. DeScenza,

Chief, Engineering Division.

[FR Doc. 79–35049 Filed 11–13–79; 8:45 am]

BILLING CODE 3710–06–M

Intent To Prepare Draft Environmental Impact Statement of Small Navigation Project, Cedar Point, McIntosh County, Ga.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) of a small navigation project, Cedar Point in McIntosh County, Georgia.

SUMMARY: The project consists of dredging a natural channel in Cedar Creek and Crescent River and establishing a shallow draft Federal navigation channel. The project area is located between Cedar Point and the Intracoastal Waterway. The channel dimensions to be provided and maintained would be a bottom width of 100 feet and a depth of 10 feet below mean low water. Channel side slopes would be 1 foot vertical to 3 feet horizontal. Approximately 114,100 cubic yards of material would be dredged from the navigation channel. Upon completion of the dredging, navigation aids (buoys) would be placed and maintained by the U.S. Coast Guard.

A disposal site for the dredged material is tentatively selected.

On December 4, 1979, an onsite inspection is planned in the morning. In the afternoon, a scoping meeting is planned to discuss the disposal site and the Project EIS in general. The meeting will be held in the Brunswick-Glynn County Regional Library at 208 Gloucester Street, Brunswick, Georgia. All interested Federal, State, and local agencies or organizations are invited to attend. For further details you may contact Mr. Tom Yourk at the Savannah District U.S. Army Corps of Engineers at FTS 248–8371 or commercial 912/233–8822, ext. 371.

Dated: November 6, 1979.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–35050 Filed 11–13–79; 8:45 am]

BILLING CODE 3710–HP–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Rio Puerto Nuevo-Rio Piedras, P.R., Flood Control Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The study is in response to a request by the Governor of the Commonwealth of Puerto Rico for a flood control study of Rio Puerto Nuevo Basin, Puerto Rico. The objective of the study include:

a. Reduce financial and personal losses and economic and social disruption of activities in the study area due to periodic flooding.

b. Provide for water oriented recreation opportunities along the Rio Puerto Nuevo-Rio Piedras.

c. Preserve the existing habitat of rare and uncommon species at Constitution Bridge mangrove area.

d. Provide measures to control stream bank and channel erosion along the Rio Puerto Nuevo-Rio Piedras.

To accomplish these objectives, nonstructural and structural measures will be considered. Nonstructural measures include the use of zoning, flood insurance, and building codes regulations, temporary and permanent flood plain evacuation plans, and flood proofing requirements. Structural measures include enlarging and straightening of 10.21 kilometers of Rio Puerto Nuevo-Rio Piedras channel with various forms of erosion protection incorporated to provide hydraulic efficiency and reduce maintenance requirements for the 100-year and standard project floods.

2. Alternatives include no action, additional flood protection for Margarita, Josefina, Dona Ana, Buena Vista and Guaracanal Creeks and development of a flood detention basin in the U.P.R. Experimental Station land north of P.R. Hwy. 1.

3a. The process for determining the scope of issues to be addressed and for identifying the significant issues related to alternative actions has been completed. A public meeting was held March 16, 1978 at Sagrado Corazon Academy in University Gardens, Puerto Rico. The study has been coordinated with the Puerto Rico Department of Natural Resources, Puerto Rico Public Recreation and Parks Administration, Instituto de Cultura Puertorriquena, the U.S. Fish and Wildlife Service, and the U.S. Heritage Conservation and Recreation Service. Affected Federal, State and local agencies, Indian tribes, and other interested organizations and individuals are invited to identify issues, problems, needs, and alternative courses of action not already considered during the scoping process by communicating with the addressee listed below.

b. Significant issues to be analyzed in the DEIS include flood protection requirements, fish and wildlife requisites, water quality considerations, recreation demands, and archeological and historical considerations.

c. Consultation with the Commonwealth of Puerto Rico Historic Officer and the U.S. Heritage Conservation and Recreation Service has been initiated in accordance with the National Historical Preservation Act of 1966 and Executive Order 11593. The project study has been coordinated with the U.S. Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act of 1973. Section 7 requirements of the Endangered Species Act of 1973, as amended, have been initiated.

4. The scoping process has been completed.

5. The DEIS will be available for review in April 1980.

ADDRESS: Questions about the proposed action and DEIS can be referred to Mr. Moray L. Harrell, Chief of the Environmental Quality Section, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32201, telephone (904) 791–3615.

Dated November 5, 1979.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–35051 Filed 11–13–79; 8:45 am]

BILLING CODE 3710–AJ–M

Department of the Navy

Board of Advisors to the Superintendent Naval Postgraduate School; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School will meet on December 6–7, 1979, in the Mezzanine Conference Room of the Naval Postgraduate School, Monterey, California. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:30 p.m.

The purpose of this meeting is to review enrollment trends, progress in implementing new curricula, recommendations resulting from scholarly reviews of acadamic departments and a discussion of

academic support facilities and equipment.

For further information concerning this meeting contact: Commander Charles J. Cox, U.S. Navy, Executive Assistant, Code 007, Naval Postgraduate School, Monterey, CA 93940, telephone no. (408) 646–2513.

Dated: November 5, 1979.

James J. McHugh,

Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc. 79–35053 Filed 11–13–79; 8:45 am]

BILLING CODE 3810–71–M

Naval Discharge Review Board; Meeting

In November 1975, the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside the Washington, D.C. area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for November 1979 through March 1980 has been approved, but remains subject to modification if required:

November 25 through December 8, 1979; Salt Lake City, UT; San Diego, CA; San Francisco, CA

January 14 through January 25, 1980; Atlanta, GA; New Orleans, LA; Tampa, FL

February 3 through February 16, 1980; Portland, OR; San Francisco, CA

March 3 through March 14, 1980; Memphis, TN; Dallas, TX; Kansas City, MO

March 17 through March 28, 1980; Boston, MA; Albany, NY

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer to his or her residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should indicate on the application the hearing location which is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address:

Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, VA 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and representatives will be mailed a notification of the date and place of their hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact:

Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, VA 22203, telephone No. (202) 696–4881.

Dated: November 7, 1979.

J. J. McHugh,

Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc. 79–35052 Filed 11–13–79; 8:45 am]

BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period of October 1, 1979, Through March 31, 1980, and Notice of Issuance of Emergency Allocations for October, November, and December 1979

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation (buy/sell) program for the allocation period of October 1, 1979, through March 31, 1980, was issued September 21, 1979 (44 FR 55943, September 28, 1979). Subsequent to the publication of that Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency allocations pursuant to 10 CFR 211.65(c)(2) to a number of small refiners and issued a supplemental buy/sell list on October 17, 1979 (44 FR 60786, October 22, 1979). The ERA hereby issues a second supplemental buy/sell list for the allocation period of October 1, 1979, through March 31, 1980, which sets forth new emergency allocations for the months of October, November, and December 1979, assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979, (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period October 1, 1979, through March 31, 1980, is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of October, November and December 1979, and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller, which reflects each refiner-seller's sales obligation for the emergency allocations listed herein.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to Section 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers

will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

Section 211.65(c)(2)(ii) states in part that applications for emergency allocations "must be submitted by the fifteenth day of the month prior to the month(s) for which an allocation is sought." This provision was intended to permit ERA to receive applications and issue emergency allocations in a timely fashion. Recently, ERA has had difficulty meeting this goal because of the manner in which some applications for emergency allocations have been filed. Therefore, ERA believes it appropriate to offer the following comments on the emergency crude oil application process in the hope that they will clarify the application process for those applying for emergency allocations.

First, most applications have not been received in the Crude Oil Allocation Branch until the fifteenth of the month. The fifteenth of the month is meant as a deadline not a filing date. It is desirable for refiners to file their applications earlier then the fifteenth of the month, which would permit ERA to begin processing applications sooner. Except in unusual circumstances, ERA would expect applications to be filed by the tenth of the month. It should be noted that ERA would generally consider applications filed earlier than the fifth of a month to have been filed too early to present an accurate picture of a refiner's crude oil supply for succeeding months.

Second, applications should be completed by the fifteenth of the month in which they are filed. Applications that are not substantially complete by the fifteenth of the month will be dismissed with prejudice.

Third, ERA requires all applicants for emergency allocations to serve copies of their applications on refiner-sellers. Comments regarding an application will be accepted if received within eight days of receipt of the application. Applicants are required to serve copies of their application (and any amendments thereto) on refiner-sellers simultaneously with the filing of the application with ERA; that is, *refiner-sellers must receive their copies of emergency applications on the same date the application is filed with ERA.* Refiner-sellers must submit their comments on the applications to the Crude Oil Allocation Branch within eight days of the refiner-sellers' receipt of the application, or no later than the twenty-third of the month in which the application is filed. If the fifteenth or the twenty-third of the month falls on a weekend or holiday, the deadline would be the next working day.

As has been stated in previous notices, if an applicant claims confidentiality for any of the information contained in its application, the basis for the claim must be clearly stated. ERA does not consider the names of potential suppliers contacted in unsuccessful attempts to obtain crude oil or offers of crude oil that the applicant has rejected to be proprietary.

Finally, ERA emphasizes that an application for an emergency allocation must contain a detailed statement as to why the applicant believes it has exhausted all supply possibilities. Applications which fail to make this statement will be dismissed with prejudice.

Copies of the decisions and orders assigning the emergency allocations listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm. B110, Washington, D.C. 20461, (202) 634–2170.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 14, 1979.

Issued in Washington, D.C., on November 6, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period October 1, 1979, through March 31, 1980, is hereby amended to reflect emergency allocations for the months of October, November, and December 1979, and the resulting changes in sales obligations of refiner-sellers. The amended list sets forth the name of each refiner-seller, the additional volumes of crude oil that each such refiner-seller is required to offer for sale to small refiners, and emergency allocations for the months of October, November and December 1979.

Crude Oil Allocation Program, Additional Sales Obligations Resulting From New Emergency Allocations for the Period October 1, 1979–March 31, 1980

Refiner-sellers	Share	Additional sales obligations
Amoco Oil Co	.105	1,168,147
Atlantic Richfield Co	.077	857,826
Chevron U.S.A., Inc	.101	1,132,726
Cities Service Co	.025	274,332
Continental Oil Co	.004	44,610
Exxon Co., U.S.A.	.089	992,582
Getty Refining & Marketing Co	.021	236,603
Gulf Refining & Marketing Co	.091	1,016,137
Marathon Oil Co	.022	254,893
Mobil Oil Corp	.094	1,049,282
Phillips Petroleum Co	.041	461,439
Shell Oil Co	.113	1,267,138
Sun Co	.055	618,937
Texaco Inc	.114	1,268,175
Union Oil Co. of California	.046	509,786
Total additional sales obligation		11,152,613

Additional Emergency Allocations for October 1979

Refiner/Buyer	Refinery location	Allocation (barrels)
Allied Materials	Stroud, Ok	25,978
OKC Corp	Okmulgee, OK	119,474

Adjustment issued on October 31, 1979.

Emergency Allocations for November and December 1979

Refiner/Buyer	Refinery location	November allocation (barrels)	December allocation (barrels)
Allied Materials.	Stroud, Ok.....	81,210	83,917
Bruin Refining, Inc.	St. James, La	191,430	197,811
Caribou Four Corners.	Woods Cross, Ut.	12,390	12,803
Farmers Union Central Exchange.	Laurel, Montana.	264,960	273,792
Crystal Refining.	Carson City, Mich.	70,650	73,005
Ergon Refining, Inc.	Vicksburg, Miss.	169,980	175,646
Gladieux Refining.	Fort Wayne, Ind.	171,210	176,917
Hudson Ref. Co., Inc.	Cushing, Ok...	410,550	426,033
Indiana Farm Bureau.	Mt. Vernon, Ind.	222,090	244,993
Lakeside Ref. Co.	Kalamazoo, Mich.	39,180	39,866
National Coop. Ref. Ass.	McPherson, Kan.	526,440	559,488
OKC Corp	Okmulgee, Ok.	118,620	
Peerless Pet., Inc.	Penuelas, Puerto Rico.	159,630	164,951
Rock Island Refinery.	Indianapolis, Ind.	677,580	700,166
Shepherd Oil, Inc.	Jennings, La..	26,970	28,241
Southern Union Ref. Co.	Lovington, New Mex.	56,250	106,795
Texas City Ref., Inc.	Texas City, Tx.	1,592,760	1,495,533
United Refining.	Warren, Pa.....	978,090	477,214

Additional Allocations for the October 1, 1979–March 31, 1980 Allocation Period

Emergency allocations (October)	145,452
Emergency allocations (November)	5,769,990
Emergency allocations (December)	5,237,171
Total allocations	11,152,613

[FR Doc. 79-35141 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided of the following meetings:

I. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on November 20, 1979, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:00 a.m. The purpose of this meeting is to permit attendance by representatives of the IWP at a meeting of an *ad hoc* group of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on that date.

The agenda for the meeting is under the control of the *ad hoc* group. It is expected that the IWP representatives will be asked to discuss the following subject:

Registration of Oil Market Transactions, Including Reporting Instructions

II. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 27 and 28, 1979, at the headquarters of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:00 a.m. on November 27. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting of the Standing Group on Emergency Questions (SEQ) which is being held at Pairs on that date.

The agenda for the meeting is under the control of the SEQ.

A. Normal Business Section

1. Approval of draft agenda.

2. Summary Record of Twenty-Ninth Meeting.

3. Report by the Chairman of the SEQ Working Group on Dispute Settlement Center.

4. Lessons learnt from present supply crisis and action programme:

(A) Review of the Governing Board meeting of October 11, 1979.

(B) Appraisal of 1979 achievements.

(C) Work programme for SEQ resulting from G.B. suggestions and overall 1980 activity outlook.

5. Simplified IEA oil sharing system.

6. Demand Restraint:

(A) Summary of individual countries' reviews.

(B) Indepth demand restraint review of the United States.

(C) Indepth demand restraint review of Spain.

(D) Further review programme.

7. Emergency reserves and overall stock position:

(A) Emergency reserves of participating countries on October 1, 1979 and final—July 1, 1979, figures.

(B) Stock position and outlook through next winter.

(C) Determining levels of consumer stocks.

(D) IAB comments on consumer stocks assessments.

8. IAB and ISAG:

(A) IAB work programme for 1980.

(B) ISAG staffing, recent developments.

(C) ISOM (ISAG/Secretariat Operations Manual).

9. Emergency Management Manual Amendments:

(A) IEA and European Economic Community (EEC).

(B) Advancement of Base Period Final Consumption (BPFC) (final reading).

(C) Seasonality in allocation of oil in an emergency (final reading).

10. Special section of the data system:

(A) BPFC 3rd Quarter 1978—2nd Quarter 1979 (final).

(B) Progress report by the *ad hoc* group on the emergency data system.

(C) Quality of the October and November Quarter A and B data submissions.

(D) Standard conversion factors.

(E) Continuation of Quarter A and B submissions.

AST–3 preparation, design group.

12. Future meeting dates.

13. Any other business.

B. Assessment of oil supply situation.

1. Analysis of October and November Quarter A and B submission.

2. Oil market position and outlook.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., November 7, 1979.

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-35142 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-093]

Air Products & Chemicals, Inc.; Notice of Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Air Products and Chemicals, Inc. (Air Products) filed an application for certification of an eligible use of natural gas to displace fuel oil at its complex of chemical plants in New Orleans, Louisiana, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on September 18, 1979. Notice of that application was published in the **Federal Register** (44 FR 56396, October 1, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Air Products' application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Air Products' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., November 6, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

November 6, 1979.

Re ERA Certification of Eligible Use ERA Docket No. 79–CERT–093 Air Products and Chemicals, Inc.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79–CERT–093.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Enclosure.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Air Products and Chemicals, Inc.

[ERA Docket No. 79–CERT–093]

Application for Certification

Pursuant to 10 CFR Part 595, Air Products and Chemicals, Inc. (Air Products) filed an application for certification of an eligible use of up to 7,500 Mcf of natural gas per day at its complex of chemcial plants in New Orleans, Louisiana, with the Administrator of the Economic Regulatory Administration (ERA) on September 18, 1979. The application states that the eligible seller of the gas is Tenneco Oil Company, (Tenneco) and that the gas will be transported by the Tennessee Gas Pipeline Company, the Transcontinental Gas Pipe Line Corporation, the Columbia Gas Transmission Corporation, and the Michigan-Wisconsin Pipe Line Company. The application and supplemental information indicate, among other things, that the use of natural gas will displace up to 66,400 gallons of No. 2 fuel oil (0.3 percent sulfur) per day and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 7,500 Mcf of natural gas per day at Air Product's New Orleans complex purchased from Tenneco is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C., on November 6, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-34954 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of March 12 Through March 16, 1979

Notice is hereby given that during the week of March 12 through March 16, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Alice-Sidney Oil Co., El Dorado, Ark.; DRA–0084, crude oil

The Alice-Sidney Oil Company (Alice) appealed from a Remedial Order issued to it by DOE Region VI on December 9, 1977. In the Remedial Order the DOE Regional Office first found that Alice had improperly calculated the base production control level (BPCL) for its Thompson B lease and consequently had incorrently classified crude oil produced from the lease as "new" or "released" crude oil. According to the Regional Office, the misclassification resulted in the crude oil being sold at prices exceeding those permitted by the Mandatory Petroleum Price Regulations. On appeal, Alice argued that since the lease qualified as a stripper well property in 1974, it automatically qualified for stripper well status in 1975. In rejecting this contention, the DOE noted that prior to June 1975 a property had to qualify annually for stripper well property status.

The Regional Office also found that Alice had improperly treated a single property, the Gregory A lease, which produces crude oil from two distinct formations, as two separate and distinct properties. In its Appeal, Alice argued that the retroactive application of Ruling 1975–15 was in violation of the Administrative Procedures Act. The DOE found, however, that the Gregory A lease was subject to a single right to produce and should therefore have been treated as a single property. The DOE determined that the retroactive application of FEA Ruling 1975–15 did not violate the Administrative Procedures Act because the ruling was of an interpretive nature. The DOE also found that the Arkansas severance tax did not justify separate property treatment for the Gregory A lease because the "severance tax accountability" criteria for such treatment as presented in FEA Ruling 1977–2 were not satisfied.

Finally, the DOE found that Alice had failed on appeals to substantiate its claim concerning the existence of undercharges that could be used to offset overcharges found by the DOE. The DOE also held that, as operator of the Gregory A lease, Alice was responsible for establishing the sale price for the crude oil produced from the lease and therefore could be held liable for the overcharges. On the basis of these considerations, the Alice Appeal was denied.

Honeymon Drilling Co., Ltd., Oklahoma City, Okla.; DRA–0095, crude oil

Honeymon Drilling Company, Ltd. appealed a Remedial Order issued to the firm by the Enforcement Division of DOE Region VI. In the Remedial Order, Region VI determined that Honeymon had sold crude oil produced from the Uri and Haskell properties at prices in excess of applicable ceiling prices. Honeymon was therefore directed to refund the overcharges to its customers. In considering the Honeymon Appeal, the DOE observed that contrary to the firm's contention, the DOE has the authority to issue Remedial Orders requiring monetary restitution. The DOE also rejected Honeymon's argument that the classification of the Uri property as a "new" property was reasonable and justified. Finally, the DOE rejected the firm's argument that the term "preceding calendar year" should be interpreted to mean the most recently completed 12-month period. On the basis of these findings, the DOE denied Honeymon's Appeal.

ICF, Inc., Washington, D.C.; freedom of information, DFA–0315

ICF, Inc., filed an Appeal of a partial denial by the Associate Director of the DOE Office of Procurement Operations of a Request for Information that the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director had improperly applied Exemption 6 in making certain deletions and that the material involved should be released unless on remand the Associate Director should find that another exemption applies. In addition, the DOE found that the Director had failed to review the deletions made by the firm that had submitted the information to the DOE in order to determine whether those deletions satisfied the criteria set forth in the prior

DOE decisions concerning Exemption 4. Therefore, the DOE remanded the request to the Director for further action.

Nordan & Co.; The Copano Co., Houston, Tex.; FRA-1457, DRA-0078, crude oil

Nordan & Company and the Copano Company each filed an Appeal from a Remedial Order issued to it by the Region VI Office of Enforcement. In those Remedial Orders the Regional Office found that the firms had improperly treated a jointly-owned dynamic absorption unit (DAU) located on the Estate lease in Refugio County, Texas, as a "property" under DOE crude oil producer price regulations. The Regional Office concluded that the condensate recovered at the DAU must be allocated to the individual producing properties, rather than being considered as production from a separate property, and it directed the firms to refune the overcharges. In considering the Appeals, the DOE held that the treatment of a DAU facility as a separate property was explicitly precluded by the determination reached in *T-C Oil Co.*, 2 DOE Par. 80,158 (1978). Accordingly, this portion of the Appeals was denied. Nordan also maintained that the Regional Office should have permitted the firm to offset overcharges at the Estate lease against undercharges at another of the firm's leases which also occurred as the result of an incorrect application of the "property" definition. In this regard, the DOE held that the allowance of an offset was generally within the discretion of the Office of Enforcement. The DOE noted, however, that that discretion is not unlimited. The DOE held that the standards prescribed in Ruling 1977-1, the internal policy guidelines for offsets adopted by the Office of Enforcement, and DOE case precedent must be applied. The DOE also held that in certain circumstances,the Office of Enforcement must state its reasons for disallowing an offset, because any such determination would represent a departure from the policy established in Ruling 1977-1, which generally favors offsets in enforcement proceedings. In particular, the DOE held that if a firm has expressly requested an offset, the Office of Enforcement should proceed with an investigation of the claim unless the administrative burden appears substantial. The DOE further held that in future enforcement proceedings, a brief statement of reasons must be provided to any firm that raises a non-frivolous offset claim in a timely manner. With respect to the Nordan Appeal, the DOE found that the Office of Enforcement had not acted improperly in not allowing an offset. The DOE also found that, contrary to Nordan's claim, the purchaser of the crude oil would not receive windfall benefits as a result of the Office of Enforcement's refusal to allow an offset. Finally, the DOE concluded that Nordan was not prejudiced by the absence of a statement of reasons for the disallowance of an offset, as evidenced by its ability to contest the issue in its Appeal. The DOE therefore denied the Nordan and Copano Appeals.

West Haven Auto Transmission Co. d.b.a. Orange Auto Clinic, Orange, Conn.; DFA-0340, freedom of information

Orange Auto Clinic appealed an Order issued to the firm on January 26, 1979, by the Director of the DOE Division of Freedom of Information and Privacy Act Activities. Orange on appeal sought a response to a portion of its request to which the Director had not responded. Although it noted that the Orange request was unclear, the DOE held that its regulations require that the requester be given an opportunity to confer with knowledgeable DOE personnel to clarify a vague or an overbroad request. Because this was not done, Orange's Appeal was granted and the matter was remanded to the Director with directions to respond to the portion of the request that was not discussed and to offer assistance in reformulating the request, if necessary.

Remedial Orders

Chester F. Dolley: Atlantic Oil Co., Los Angeles, Calif.; crude oil, DRO-0126, DRO-0127

Chester F. Dolley and Atlantic Oil Company filed Statements of Objections to a Proposed Remedial Order issued to them by DOE Region IX. In the Proposed Remedial Order, the Regional Office found five instances in which the parties allegedly misclassified crude oil producting properties as stripper well properties. In their Statements, the firms asserted that the DOE enforcement proceeding was barred by a State statute of limitations. The DOE rejected this argument citing prior DOE decisions in which State statutes of limitations were held inapplicable to DOE enforcement proceedings. *See R. D. Bowerman d/b/a/ Executive Center Gulf*, 1DOE Par 80,261 (1978). The firms' request that the DOE find civil penalties to be inapplicable to the violations alleged in the Proposed Remedial Order was denied as premature inasmuch as the Proposed Remedial Order did not address the issue of civil penalties. The DOE also rejected, as not providing a legitimate basis for permitting a property stripper status, Dolley's good faith belief that one of its properties would retain stripper status after a workover. Finally, the DOE refused to consider two exception requests already being considered in a separate exception proceeding. Accordingly, the Statements of Objections were denied and a final Remedial Order was issued.

Memphis Aero Corp., Memphis, Tenn.; DRO-0135, aviation fuel.

Memphis Aero Corporation filed a Statement of Objections to a Proposed Remedial Order issued to the firm by DOE Region IV. In the Proposed Remedial Order, Region IV found that Memphis Aero had charged prices for aviation fuel in excess of those permitted by 10 CFR 212.93. In its Statement of Objections, Memphis Aero challenged the DOE's authority to require refunds and to include interest charges as part of any refunds. In addition, Memphis Aero alleged that the procedural regulations under which the Proposed Remedial Order was issued were invalid because the DOE had not offered the public an opportunity to comment prior to the promulgation of those regulations.

In considering Memphis Aero's objections, the DOE found that all these arguments had been rejected in previous cases. The DOE found that the Emergency Petroleum Allocation Act (EPAA) broadly authorized the DOE to take any reasonable measures to ensure that the prices charged for petroleum products were equitable and that the authority to require refunds was a reasonable mechanism to achieve that goal. The DOE also found that the imposition of interest on overcharges was a reasonable method to redress completely the effects of overcharges. Lastly, the DOE determined that because the regulations under which the present enforcement action was being conducted were purely procedural in nature, the DOE was not required to follow formal rulemaking procedures prior to promulgating the regulations. Having rejected all of the firm's arguments, the DOE determined that the Proposed Remedial Order should be issued in final form.

Olympia Exploration Co., Alfalfa, Okla.; DRO-0128, crude oil

Olympia Exploration Company filed a Statement of Objections to a Proposed Remedial Order that DOE Region VI issued to the firm on September 29, 1978. In the Proposed Remedial Order, the Regional Office found that during the period September 1, 1973 through December 31, 1974 Olympia had improperly utilized a zero base production control level for the Alma Bentley lease. Region VI determined that as a result Olympia sold a portion of the crude oil produced from the property at prices that exceeded the applicable ceiling price levels. The Regional Office therefore directed the firm to refund the improperly obtained revenues. In its Statement of Objections Olympia claimed that the DOE lacks authority to remedy violations of the Mandatory Price Regulations by ordering a firm to refund overcharges to a private party. The DOE, however, affirmed its holding in *Shell Oil Co.*, 3 FEA Par. 80,545 (1976), that it has the authority to direct a regulated firm to refund overcharges to its customers. In its Statement of Objections, Olympia also claimed that the Bentley property qualified as stripper well property and was therefore exempt from the ceiling price rule. Olympia based this contention on the claim that the well qualified as a multiple completion well under Ruling 1975-12. However, the DOE noted that under Ruling 1975-12, to qualify as a multiple completion well, a well must have "two or more separate tubing strings run inside a casing. . . ." The DOE found that the crude oil produced from one of the three formations on the Bentley property flows through a single tubing string, while production from two other formations flows through perforations in the well's casing rather than through a separate tubing string. The DOE therefore determined that the Bentley well failed to qualify as a multiple completion well. The DOE therefore rejected Olympia's objections, and issued the September 29, 1979 Proposed Remedial Order as a final Remedial Order.

Wilhoyte Gas Service, Prospect, Ky.; DRO-0045, propane

Wilhoyte Gas Service (WGS) filed a Statement of Objections to a Proposed Remedial Order that ERA Region IV issued to the firm. In the PRO the ERA found that WGS

had sold propane at prices that exceeded the maximum allowable selling price specified in 10 CFR 212.93(a) during the period of November 1, 1973 through March 31, 1974. According to the ERA, the overcharges occurred because WGS did not determine its selling prices on the basis of the weighted average unit cost of product in inventory and because WGS had sold propane to certain industrial customers acquired after May 15, 1973, at prices that exceeded the maximum lawful selling price to the appropriate class of purchaser. WGS objected to the PRO on the grounds that: (i) the inventory calculation was inaccurate; (ii) the cost of purchased propane that the Region used in its audit was too low; (iii) WGS properly relied on oral advice given by Cost of Living Council and DOE representatives in determining its prices; and (iv) the class of purchaser to which the industrial customers were assigned was incorrect. The DOE denied the first three objections. As to the fourth, the DOE found that the industrial customers did not, as WGS claimed, constitute a "new market." However, the DOE found that the class of purchaser determinations made by the Regional Office did not appear to reflect the firm's customary price differentials, and it found that the placement of the new industrial customers in the "bulk customer, three installation" class did not appear to conform to the requirement that customers be placed in classes of purchaser on the basis of the "predominant factor or factors" the supplier used in determining May 15, 1973 prices. Accordingly, the PRO was remanded to the Regional Office for redetermination of classes of purchaser, for reassignment of the new bulk customers to an appropriate class of purchaser, and for the recalculation of overcharges, if any.

Requests for Exception

Amaran Corp., Lakeland, Fla.; DEE–1469, crude oil

Amaran Corporation filed an Application for Exception which, if granted, would relieve the firm of any obligation to purchase entitlements that might arise if the DOE were to amend the provisions of 10 CFR 211.67 to include in the Entitlements Program nonrefining uses of domestic crude oil. On January 25, 1979, the DOE issued a notice of a proposed rulemaking to impose entitlement obligations on the first purchaser of price-controlled domestic crude oil. However, in view of the uncertainty as to any regulatory amendments that might be adopted, the DOE dismissed the Amaran request as being speculative. The DOE noted, however, that Amaran was in no way precluded from filing a new Application for Exception at a more appropriate time.

Callon Petroleum Co., Natchez, Miss.; DEE–0659 through 0062, crude oil

Callon Petroleum Company filed an Application for Exception from the provisions of 10 CFR 212.73 seeking permission to charge prices for crude oil in excess of the applicable ceiling price on a prospective and retroactive basis. The retroactive relief was requested in order to eliminate any liability for overcharges which Callon might incur as a result of a Proposed Remedial Order issued to the firm by the DOE Office of Enforcement. In considering the Application, the DOE found that Callon was operating at a substantial profit and would continue to be profitable even if the firm were ultimately obligated to refund the overcharges set forth in the Proposed Remedial Order. Accordingly, the Callon request was denied.

City of Long Beach, California, Long Beach, Calif.; DXE–2023, crude oil

The City of Long Beach, California, filed an Application for Exception from the provisions of 10 CFR, part 212, Subpart D. The exception, if granted, would result in an extension of the exception relief previously granted to Long Beach and would permit the city to continue to sell a portion of the crude oil produced from the Fault Block II Unit of the Wilmington Field at upper tier ceiling prices. *City of Long Beach, Calif.*, 2 DOE Par. 81,008 (1978). In considering the exception application, the DOE found that Long Beach continued to incur increased operating expenses on the Fault Block II property and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination and on the basis of the operating data that Long Beach submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Long Beach to sell 53.78 percent of the crude oil produced from the Fault Block II property for the benefit of the working interest owners at upper tier ceiling prices.

First Chemical Corp., Pascagoula, Miss.; DEE–0097, propane

First Chemical Corporation (FCC) filed an Application for Exception from the provisions of 10 CFR 211.12, in which it requested an assignment of propane sufficient to meet the feedstock requirements of its petrochemical plant. In its Application, FCC stated that it had experienced substantial growth in recent periods and that its base period supply of natural gas feedstock had been curtailed due to shortages. In considering FCC's Application, the DOE noted that FCC had been assigned supplies of propane by the Economic Regulatory Administration on a temporary basis in the past in order to compensate for any shortfall in its supply of natural gas, and that, moreover, FCC appeared to have access to sufficient supplies of surplus propane at the present time. The DOE therefore found that FCC would not experience a serious hardship or gross inequity in the absence of exception relief. In addition, the DOE found that FCC's level of growth was not sufficient to merit a permanent assignment of its full feedstock requirements. These determinations were set forth in a Proposed Decision and Order issued to the firm on October 25, 1978. In a Statement of Objections, FCC contended that the DOE's analysis of FCC's feedstock requirements was not accurate and the DOE agreed. However, the DOE also found that the Proposed Decision correctly attempted to assess FCC's actual vulnerability to a shortage of feedstock by reflecting the firm's increased energy efficiency and that FCC's current requirements should be calculated on the basis of the firm's current production level, rather than on the basis of the plant's design capacity. In view of these considerations, the DOE concluded that FCC did not meet the criteria for the approval of the type of exception relief it requested and the Application was denied.

Guam Oil & Refining Co., Inc., Washington, D.C.; DEE–2015, crude oil

The Guam Oil & Refining Co., Inc. filed an Application for Exception from those provisions of Section 211.67(i)(4) of the Entitlements Program that reduce the value of the entitlement benefits received by refiners that process imported oil. In support of its Application, Gorco urged that because it has no economic alternative to the continued use of imported crude oil, it is unfairly penalized by the provisions of Section 211.67(i)(4). In addition, Gorco maintained that its refinery was constructed with the encouragement and support of the Federal Government and that consequently it is now inequitable for the DOE to penalize the firm for its continued reliance on imported crude oil. In considering the Gorco request, the DOE observed that it had recently granted an exception of the type requested by Gorco to a number of refiners located in Puerto Rico. However, the DOE concluded that the factual situation which formed the basis for the relief granted to the Puerto Rican firms was quite different from that in the present case. In particular, the DOE concluded that Gorco had failed to demonstrate the existence of a concerted effort on the part of the Federal Government to induce the firm to establish its refinery on Guam. The DOE also concluded that there was no merit to Gorco's contention that an exception was warranted merely because the firm has no apparent alternative to the continued use of imported crude oil. Finally, the DOE determined that exception relief was not appropriate in the present case notwithstanding the fact that the Territory of Guam is currently experiencing certain economic difficulties. In this regard, the DOE concluded that Gorco had not demonstrated in this proceeding that it or the citizens of Guam are experiencing an identifiable hardship or inequity as a result of the application of a specific DOE regulatory program. The Gorco exception request was therefore denied.

Hydrotherm, Inc., Los Angeles, Calif.; other, DEE–2091

Hydrotherm, Inc. filed an Application for Exception from the provisions of section 430.24(n) of the DOE regulations. The provisions of that section require that a furnace manufacturer advertise the energy efficiency of its products on the basis of the results obtained from the standard test procedures specified in Appendix N to Subpart B of Part 430. In its Application for Exception, Hydrotherm stated that it has recently devleoped a new type of boiler, known as a pulse combustion boiler, which, according to Hyrotherm, is considerably more efficient and economical than conventional boilers. However, the firm maintained that the test procedures specified in the DOE regulations do not fairly measure the energy efficiency of its pulse combustion boiler. After considering the material presented by

Hydrotherm, the DOE concluded that the firm was correct in stating that the current furnace test procedures do not adequately measure the energy efficiency of the pulse boiler. Therefore, since the current regulations preclude Hydrotherm from representing the actual efficiency of its unit to its customers, the DOE concluded that a gross inequity existed which justified the approval of exception relief.

Justiss-Mears Oil Co., Inc., Jena, La.; DXE-2088, crude oil

The Justiss-Mears Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Justiss-Mears and would permit the firm to continue to sell a portion of the crude oil produced from the Saucier No. 1 Well, located in the Five Mile Bayou Field in Avoyelles Parish, Lousiana, at upper tier ceiling prices. *Justiss-Mears Oil Co., Inc.*, 1 DOE Par. 81,106 (1978). In considering the exception application, the DOE found that Justiss-Mears continued to incur increased operating expenses at the Saucier No. 1 Well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the well. In view of this determination and on the basis of the operating data that Justiss-Mears had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Justiss-Mears to sell 85.59 percent of the crude oil produced from the Saucier No. 1 Well for the benfit of the working interest owners at upper tier ceiling prices.

Osage Tribe of Indians, Pawhuska, Okla.; DEE-0939, crude oil

The Osage Tribe of Indians filed an Application for Exception that, if granted, would result in the modification of certain consent orders and a remedial order that DOE Region VI issued to the lessees of the Tribe's mineral interests. These orders were based on a finding that the lessees had sold the crude oil produced from the tribe's properties at prices in excess of the applicable ceiling prices, and the orders required the repayment of the overcharges to the purchasers of the crude oil. The Tribe claimed that the lessees had wrongfully made deductions from the royalty payments to the Tribe to recover that portion of the overcharges remitted to the Tribe. In considering the exception request, the DOE found that royalty payments represent a substantial portion of the income of many Tribe members and that these members would experience a serious hardship if they were deprived of a portion of their royalty payments. The DOE therefore concluded that an exception should be granted that reduced the lessees refund obligations by an amount equal to the portion of the overcharges which had been deducted from royalty payments to the Tribe. The DOE further directed the lessees to remit to the Tribe revenues already deducted from royalty payments. Finally, the DOE permitted the lessees to raise the price of the crude oil sold to the purchasers to whom they had previously refunded overcharges attributable to the Tribe and directed that the purchasers remit to the lessees by lump sum payment any revenues not remitted within sixty days by means of the price increase.

Sidney E. Pinkston, Jr., Natchez, Miss.; DXE-2182, crude oil

Sidney E. Pinkston, Jr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to continue selling at upper tier ceiling prices the crude oil produced from the U.S.A. No. 1, U.S.A. No. 5, and U.S.A. No. 7 wells located on Lease BLM-A-011586-C in the Beaver Branch Field, Adams County, Mississippi. In considering the exception request, the DOE found that Pinkston was continuing to incur increased operating costs in connection with the BLM-A-011586-C Lease and that, in the absence of continued exception relief, Pinkston would lack an economic incentive to produce crude oil from the property. On the basis of the financial data Pinkston had provded for the most recent six-month period, and in accordance with the criteria applied in previous decisions, the DOE granted exception relief permitting Pinkston to sell at upper tier prices 100 percent of the crude oil produced from the U.S.A. No. 1, No. 5, and No. 7 wells for the benefit of the working interest owners.

Rickelson Oil & Gas Co., Tulsa, Okla.; DXE-2002, crude oil

Rickelson Oil & Gas Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell additional quantities of crude oil produced from the Rosa Washington No. 3 well located in Pottawatomie County, Oklahoma at prices in excess of those permitted under that Subpart, to supplement the exception relief granted in *Rickelson Oil & Gas Co.*, 2 DOE Par. 81,015 (1977). In its exception application, Rickelson stated that the relief granted in the 1977 Decision is insufficient to alleviate the gross inequity that was found to exist. In considering the request, the DOE determined that crude oil production from the Washington Well was substantially less than that originally projected. Although the DOE also found that operating expenses were less than had been anticipated, it concluded that the revenues Rickelson would realize from the sale of the crude oil would not permit the firm to earn a 15 percent rate of return on its investment, as contemplated in the earlier Decision. Exception relief was therefore approved permitting the firm to sell at market prices not to exceed $16.48 per barrel the crude oil produced from the Washington well for the benefit of the working interest owners during the remaining life of the investment projects.

Texaco, Inc., White Plains, N.Y.; DEE-2041, motor gasoline

Texaco, Inc. filed an Application for Exception in which it requested permission to allocate motor gasoline to its customers on the basis of actual purchases during the corresponding month of 1978. In support of its Application, Texaco stated that it did not produce sufficient volumes of motor gasoline to meet its customers demands and that it would therefore be required shortly to impose an allocation fraction. Texaco maintained that its motor gasoline would be more fairly and equitably allocated on the basis of 1978 purchases than on the existing 1972 allocation level. In particular, Texaco argued that its retailers would suffer serious hardships and its wholesalers would benefit unfairly if the 1972 allocation levels were maintained. In considering the Texaco request, the DOE observed that Texaco's own actions had largely contributed to the recent increase in gasoline purchases by its retailers and the corresponding reduction in purchases by its wholesalers. The DOE also observed that, while the approval of the Texaco request would seriously reduce the volumes of motor gasoline available to its wholesalers, the denial of the Texaco request would adversely affect its retailers to a significant extent. After weighing the various considerations involved, the DOE concluded that Texaco should be permitted to allocate motor gasoline during the month of February 1979 on the basis of each customer's actual purchases of product during the corresponding month of either 1978 or the adjusted 1972 period, whichever is greater.

TOSCO Corp., Washington, D.C.; FXE-4841, crude oil

TOSCO Corporation filed an Application for Exception from its regulatory obligations under the Old Oil Entitlements Program (10 CFR 211.67). The exception, if granted, would excuse the firm from its obligation to purchase entitlements for the period December 1977 through February 1978.

On December 20, 1977, the DOE issued a Proposed Decision and Order in which it determined that TOSCO's exception request should be granted to prevent TOSCO from experiencing a negative cash flow during its 1977 fiscal year. The DOE proposed that the firm's obligation to purchase entitlements be reduced by $2,797,700 per month for the period. In reaching that determination, the DOE noted that TOSCO's projected negative cash flow had been reduced for purposes of the analysis by the amount of revenues the firm would receive from the sale of certain motor gasoline retail facilities.

In its Statement of Objections to the December 20 Order, TOSCO alleged (i) that the DOE erroneously computed the negative cash flow the firm would experience for its 1977 fiscal year and (ii) that the DOE's utilization in the analysis of revenues received from the sale of marginal assets only encourages the firm to retain these assets and effectively prohibits the firm from improving its financial position.

In considering the firm's contentions, the DOE determined that the methodology employed in calculating the firm's negative cash flow is consistent with established standards and with the stated goals of entitlements exception relief. In addition, while recognizing the validity of the firm's contentions concerning its incentive to retain marginal assets, the DOE determined that this did not justify a retroactive alteration of an established analytical approach. Accordingly, the DOE denied TOSCO's objections and issued the proposed determination in final form.

Unionville Tire & Supply Co., Unionville, Va.; DEE–2096, motor gasoline

Unionville Tire and Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 211.9 which, if granted would result in the assignment of a new supplier of motor gasoline to replace Unionville's base period supplier, Flippo Oil Company. In its submission, Unionville requested that Exxon Company, U.S.A. be designated as the new supplier. In considering Unionville's exception application, the DOE found that it was necessary for Unionville to make a substantial expenditure to replace worn out equipment at the retail station it operates in order to continue to sell motor gasoline at the location. In addition, the DOE found that Unionville's limited financial resources effectively prevented the firm itself from making the required capital investments and Flippo, its present supplier, was unwilling to do so. Exxon, on the other hand was willing to replace the tanks at the Unionville station and make the required investment if it was assigned to replace Flippo as Unionville's base period supplier. Therefore, the DOE determined that an exception should be granted assigning Exxon as Unionville's base period supplier so the required capital investment might be made and Unionville could continue to operate the service station.

Wallace and Wallace Fuel Oil Co., Inc., Wallace and Wallace Chemical and Oil Corp., New York, N.Y.; DEE–0388, No. 2 fuel oil

Wallace and Wallace Fuel Oil Co., Inc. and Wallace Chemical and Oil Corporation (Wallace) jointly filed an Application for Exception from the provisions of 10 CFR 212.93 seeking retroactive exception relief to permit the firm to retain the revenues it realized during the period November 31, 1973 through December 31, 1974 as a result of charging prices for No. 2 fuel oil that were in excess of maximum levels permitted in those transactions. After considering the request, the DOE issued a Proposed Decision and Order in which it tentatively found that the firm's application should be dismissed with regard to prices charged under contracts obtained under Section 8(a) of the Small Business Act of 1958, as amended, and should be granted in part with regard to overcharges made to the firm's reseller class of purchaser. The DOE further tentatively concluded that the remainder of Wallace's request for retroactive exception relief should be denied. Upon consideration of the Statement of Objections filed by Wallace to the Proposed Decision and Order, the DOE concluded that, in light of its previous determination and the firm's generally favorable current financial situation, the Proposed Decision and Order should be issued in final form. An important issue discussed in the Decision and Order is whether Wallace should be granted retoactive relief in light of the firm's discretionary business decisions and prior operating losses.

Request for Modification and/or Rescission

Olympian Oil Co., Inc., San Francisco, Calif.; DMR–0033, motor gasoline

Olympian Oil Company, Inc. filed an Application for Modification or Rescission of an assignment order issued to the firm by DOE Region IX. The assignment order directed the Pacific Refining Company to replace the Gulf Oil Corporation as Olympian's base period supplier of motor gasoline. Olympian was assigned a substitute supplier because Gulf withdrew from Olympian's market area pursuant to an Order issued by the Economic Regulatory Administration on December 21, 1977. In its Application for Modification, Olympian requested that the assignment order be modified to name a substitute supplier other than Pacific. Olympian asserted that within three months after the assignment order was issued, the circumstances that formed the basis for the order had changed substantially. As a result, Olympian maintained that the intent of the order would be frustrated unless a new supplier was assigned. In considering the Olympian request, the DOE noted that Pacific's prices had increased substantially after it was selected as a substitute supplier for Olympian. In addition, the DOE found that Pacific was apparently incapable of supplying Olympian with a substantial percentage of Olympian's base period volume, and that Pacific was no longer able to supply Olympian at Olympian's historic delivery ponts. In view of these changed circumstances, the DOE concluded that the assignment order should be modified to assign Olympian a different base period supplier in accordance with the principles established in the original ERA Order.

Requests for Stay

Coastal States Gas Corp., Houston, Tex.; DES–0158, other

Coastal States Gas Corporation filed an Application for Stay and a Petition for Special Redress with respect to a subpoena *duces tecum* issued to it by the Deputy Solicitor to the Special Counsel for Compliance. In considering the Coastal Application, the DOE noted that 10 CFR 205.201(a) required a finding, either in the subpoena itself or at some stage in the proceedings with respect to the subpoena, that the cirumstances warranted the issuance of the subpoena. DOE rejected the argument that a subpoena could only be issued if a firm had not voluntarily complied with investigative efforts but, in the absence of any finding concerning the circumstances warranting issuance of the subpoena, a stay was issued for the purpose of conducting further proceedings to establish whether or not such circumstances existed.

Duncan Oil Co., Xenia, Ohio; DES–2259; DST–2259, motor gasoline

Duncan Oil Company filed Applications for Stay and Temporary Stay of the standby motor gasoline allocation regulations. On March 15, 1979, the DOE issued a Proposed Decision and Order in which it tentatively determined that an exception should be granted to Duncan increasing the quantity of motor gasoline it is entitled to purchase during the months of March, April and May 1979. In view of that determination and in order to avoid an irreparable injury to Duncan, the DOE granted in part a stay and directed the Pennzoil Company to supply Duncan with 133,888 gallons of motor gasoline per month for those three months.

Gulf Oil Corp., Houston, Tex.; DES–0330, crude oil

Gulf Oil Corporation filed an Application for Stay of an Emergency Supplemental Allocation Order issued to Marion Corporation by the Office of Fuels Regulation of the Economic Regulatory Administration. In that Allocation Order the ERA directed Gulf pursuant to Section 211.65(c)(2) of the Mandatory Crude Oil Allocation Program (the buy-sell program) to sell 544,800 barrels of suitable crude oil to Marion during the months of February and March 1979. In considering the Gulf Application, the DOE concluded that there exist several regulatory mechanisms to ensure return to Gulf of the crude oil sold under the Allocation Order in the event that Gulf's Appeal was granted, and consequently Gulf would not incur an irreparable injury in the absence of stay relief. The DOE further concluded that in view of the relative sizes and resources of Gulf, a major integrated refiner, and Marion, a small refiner with a certified capacity of 19,100 barrels per day, denial of the stay request would not result in more immediate serious hardship to Gulf than suspension of the Allocation Order would to Marion. Gulf's contention that preservation of the status quo pending a determination on its Appeal would be in the public interest was found by the DOE to be unsupported by evidence of the adverse effects claimed by Gulf. Finally, the DOE held that Gulf had failed to demonstrate that there existed a substantial likelihood it would prevail on the merits of its Appeal. The Gulf Application for Stay was therefore denied.

Sun Oil Co., of Pennsylvania, Philadelphia, Pa.; DES–0306 through DES–0314 motor gasoline

Sun Oil Company of Pennsylvania filed nine Applications for Stay of assignment orders that the Economic Regulatory Administration Region IV Office issued to the Fortune Oil Company. While the Applications were under consideration, the ERA activated certain portions of the Standby Allocation Regulatons which changed the base period for the allocation of motor gasoline. As a result of that action, the assignment orders issued to Fortune no longer had any effect, and the Sun submissions were therefore dismissed.

Request for Temporary Stay

Ashland Oil Co., San Francisco, Calif.; Motor gasoline DST–0177
Murray Oil Co., Ash Grove, Mo.; DST–2284
Marcum Oil Co., Savannah, Ga.; DST–2263

Ashland Oil Company, Murray Oil Company and Marcum Oil Company filed Applications for Temporary Stay which, if granted, would result in the issuance of orders permitting each of the firms to purchase additional volumes of motor gasoline. In considering the Applications for Temporary Stay, the DOE found that the firms' principal suppliers had established extremely low motor gasoline allocation fractions for the month of March 1979. The DOE also found that none of the applicants would be able to acquire sufficient volumes of motor gasoline to meet the needs of its customers. Although the DOE noted that 10

CFR 211.12(e) provides a regulatory mechanism for firms seeking to obtain sufficent supplies of an allocated product, the DOE determined that immediate stay relief was warranted to prevent the irreparable injury the applicants and their customers would experience during the period of time necessary for the firms to file and for the Economic Regulatory Administration to consider Applications for Assignment. Consequently, the DOE concluded that Murray, Marcum and Ashland should be permitted to purchase certain quantities of motor gasoline for the month of March from designated suppliers.

Supplemental Orders

Beacon Oil Co., Hanford, Calif.; DEX-0059, entitlements

On December 15, 1976, June 14, 1977, July 18, 1977, and January 20, 1978, Decisions and Orders were issued to the Beacon Oil Company granting the firm exceptions from the provisions of 10 CFR 21.67 (the Entitlements Program). *Beacon Oil Company*, 4 FEA Par. 83,233 (1976); *Beacon Oil Company*, 6 FEA Par. 83,003 (1977); *Beacon Oil Company*, 6 FEA Par. 80,521 (1977); *Beacon Oil Company*, 1 DOE Par. 81,055 (1978). These Decisions had the effect of relieving Beacon of a portion of its projected entitlement purchase obligation during certain specified periods which together encompassed the entire period December 976 through June 1978. The FEA indicated in each of those Decisions that it would conduct a review of the exception relief granted to Beacon at the completion of the firm's fiscal year to determined whether Beacon had received either excessive or insufficient benefits during its fiscal year, and it would then require Beacon to buy or sell additional entitlements to adjust for any discrepancy between projected and actual financial results. Based on its review of the exception relief that had been approved for Beacon, the DOE determined that the firm had received an excessive amount of exception relief during the December 1976 through June 1978 period. Beacon was therefore required to purchase additional entitlements having a total value of $256,303 during the period April 1979 through September 1979.

Charter Oil Co., Jacksonville, Fla.; DEX-0063, crude oil

On March 11 and October 19, 1977, the DOE issued Decisions and Orders to Charter Oil Company in which it granted the firm exceptions from the provisions of 10 CFR 211.67 (the Entitlements Program). The Decisions had the effect of relieving Charter of a portion of its projected entitlement purchase obligation during specified periods which together encompassed the entire period March 1977 through March 1978. That exception relief was granted in accordance with the standards established in *Beacon Oil Company*, 3 FEA Par. 83,209 (1976) and *Delta Refining Company*, 2 FEA Par. 83,275 (1975) and applied to the firm's fiscal year ended December 31, 1977. In the prior Orders, the DOE indicated that it would conduct a review of the exception relief that had been granted to Charter at the completion of the firm's fiscal year to determine whether it had received either excessive or insufficient benefits during its fiscal year, and would then require Charter to buy or sell additional entitlements to adjust for any discrepancy between projected and actual financial results. In the present proceeding the DOE conducted a review of the exception relief granted to Charter for its 1977 fiscal year, and based on that review, the DOE determined that Charter had received an excess measure of exception relief. Charter was therefore required to purchase additional entitlements having a total value of $1,060,053 during the period March 1979 through February 1980.

Laketon Asphalt Refining, Inc., Evansville, Ind.; DEX-0145, crude oil

On March 13, 1979 the DOE issued an Interlocutory Order revising several Proposed Decisions and Orders in order to modify "the adjusted 1975 ceiling" on entitlements exception relief granted under the *Delta-Beacon* standards. *Warrior Asphalt Company of Alabama, Inc., et al.*, 3 DOE Par. —— (March 13, 1979). Because the level of exception relief tentatively approved for Laketon Asphalt Refining, Inc. in a Proposed Decision and Order issued on February 16, 1979 had been limited by the adjusted 1975 ceiling, the DOE issued a Supplemental Order on March 14, 1979 modifying the Proposed Decision in accordance with the *Warrior Decision* and proposing to grant exception relief to Laketon in the amount of $238,910 per month during the period March through August 1979. Potentially aggrieved parties were given a period of 30 days from the date of the Supplemental Order in which to file a Statement of Objections to the modified Proposed Decision and Order. In addition, on the basis of the precedent established in previous similar cases, the DOE determined that the entitlement purchase obligations of Laketon should be stayed to the extent specified in the modified Proposed Decision until the conclusion of the pending exception proceeding.

Interlocutory Order

Warrior Asphalt Co. of Alabama, Inc.; Edgington Oil Co.; Lunday-Thagard Oil Co.; Kery County Refinery, Inc.; San Joaquin Refining Co.; Young Refining Co.; Navajo Refining Co.; Southland Oil Co.; Mohawk Petroleum Corp., Washington, D.C.; DEZ-0002, crude oil

The Office of Hearings and Appeals initiated an interlocutory proceeding in connection with its consideration of Applications for Exception from the provisions of the Entitlements Program (10 CFR 211.67) submitted by nine small refiners. In December 1978, the DOE issued Proposed Decisions and Orders with respect to each of the nine exception requests in which it determined the extent to which each firm should be relieved of its obligation to purchase entitlements on the basis of the adjudicatory standards initially enunicated in *Delta Refining Co.*, 2 FEA Par. 83,275 (1975) (the *Delta* standards). The purpose of the interlocutory proceeding was to facilitate the conduct of the further proceedings involving each of the exception requests by indicating in more detail the agency's position regarding certain legal issues common to Statements of Objections to the Proposed Decisions and Orders issued to the nine firms.

The issues included within the scope of the interlocutory proceeding were both procedural and substantive in nature, and pertained to modifications to the *Delta* standards made by the DOE for the purpose of determining the levels of exception relief available to small refiners (the *Warrior* adjustment). In their Statements of Objections, the small refiners generally contended with respect to procedural matters that the *Warrior* adjustment must be adopted not through an adjudicatory process, but through a formal rulemaking proceeding. In their substantive objections, the small refiners generally maintained that there is no rational basis for the DOE's conclusion that small refiner recipients of entitlements exception relief enjoy a substantial crude oil acquisition cost advantage over refiners that do not receive such relief. Several of these firms also claimed that the *Warrior* adjustment in effect penalizes them for crude oil acquisition and processing arrangements that they cannot alter. In contrast, several potentially aggrieved parties to the individual exception proceedings maintained in support of the *Warrior* adjustment that limitations on the value of entitlements exception relief to small refiners pursuant to the *Delta* standards are appropriate and necessary.

In considering the positions common to the Statements of Objections filed by the small refiners and several potentially aggrieved parties, the DOE found that the provisions of the DOE Organization Act and the Administrative Procedure Act applicable to rulemaking proceedings do not pertain to the development of standards, such as those enunciated in the *Delta Decision*, that have been formulated and subsequently modified in the course of individual adjudications. With respect to the substantive issues raised in those Statements of Objections, the DOE found that those small refiners that receive exception relief from entitlement purchase obligations are accorded substantial crude oil cost advantages relative to the position that the firms would otherwise occupy under the Entitlements Program. The DOE therefore concluded that it is appropriate to place a ceiling on the level of entitlement exception relief available to small refiners that directly reflects the declining availability of old crude oil, and that such a ceiling should be established by reference to the average National Old Oil Supply Ratio (the NOOSR) which prevailed during 1975. The DOE determined that the ceiling should be equal to the maximum entitlement purchase obligation an applicant firm would incur during the period for which relief is sought if the average monthly 1975 NOOSR were applied and if the volume and composition of the refiner's crude oil receipts and the volume of the refiner's crude oil runs to stills were the same as the average monthly crude oil receipts and runs it reported for 1975 (the 1975 NOOSR ceiling). Accordingly, the DOE adjusted the levels of entitlements exception relief previously granted in the December Proposed Decisions and Orders on the basis of the 1975 NOOSR ceiling. The DOE also noted that, in view of the modification represented by the 1975 NOOSR ceiling, each

firm that filed a Statement of Objections to the December Proposed Decisions and Orders should be accorded an additional 30 days in which to amend its prior submissions.

Applications for Stay and Temporary Stay

The following firms filed Applications for Stay and for Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay request, if granted, would result in an increase in the firm's base period allocation of motor gasoline pending determination of the firm's Application for Exception. The DOE issued Decisions and Orders to the following firms in which it determined that the stay requests be granted:

Name, Location, and Case No.

Publix Oil Co., Washington, D.C.; DST-2254
Service Oil Co., Belleville, Ill.; DST-2261
Dalee Oil Co., Okawville, Ill.; DST-2241
Pro Oil, Inc., Ogallala, Nebr.; DES-2279
Zarda Bros. Dairy, Inc., Shawnee, Kans.; DST-2287

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firm filed an Application for Exception and Applications for Stay and Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. After reviewing the material presented by the firm, the DOE concluded that the petition should be dismissed without prejudice to a refiling at a later date:

Company Name, Location, and Case No.

Stadium Oil Sales, Inc., Williamsburg, Va.; DEE-2286, DES-2286, DST-2286

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Joe E. Smith, DRO-0149, DRH-0149, DRS-0162
Glen Martin Heller, DRO-0167, DRD-0167, DRH-0167
Roarda, Inc., DEE-2203
Continental Oil Co., DEE-2133; DES-2133
Leon's Shopping Center, DEE-2294
Sams Oil Corporation, DST-2323, DEE-2323
Clyde Oil Company, DES-0175
Tony Petroleum, Inc., DST-2303, DEE-2303
Shank, Irwin, Conant, Williams & Grevelle, DFA-0333
Summan Tire & Service Center, DEE-2215
Gish Oil Company, DEE-2280
Charles Schwartz, DFA-0325
Texaco, Inc., DEE-1305
J. H. Williams Oil Co., Inc., DST-0017
Bagwell Oil Co., DEE-2267
Nelson Oil Co., DST-0021
J. W. Smith Lumber Co., Inc., DEE-2307
Stubbs Oil Co., Inc., DEE-2268 H & H Oil Co., Inc., DEE-2302
Continental Oil Co., DEE-2124, DES-2124
Collier, Shannon, Rill, Edwards & Scott, DEE-2046
Ashland Oil Inc., DSG-0027

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 6, 1979.

[FR Doc. 79-34958 Filed 11-13-79; 8:45 am]
BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders; Week of July 2 through July 6, 1979

Notice is hereby given that during the week of July 2 through July 6, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Remedial Orders

Howell Drilling, Inc., San Antonio, Tex.; DRO-0075 crude oil

Howell Drilling, Inc. objected to a Proposed Remedial Order which the Economic Regulatory Administration, Region VI issued to the firm on June 22, 1979. In the Proposed Remedial Order, the Regional Office found that during the period September 1973 through September 1976 Howell incorrectly determined the highest posted prices applicable to several of its crude oil producing properties and as a result overcharged the purchasers of the crude oil. In considering Howell's Objection, the DOE found that price bulletins which explictly list specific fields apply only to the fields listed and do not establish posted prices for other fields. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Remedial Order.

Frank W. Michaux, Houston, Tex.; DRO-0063 crude oil

Frank W. Michaux objected to a Proposed Remedial Order which DOE Region VI issued to him on May 23, 1978. In the Proposed Remedial Order, Region VI found that Michaux had sold crude oil produced from the Wilcox zone of the W. T. Carter and Brothers lease in Polk County, Texas, at prices in excess of the maximum permissible selling prices. In considering Michaux's objections, the DOE (i) upheld the retroactive application of Ruling 1975-15; (ii) rejected Michaux's argument that Rulings 1977-1 and 1977-2 permit separate property treatment for the two Carter lease reservoirs on the grounds of separate tax accountability; (iii) sustained the agency's authority to assess interest in its refund calculations; and (iv) determined that Michaux had failed to make a showing of economic hardship to justify a modification of the refund provisions of the Proposed Remedial Order. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Remedial Order.

In the following cases involving Proposed Remedial Orders, no Statements of Objections were filed. The DOE therefore issued Remedial Orders in final form.

Name, Location, and Case No.

Albert Grasso, Orange, Calif.; DRW-0019

Request for Exception

United Specialties Co., Houston, Tex.; DEE-3450 crude oil

The United Specialties Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the State of Texas Tract No. 723-A Lease (the 723-A Lease) located in Nueces Bay South Field in Nueces County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the 723-A Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that United Specialties had no economic incentive to produce crude oil from the lease, and that it was unlikely that the crude oil in the reservoir underlying the 723-A Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to United Specialties and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits the firm to sell at upper tier ceiling prices 100 percent of the crude oil produced from the 723-A Lease for the benefit of the working interest owners for the period May 1, 1979 through Otober 31, 1979.

Request for Modification and/or Rescission

Oahu Gas Service, Inc., Honolulu, Hawaii; DMR-0020, DMR-0038 propane

Oahu Gas Service, Inc. (OGS) filed an Application for Reconsideration of a Decision and Order issued to the firm on September 20, 1978. *Oahu Gas Service, Inc.*, 2 DOE Par. 80, 141 (1978). The firm also filed an Application for Modification which pertained to two prior Decisions issued by the Federal Energy Administration with regard to the Hawaiian propane market. In each of these Applications, OCS requested an increase in its adjusted base period use of propane. In considering the requests, the DOE found that OGS's financial position was precarious and that it might terminate its operations in the near future in the absence of an increased allocation, thus eliminating the minimal level of competition that exists in the Hawaiian propane market. The DOE also observed that its regulatory requirements in this case appeared to frustrate the important statutory and regulatory objectives of preserving the competitive viability of independent marketers. In determining the level of exception relief to be granted, the DOE

concluded that OGS's base period allocation should be increased to 330,000 gallons per month and that the firm should be required to pay the world contract market price plus transportation for each additional gallon of propane which it purchased in excess of its previous allocation level. The OGS request was therefore granted in part.

Request for Stay

Ashland Oil, Inc., Ashland, Ky.; DRS-0465 crude oil

Ashland Oil, Inc. filed an Application for Stay from the requirement that it make certain refunds pursuant to an Ancillary Order issued by Region IV of ERA. In considering the Application, the DOE determined that consistent with Congressional intent and DOE precedent, it would routinely grant a stay of the Ancillary Order pending administrative review of the Order. Ashland's stay request was therefore granted.

Interim Order

Chevron U.S.A., Inc., San Francisco, Calif.; DEN-1953 crude oil

Chevron U.S.A., Inc. filed a request for an Interim Order to permit it to immediately implement the relief specified in an exception Decision that was issued to the firm in proposed form on June 8, 1979. In considering the request, the DOE found that under the circumstances interim exception relief was appropriate to provide the firm with an economic incentive immediately in order to continue the production of crude oil from the Tognazzini Lease located in Santa Barbara County, California. Accordingly, interim exception relief was granted pending the issuance of a final Decision and Order in the firm's exception proceeding.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay, Temporary Stay, and/or Interim Order of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period alloction of motor gasoline. The DOE issued Decisions and Orders which determined that the requests by granted:

Company Name, Location and Case No.

St. Louis County Policy Department, Clayton, Mo.; DEN-6617
Vic's Arco, Santa Cruz, Calif.; DEN-4838
Hooten's Exxon Emory, Tex.; DEN-5190
Langley Park Amoco, Hyattsville, Md.; DEN-4709
Carol Davis' Mini Market, Whittier, Calif.; DEN-3555
Benson General Store, Benson, Vt.; DEN-5851
Bingo Exxon, Muscle Shoals, Ala.; DXE-6472
Ken Warbick Chevron, Corona, Calif.; DEE-2249
St. Louis County Policy Department Clayton, Mo.; DEX 0183

The following firm filed an Application for Execption of the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued a decision and Order which determined that the request be denied:

Company Name, Location, and Case No.

McMahon Oil Co., Newton, Tex.; DEE-2346

Dismissals

The following submissions were dismissed without prejudice to refilling at a later date:

Company Name and Case No.

Richard L. Stone, DEE-5722
Subase Service Station, DEE-4741
C. N. Brown Co., DEE-6778
Chen's United Petroleum, DEE-5240
D&F Food Store, DEE-6344
Robert E. Taylor, DEE-3415
Skip's Gulf Service, DEE-4736
Cone Oil Co., Inc., DEE-4256, DST-4256
Don Harris Mobil, DEE-5809
Exchange Oil & Gas, DEE-4105
Kerr-McGee Corp., DEE-4110
Le Grand Oil Cq., DEE-4711
Mac's Service Station, DEE-6626, DST-6626
Silva's Citgo, DEE-4734
Starkey's Service, DEE-6248
Amalgamated Bonanza, Pet., Ltd., DEE-6806
Bayou Oil Co., Inc., DEE-3299
E&D Self Service Market, DEE-5835
Fairman Drilling Co., DEE-6874
George Reheuser, DEE-4732
Kerr McGee Service Station, DEE-4559
Langdon Oil Co., Inc., DEE-5038
Mallard Exploration, DEE-6873
Pam Oil, Inc., DEE-6042
Penguin Oil Co., DEE-2774
Raymond A. Ward DEE-5790
Wright & Wright Auto Repair, DEE-5100
Abercrombie Oil Co., DEE-3816
Burkewitz Gulf, DEE-3356
Chevron, DEE-6087
Tri-Valley Distributing, DEE-2935, DST-2935
Ed Wade's Texaco, DEE-6704
Fairlington Sunoco, DEE-4602
Belle Haven Sunoco, DEE-4581
Placid Refining Co., DEE-1857
Reynolds Electrical & Engineering, DEE-6989
Southland Corp., DEE-5856
Texas Pacific, DRD-0165, DRH-0165
Thompson Oil Co., DEE-6896, DST-6896
Troy's Mountain View, Inc., DEE-4743
Automotive Performance Specialties, Inc., DEE-5459
Cooper's Plumbing & Heating, DEE-4389
Knight's Oil & Heating, DEE-5642

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. they are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 6, 1979.

[FR Doc. 79-34959 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

Notice of Cases Filed; Week of July 20, 1979 through July 27, 1979

Notice is hereby given that during the week of July 20, 1979 through July 27, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

October 31, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 20 through July 27, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 20, 1979	Crown Central Petroleum Corporation, Baltimore, Md.	DEA-0517	Appeal of an Assignment Order. If granted: The June 25, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration Region II to J & B Automotive regarding Crown Petroleum Corporations's supply obligations to J & B Automotive would be rescinded.
July 23, 1979	Belcher of New England, Inc.	DRS-0231	Request for Stay. If granted: The July 6, 1979, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region I regarding Belcher of New England, Inc.'s, supply obligations to Acomi Corporation would be stayed.
July 23, 1979	Disabled American Veterans, Washington, D.C.	DEE-7433	Exception to the Emergency Building Temperature Restrictions. If granted: The Disabled American Veterans would receive an exception to the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 20 through July 27, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 23, 1979	Koch Industries, Inc., Wichita, Kans	DEA-0529 thru DEA-0534.	Appeal of Assignment Orders. If granted: The June 25, 1979, assignment Orders issued by the Economic Regulatory Administration Region V regarding Koch Industries, Inc.'s, supply obligations to the following firms: Woitalla Service Company, Kenwood Service Garage, Perry's Oil & Tire, Therres Brothers Skeely, Plato Oil Company, and Sibley County Oil Company would be rescinded.
July 23, 1979	Marathon Oil Company, Findlay, Ohio	DES-0232, DST-0232.	Request for Stay, Request for Temporary Stay. If granted: The July 17, 1979, Assignment Order issued by the Economic Regulatory Administration Region IV, to Marathon Oil Company regarding the firm's supply obligations to Lucky Stores, Inc., would be stayed.
July 23, 1979	Pester Refining Company, Eldorado, Tex	DEE-7449	Price Exception (Section 212.83). If granted: Pester Refining Company would be granted an exception to the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
July 23, 1979	Total Petroleum, Inc., Alma, Mich	DEA-0538, DES-0538.	Appeal of Temporary Assignment Order; Request for Stay. If granted: The July 9, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration Region V regarding Total Petroleum, Inc.'s, supply obligations to U.S. Oil Inc., would be modified. The firm would receive a stay pending a final determination of its appeal.
July 23, 1979	U.S. Oil Company, Combined Locks, Wis	DSG-0059	Petition for Special Redress. If granted: U.S. Oil Company would receive an adjustment to its base period allocation of motor gasoline.
July 24, 1979	American Nuclear Energy Council, Washington, D.C	DFA-0535	Appeal of Information Request Denial. If granted: The DOE's July 20, 1979, Information Request Denial issued by the Special Assistant of the DOE Director of Energy Research, would be rescinded, and the American Nuclear Energy Council would receive access to certain DOE documents.
July 24, 1979	Black Gold Marine, Inc. (Robert J. Monroe), New Orleans, La.	DEE-7452	Exception to Emergency Building Temperature Restrictions. If granted: Robert J. Monroe, employee of Black Gold Marine, Inc., would receive an exception to the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
July 24, 1979	Dennis G. Paquin, D.C., Inc., Columbus, Ohio	DEE-7429	Exception to Emergency Building Temperature Restrictions. If granted: Dennis G. Paquin, D.C., Inc., would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
July 24, 1979	Harvey J. Bean, Erie, Pa	DEE-7452	Request for Temporary Stay. If granted: The July 2, 1979, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration's Region III would be stayed pending the final determination on Harvey J. Bean's Statement of Objections.
July 24, 1979	Jack Halbert, Tyler, Tex	DEE-7932	Price Exception. If granted: Jack Halbert would be granted an exception from any refund obligation with respect to overcharges found in a Proposed Remedial Order.
July 24, 1979	Husky Oil Company, Denver, Colo	DEA-0541	Appeal of Assignment Order. If granted: The June 26, 1979, Assignment Order issued by the Economic Regulatory Administration Region VIII regarding Husky Oil Company's supply obligations to Mapleton Sales, Inc., would be modified.
July 24, 1979	Koch Industries, Inc., Wichita, Kans	DEA-0536	Appeal of Assignment Order. If granted: The June 25, 1979, Assignment Order issued by the Economic Regulatory Administration Region V to Koch Industries, Inc., regarding the firm's supply obligations to Steve's Car Wash would be rescinded.
July 24, 1979	Quincy Oil, Inc., Quincy, Mass	DRX-0197	Supplemental Order. If Granted: Funds which Quincy Oil, Inc., placed in escrow pursuant to a DOE Stay decision would be returned to the firm.
July 24, 1979	Wesley E. Shankland, D.D.S., Columbus, Ohio	DEE-7467	Exception from Emergency Building Temperature Restrictions. If granted: Wesley E. Shankland, D.D.S., would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
July 24, 1979	Shell Oil Company, Houston, Tex	DES-0539	Appeal of Redirection Order. If granted: The March 21, 1979, Redirection Order issued by the Economic Regulatory Administration regarding Shell Oil Company's supply obligations of motor gasoline to Farmland Industries, Inc., would be rescinded.
July 24, 1979	Standard Oil Company of Ohio, Cleveland, Ohio	DEA-0549, DST-0549.	Appeal of an Assignment Order and Request for Temporary Stay. If granted: The June 21, 1979, Assignment Order issued by the Economic Regulatory Administration Region V regarding Standard Oil Company of Ohio's supply obligations of motor gasoline to Landmark, Inc., would be rescinded. The firm would receive a temporary stay of the Assignment Order pending a determination of its Appeal.
July 24, 1979	Standard Oil Company of Ohio, Cleveland, Ohio	DEA-0550, DEA-0551, DST-0550, DST-0551.	Appeal of Assignment Orders and Requests for Temporary Stay. If granted: The June 21, 1979, Temporary Assignment Orders issued by the Economic Regulatory Administration Region V regarding Standard Oil Company of Ohio's supply obligations of diesel fuel and heating oil for the month of June 1979, would be rescinded.
July 24, 1979	Vickers Petroleum Company, Wichita, Kans	DEA-0555	Appeal of a Temporary Assignment Order. If granted: The July 2, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration regarding Vickers Petroleum Company's supply obligations to National Marketing, Inc., would be rescinded.
July 25, 1979	Stanley A. Baltzo, Kodiak, Alaska	DEE-7507	Price Exception (Section 212.93). If granted: Stanley A. Baltzo would receive an exception to the ceiling price rule for retailers of motor gasoline set forth in 10 CFR 212.93.
July 25, 1979	Graber, Stetler, & Townsend, Alexandria, Va	DFA-0553	Appeal of Information Request Denial. If granted: The DOE's July 18, 1979, Information Request Denial issued by the Director, Office of Classification, would be rescinded and Graber, Stetler, & Townsend, would receive access to certain DOE documents.
July 25, 1979	National Distillers & Chemical Corporation, Washington, D.C.	DFA-0556	Appeal of Information Request Denial. If granted: The DOE's July 10, 1979, Information Request Denial issued by the Assistant Administrator for Enforcement would be rescinded and National Distillers & Chemical Corporation would receive access to certain DOE documents.
July 25, 1979	Jesse R. Pitts, Rochester, Mich	DFA-0552	Appeal of Information Request Denial. If granted: The DOE's Information Request Denial issued by the Assistant Administrator for Enforcement would be rescinded and Jesse R. Pitts would receive access to certain DOE documents.
July 25, 1979	Publix Oil Company, Atlanta, Ga	DEA-0543	Appeal of Assignment Orders. If granted: The June 21 and 22, 1979, Assignment Orders issued by the Economic Regulatory Administration Region IV to Chevron, U.S.A., Inc., Marathon Oil Company, Mobil Oil Corporation, Murphy Oil Corporation, Tenneco Oil Company, Union Oil Company of California, regarding the firms' supply obligations to Publix Oil Company would be modified.
July 25, 1979	George Riley, Kansas, Mo	DRO-0303, DRS-0303.	Stay of Interim Remedial Order for Immediate Compliance. If granted: George Riley would receive a stay of the July 9, 1979, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region VIII.
July 25, 1979	Roland's Hair Works, Houston, Tex	DEE-7496	Exception to the Emergency Building Temperature Restrictions. If granted: Roland's Hair Works would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
July 25, 1979	Anne Taines, Los Angeles, Calif	DEE-7506	Exception to Emergency Building Temperature Restrictions. If granted: Anne Taines would receive an exception to the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
July 26, 1979	Ashland Petroleum Company, Ashland, Ky	DRA-0540, DRS-0540.	Appeal of an Ancillary Order and Stay. If granted: The July 2, 1979, Ancillary Order issued by the Economic Regulatory Administration Region IV to Ashland Petroleum Company, regarding its crude oil purchases from C. D. Hollingsworth and Associates, would be rescinded. The firm would receive a stay pending a final determination on its Appeal.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 20 through July 27, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 26, 1979	Exxon Company U.S.A., Washington, D.C.	DEA-0558, DES-0558, DST-0558.	Appeal of Temporary Assignment Order, Request for Stay and Temporary Stay. If granted: The July 30, 1979, Assignment Order issued by the Economic Regulatory Administration Region VI to Exxon Company U.S.A. with respect to the firm's supply obligations to Grambling State University, would be granted a stay and Temporary Stay.
July 26, 1979	Happy Valley Exxon, Hochgelly, W. Va.	DES-0280, DST-0280.	Request for Stay and Temporary Stay. If granted: The June 1, 1979, Assignment Order issued by the Economic Regulatory Administration Region III, regarding Exxon U.S.A. Co's, supply obligation to Happy Valley Exxon would be rescinded.
July 26, 1979	Lakes Gas Company, Saint Paul, Minn.	DRS-0262	Request for Stay. If granted: The DOE's July 11, 1979, Remedial Order issued to Lakes Gas Company, would be stayed pending judicial review.
July 26, 1979	Lowe Oil Company, Clinton, Mo.	DRD-0215, DRH-0215.	Motion for Discovery; Motion for evidentiary Hearing. If granted: An evidentiary hearing would be convened and Discovery would also be granted with respect to the Statement of Objection submitted by Lowe Oil Company to a Proposed Remedial Order.
July 26, 1979	Wise Oil & Fuel, Inc., Cambridge, Md	DEE-7584	Allocation Exception. If granted: Wise Oil & Fuel, Inc., would receive an exception to the provisions of 10 CFR 211 regarding an increased allocation of motor gasoline for the purpose of blending gasohol.
July 27, 1979	Union Oil Co. of California, Schaumburg, Ill	DES-0264	Request for Stay. If granted: The DOE's June 14, 1979, Interim Decision and Order (Case No. DEN-5462), issued to Publix Oil Company, regarding the assignment of a supplier to the firm, would be stayed.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 20 Through July 27, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

July 20, 1979

Borrelli Chevron Service, DEE-7416, California.
Davis Gulf Station, DEE-7410, Arkansas.
Discount Texaco, DEE-7411, California.
Harvey Company, DEE-7413, Connecticut.
Kentwood Spring Water, Inc., DEE-7415, Louisiana.
Lyman, W. H., DEE-7412, Massachusetts.

July 22, 1979

Murphy's Red Horse Service Station, DEE-7345, Massachusetts.

July 23, 1979

Anlee Service Station, DEE-7432, New York.
Atso Service Center, DEE-7431, Virginia.
Baden Texaco, DEE-7464, Maryland.
Beisaw's Garage, DEE-7422, Maine.
Brien Oil Co., DEE-7444, Massachusetts.
Burke Auto Service, Inc., DEE-7419, Massachusetts.
C. L. Butler Garage & Service Station, DEE-7465, Pennsylvania.
Central Delivery Service Mass., DEE-7423, Massachusetts.
Choteau Oil Company, DEE-7637, Texas.
Development Service, DEE-7267, Pennsylvania.
Dick's Texaco Service, DEE-7438, California.
East Street Gulf, DEE-7484, Massachusetts.
Economy Amoco, DEE-7448, Massachusetts.
Gengarelly's Hillcrest, DEE-7421, Connecticut.
Gozzos Service Center, S. Windsor, DEE-7445, Connecticut.
Hamner Oil Company, DEE-7430, Texas.
Hampton Park Exxon, DEE-7440, South Carolina.
John's Getty, DEE-7427, Massachusetts.
Malco Products, Inc., DEE-7455, Ohio.
Malco Products, Inc., DEE-7456, Ohio.
Malco Products, Inc., DEE-7457, Ohio.
McKoon Oil Co., Inc., DEE-7434, Alabama.
Norman E. Whitney, Inc., DEE-7428, Maine.
Olen's Texaco, DEE-7446, Louisiana.
Plasticrete Block & Supply Corp., DEE-7420, Connecticut.
Plymouth Gas House, DEE-7435, North Carolina.
Porter Citgo, DEE-7425, Massachusetts.
Smather's & Company, DEE-7441, Kentucky.
SPC Service Co., Inc., DEE-7426, Massachusetts.
The Village Market, DEE-7442, Maine.
Vernon Auto Wash, Inc., DEE-7447, Connecticut.
Winsted Arco, DEE-7424, Connecticut.
Wright & Wright Auto Repair, DEE-7437, California.
Arnold Shell, DEE-7478, Nevada.
Augusta Road Exxon, DEE-7471, South Carolina.
Beckham & Sons Phillips 66 Service Station, DEE-7404, Kentucky
Bell Mead Shell, DEE-7474, South Carolina.
Bohannon, Lewis, DEE-7451, Florida.
Bolin, Louie B., DEE-7472, South Carolina.
Briarwood Gulf, DEE-7454, Mississippi.
Bryson's Gulf Service, DEE-7443, North Carolina.
Charles Brown Oil Company, DEE-7107, Florida.
Enriquez, Servando, DEE-7475, California.
Grove Auto Service Center, DEE-7436, New Jersey.
Holtz Service, DEE-7479, Wisconsin.
Joe & Bill's, DEE-7483, Alabama.
Kellett, T. C., DEE-7470, South Carolina.
Kobeissi Automotive, DEE-7477, California.
Mat Hurwitz & Sons, DEE-7482, Massachusetts.
Mr. K. Exxon, DEE-7463, South Carolina.
New Orleans Steveorinf, Co., DEE-5583, Lousiana.
P. & W. Oil Company, Inc., DEE-7439, Virginia.
Power Test Corporation, DEE-7481, District of Columbia.
Reves, Bobby, DEE-7469, South Carolina.
Scott's Mini-Market, DEE-7480, Pennsylvania.
Smith's Gulf Station, DEE-7476, Arkansas.
South Bay Shell, DEE-7489, California.
Sue Shelton's Texaco, DEE-7488, Alabama.
Wells Fargo Armored Service, DEE-7501, Lousiana.
Whipple 17 Mobil, DEE-7414, California.
William L. Gibbs Shell, DEE-7473, South Carolina.

July 25, 1979

Amber Lubricant Company, Inc., DEE-7505, California.
Deitrick, Lewis E., DEE-7502, Ohio.
Don's Jiffy Store, DEE-7500, Florida.
Lin Park Grocery & Hardware, DEE-7508, Louisiana.
Loden Oil Company, DEE-7491, Mississippi.
Minit Mart, DEE-7462, Kentucky.
Navy Yard Shell, DEE-7499, District of Columbia.
Oils Incorported, DEE-7486, Illinois.
P. B. V. Inc., DEE-7503, Kansas.
Pollock-Collins Oil Co., Inc., DEE-7497, Alabama.
Pratt Texaco Service, DEE-7498, Ohio.
Saxon Oil Company, Inc., DEE-7504, Alabama.
Sligo General Store, DEE-7487, Pennsylvania.
Thorton, Roger, DEE-7492, Montana.
Tony's Texaco, Inc., DEE-6341, Florida.
Tri-City Rentals, Inc., DEE-7494, Tennessee.
Vermont Morgan Corp., DEE-7618, Vermont.
Willis Gap General Store, DEE-7493, Virginia.

July 26, 1979

Ball Shell Service, DEE-6156, North Carolina.
Bill's Service Center, DEE-7509, Minnesota.
City of Ann Arbor, Michigan, DEE-1980, Michigan.
Clark's Automotive Service, DEE-7512, Arkansas.
Dixie Oil Co. of Alabama, Inc., DEE-7513, Mississippi.
Enka Shell Service, DEE-7516, North Carolina.
Frank Greiner Welding & Fabricating, DEE-7466, Pennsylvania.
J. A. Nere Company, Inc., DEE-7515, Virginia.
Len's Self Service & Mini Shop, DEE-7490, Illinois.

Limehouse Gulf Station, DEE–7511, South Carolina.
Monk's Shoppette, DEE–7514, Georgia.
Rich's Shell Service, DEE–7510, California.
Ron's Skelly Service, DEE–7641, Iowa.
Wise Oil & Fuel, Inc., DEE–7564, Maryland.
Yellow Cab Co., DEE–7536, Illinois.

July 27, 1979

Bullock's Exxon, DEE–7541, Ohio.
City of Ely, Minnesota, DEE–7737, Minnesota.
City of Santa Fe Springs, DEE–7531, California.
Gas N Groceries, DEE–7523, North Carolina.
Gas N Groceries, DEE–7524, North Carolina.
Gas N Groceries, DEE–7525, North Carolina.
Gas N Groceries, DEE–7526, North Carolina.
Hearn Circle Shell, DEE–7522, South Carolina.
Hess Gulf Service Station, DEE–7521, Maryland.
John's Standard Service, DEE–7520, Georgia.
Murphy's Service, DEE–7529, Kansas.
Purser Oil Company, DEE–7530, Georgia.
Ray's Auto Station, DEE–7528, Rhode Island.
Ruscon Big C Stores, DEE–7532, Alabama
Ruscon Big C Stores #2, DEE–7587, Alabama
Steamboat Springs Station #1, DEE–7534, Colorado.

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Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of June 18 through June 22, 1979

Notice is hereby given that during the week of June 18 through June 22, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Diamond Shamrock Corp., Amarillo, Tex.; DEA–0420, motor gasoline

Diamond Shamrock Corporation filed an Appeal from a Temporary Assignment Order that was issued to it by the Economic Regulatory Administration on April 30, 1979. The Order directed Diamond to supply 350,000 gallons of motor gasoline to the Spruce Oil Company during the month of May 1979. The DOE found that when the Order was issued to Diamond by ERA, the firm had not received sufficient notice of the nature of the proceeding to afford it a meaningful opportunity to participate in the proceeding and to oppose the Order. Accordingly, the DOE ruled that the Order was invalid *ab initio*. Since Diamond had complied with the Order until it was stayed by an Order of the Office of Hearings and Appeals, the DOE directed Spruce to resupply Diamond with the volumes of motor gasoline furnished by Diamond to Spruce pursuant to the Temporary Assignment Order.

Mathias Spiegel, New York, N.Y.; DFA–0395, freedom of information

Mathias Spiegel (Spiegel) filed an Appeal from a denial by the Division of Freedom of Information and Privacy Acts Activities of a Request for Information which the firm submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the documents which were initially withheld under exemption 4 should not be released to the public. In addition, the DOE noted that the Division of Freedom of Information and Privacy Acts Activities made no findings with respect to a document which Spiegel initially requested. In considering the Appeal, the DOE also found that this document should be released in part and the remainder withheld under exemption 4.

Vinson & Elkins, Washington, D.C.; DFA–0409, freedom of information

On May 18, 1979 the law firm of Vinson & Elkins filed an Appeal from a partial denial by the Director of the DOE Division of Freedom of Information and Privacy Act Activities of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the documents which were withheld under Exemption 5 should not be released to the public. The FOIA Appeal was therefore denied.

Remedial Orders

Equipment, Inc., Grand Coulee Field, La.; DRO–0121, crude oil

Equipment, Inc. objected to a Proposed Remedial Order which the Southwest District Office of Enforcement issued to the firm on September 19, 1978. In the Proposed Remedial Order, the Office of Enforcement found that Equipment had charged prices for crude oil produced from certain specified properties in excess of the ceiling price levels established pursuant to 10 CFR 212.73. The DOE concluded that the Proposed Remedial Order should be remanded to the Southwest District Office and directed the District Manager to determine whether Equipment would qualify for the stripper well exemption after assessing the downtime experienced by Equipment's wells in 1974 by comparison with a property using production method similar to Equipment.

Mobil Oil Corp., New York, N.Y.; DRO–0105, motor gasoline

Mobil Oil Corporation filed a Statement of Objections to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on August 23, 1978. In the Proposed Remedial Order, the Office of Special Counsel ordered Mobil to comply with its supplier/purchaser relationship with Messrs. August P. Rossi, Jr. and Douglas J. Siemer (Rossi and Siemer), the operators of a retail gasoline sales outlet leased from Mobil, and to resume deliveries of motor gasoline to the station site. In considering Mobil's Statement of Objections, the DOE found that the interim procedural regulations, pursuant to which the PRO was issued, were adopted in accordance with the applicable rulemaking requirements established in Section 501 of the Department of Energy Organization Act, 42 U.S.C.A. Sec. 7191 (*West-Supp.* 1977). In addition, the DOE found that the procedures set forth in these interim regulations do not conflict with the provisions of Section 503 of the DOEOA, which govern the review of remedial orders in appellate proceedings before the Federal Energy Regulatory Commission. With respect to the PRO's application of the Allocation Regulations to Mobil, the DOE rejected Mobil's contention that the firm could unilaterally terminate deliveries of gasoline to Rossi and Siemer on the basis of its reasonable belief that they were illegally occupying the station site and had therefore "gone out of business" under the regulations. The DOE found no regulatory language in support of Mobil's interpretation and concluded that allowing such a unilateral termination would not only frustrate the DOE's regulatory objective of maintaining supplier-purchaser relationships but also require the DOE to review landlord-tenant disputes, which fall within the jurisdiction of the state courts. The DOE also rejected Mobil's arguments that the PRO rested on presumptions which were unsupported by substantial evidence. The DOE concluded that the decision in *Atlantic Richfield* v. Zarb, 532 F.2d 1363 (TECA 1976), permits the DOE to direct a supplier to deliver gasoline to a service station site pending *de novo* review by a state court as to the legality of the dealer's occupancy of the station site. Accordingly, Mobil's Statement of Objections was denied, and the Proposed Remedial Order was issued to Mobil as a final Remedial Order.

Requests for Exception

Altex Oil Corp., Denver, Colo., DEE–2158, crude oil

Altex Oil Corporation (Altex) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the UPRR Anschutz Ranch No. 1 Well located in the Elk Mountain Field in Carbon County, Wyoming. In considering the Application, the DOE found that the cost of producing crude oil from the UPRR Anschutz Ranch No. 1 Well had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Altex had no economic incentive to continue to produce crude oil from the UPRR Anschutz Ranch No. 1 Well, and that it was unlikely that the crude oil in the reservoir underlying the UPRR Anschutz Ranch No. 1 Well could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Altex and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Altex to sell at upper tier ceiling prices 32.29 percent of the crude oil produced from the UPRR Anschutz Ranch No. 1 Well for the benefit of

the working interest owners for the period February 7, 1979 through July 31, 1979.

Amoco Oil Co., Chicago, Ill.; DEE–2257, motor gasoline

Amoco Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm requested an increase in the base period allocation of motor gasoline for approximately 500 branded Amoco dealers for the months of March, April and May 1979. As an initial matter, the DOE determined that underlying principles of class certification which have been applied in administrative proceedings were satisfied by Amoco. Amoco identified the following three classes of dealers for which it requested relief:

(1) Retail gasoline dealers who have made capital investments of $10,000 or more in their marketing facilities in 1978, excluding investments in gasoline, tires, batteries, and motor accessories (TBA) inventories, and who will not realize the benefit of such investments on the basis of the volume of gasoline purchased during the March–May 1978 base period (Class 1).

(2) Retail gasoline dealers whose current demand, as measured by their average monthly purchases during the period October 1, 1978 through January 31, 1979, has increased by 35 percent or more over the monthly average purchases during the March–May 1978 base period due to substantial changes in 1978 in the station's mode of operation or demand pattern (Class 2).

(3) Retail gasoline dealers not qualifying under (1) or (2) above, whose current demand, as measured by the average monthly purchases during the period October 1, 1978 through January 31, 1979, has increased since the March–May 1978 base months, and who will be unable to recover their expenses under normal operating practices if forced to return to the 1978 base volume and as a result will suffer significant operating or financial difficulties (Class 3).

With respect to the first class, the DOE determined that all the members of the class satisfied the criteria set forth in *Leo Anger, Inc.*, 3 DOE Par. —— (June 18, 1979). With respect to the second class, the DOE determined that the members of that class satisfied the criteria set forth in *Duncan Oil Co.*, 3 DOE Par. —— (—— 1979). With respect to the second class, the DOE determined that the members of that class satisfied the criteria set forth in *Duncan Oil Co.*, 3 DOE Par. —— (——, 1979). Finally, the DOE concluded that the new base period had such a direct and adverse impact on the firms in class three so as to result in a serious hardship and unfair distribution of burdens. Accordingly, exception was granted to each of the three classes of Amoco dealers.

Atlantic Oil Co., Los Angeles, Calif.; DEE–2134, crude oil

Atlantic Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Coykendall Lease located in the Olive Field in Orange County, California. In considering the Application, the DOE found that the cost of producing crude oil from the Coykendall Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Atlantic Oil Company had no economic incentive to continue to produce crude oil from the lease, and that it was unlikely that the crude oil in the reservoir underlying the Coykendall Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Atlantic Oil Company and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Atlantic Oil Company to sell at upper tier ceiling prices 34.62 percent of the crude oil produced from the Coykendall Lease for the benefit of the working interest owners for the period January 29, 1979 through July 31, 1979.

C. F. Lawrence & Assoc., Inc., Midland, Tex.; DXE–2190, crude oil

C. F. Lawrence & Assoc., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Childress M. I. Masterson Lease at upper tier ceiling prices. C. F. Lawrence & Assoc., Inc. 2 DOE Par. 81,075 (1978). In considering the exception application, the DOE found that C. F. Lawrence & Assoc., Inc. continued to incur increased operating expenses at the Childress M. I. Masterson Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which C. F. Lawrence & Assoc., Inc. had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit C. F. Lawrence & Assoc., Inc. to sell at upper tier ceiling prices 67.93 percent of the crude oil produced from the Childress M. I. Masterson Lease for the benefit of the working interest owners for a six-month period.

Champlin Petroleum Co., Fort Worth, Tex.; DXE–2212, crude oil

Champlin Petroleum Company (Champlin) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the State of New Mexico No. 18 Property at upper tier ceiling prices. *Champlin Petroleum Co.*, 3 DOE Par. —— (1979). In considering the exception application, the DOE found that Champlin continued to incur increased operating expenses at the State of New Mexico 18 Property and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that property. In view of this determination and on the basis of the operating data which Champlin had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Champlin to sell at upper tier ceiling prices 61.16 percent of the crude oil produced from the State of New Mexico No. 18 Property for the benefit of the working interest owners for a six-month period.

Chevron, U.S.A. Inc., San Francisco, Calif.; DEE–3153, motor gasoline

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm requested an increase in the base period allocation of motor gasoline for approximately 184 purchasers of its motor gasoline. As an initial matter, the DOE determined that the underlying principles of class certification which have been applied in administrative proceedings were satisfied by Chevron. With regard to the merits of the case, the DOE determined that on the basis of Chevron's written submissions and their testimony at the April 3, 1979 hearing relief should be extended to four classes of purchasers. Accordingly, exception relief was granted.

Crown Central Petroleum Corp., Bellaire Tex.; DXE–2230, crude oil

Crown Central Petroleum Corporation (Crown Central) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Santa Ana and Fresno Land Lease at upper tier ceiling prices. *Crown Central Petroleum Corp.*, 3 DOE Par. —— (—— 1979). In considering the exception application, the DOE found that Crown Central continued to incur increased operating expenses at the Santa Ana and Fresno Land Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating date which Crown Central had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Crown Central to sell at upper tier ceiling prices 11.28 percent of the crude oil produced from the Santa Ana and Fresno Land Lease for the benefit of the working interest owners for a six-month period.

Damson Oil Corp., Houston, Tex.; DXE–2204, crude oil

Damson Oil Corporation filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the City of Los Angeles Lease No. 135 at upper tier ceiling prices. Damson Oil Corp., 2 DOE Par. 81,108 (1978). In considering the exception application, the DOE found that Damson Oil Corporation continued to incur increased

operating expenses at the City of Los Angeles Lease No. 135 and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Damson Oil Corporation had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Damson Oil Corporation to sell at upper tier ceiling prices 31.64 percent of the crude oil produced from the City of Los Angeles Lease No. 135 for the benefit of the working interest owners for a six-month period.

Geronimo Oil Co., Houston, Tex., DEE–2111, crude oil

Geronimo Oil Company (Geronimo) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the 160 Acres Lillian Morris Lease located in San Patricio County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the 160 Acres Lillian Morris Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Geronimo had no economic incentive to continue to produce crude oil from the 160 Acres Lillian Morris Lease and that it was unlikely that the crude oil in the reservoir underlying the Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Geronimo and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Geronimo to sell at upper tier ceiling prices 60.48 percent of the crude oil produced from the 160 Acres Lillian Morris Lease for the benefit of the working interest owners for the period January 8, 1979 through June 30, 1979.

Getty Oil Co., Los Angeles, Calif., DXE–2197, DXE–2198, DXE–2199, DXE–2200, DXE–2201, crude oil

Getty Oil Company (Getty) filed five Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Carranza, Chamberlin, Davis, Luton and Quati Leases at prices in excess of the levels set forth in 10 CFR, Part 212, Subpart D. *Getty Oil Co.*, 2 DOE Par. 81,116 (1978). In considering the exception application, the DOE found that Getty continued to incur increased operating expenses at the five leases and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at those leases. In view of this determination and on the basis of the operating data which Getty had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Getty to sell at upper tier ceiling prices 46.26, 67,37, 88.29 and 41.07 percent, respectively, of the native crude oil produced from the Carranza, Davis, Luton and Quati Leases and to sell at market price levels 100 percent of the native crude oil produced from the Chamberlin Lease for the benefit of the working interest owners for a six-month period.

Getty Oil Co., Oklahoma City, Okla., DXE–2916, crude oil

Getty Oil Company (Getty) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Ed Dillon No. 2 Well at upper tier ceiling prices. *Getty Oil Co.*, 2 DOE Par. 81,084 (1978). In considering the exception application, the DOE found that Getty continued to incur increased operating expenses at the Ed Dillon No. 2 Well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that well. In view of this determination and on the basis of the operating data which Getty had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Getty to sell at upper tier ceiling prices 55.70 percent of the crude oil produced from the Ed Dillon No. 2 Well for the benefit of the working interest owners for a six-month period.

Gulf Oil Corp., Houston, Tex., DEE–2271, crude oil

Gulf Oil Corporation (Gulf) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Miriam Partlow, et al., Unit located in the South Liberty Field in Liberty County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the Miriam Partlow, et al., Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Gulf had no economic incentive to continue to produce crude oil from the Miriam Partlow, et al., Unit and that it was unlikely that the crude oil in the reservoir underlying the Miriam Partlow, *et al.*, Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Gulf and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Gulf to sell at upper tier ceiling prices 56.70 percent of the crude oil produced from the Miriam Partlow, *et al.*, Unit for the benefit of the working interest owners for the period March 6, 1979 through August 31, 1979.

Gulf Oil Corp., Houston, Tex., DXE–4108, crude oil

Gulf Oil Corporation (Gulf) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Sydney A. Smith Lease at upper tier ceiling prices. *Gulf Oil Corp.*, 2 DOE Par. 81,164 (1978). In considering the exception application, the DOE found that Gulf continued to incur increased operating expenses at the Sydney A. Smith Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Gulf had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Gulf to sell at upper tier ceiling prices 54.09 percent of the crude oil produced from the Sydney A. Smith Lease for the benefit of the working interest owners for a six-month period.

Gulf Oil Corp., Tulsa Okla., DXE–2809, crude oil

Gulf Oil Corporation (Gulf) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Kiefer Unit at upper tier ceiling prices. *Gulf Oil Corp.*, 2 DOE Par. 81,142 (1978). In considering the exception application, the DOE found that Gulf continued to incur increased operating expenses at the Kiefer Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which Gulf had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Gulf to sell at upper tier ceiling prices 51.37 percent of the crude oil produced from the Kiefer Unit for the benefit of the working interest owners for a six-month period.

Harrison Gas and Oil, Los Angeles, Calif., DEE–2548, Motor Gasoline

Harrison Gas and Oil filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Harrison's allocation entitlement to motor gasoline was abnormally low as a result of anomalous events which occurred during the new base period for motor gasoline established by Activation Order No. 1. The DOE found that as a result of its low gasoline allocation Harrison would incur serious financial difficulties. In accordance with the principles established in *Tenneco Oil Co.*, 2 FEA Par. 83,108 (1975), the DOE therefore granted Harrison an exception increasing its allocation entitlement to motor gasoline during March, April and May 1979.

Louis Kahan, Tulsa, Okla., DEE–2806, crude oil

Louis Kahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Mose Bean Lease located in Seminole County, Oklahoma. In considering the Application, the DOE found that the cost of producing crude oil from the Mose Bean Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Kahan had no economic incentive to continue to produce crude oil from the property, and that it was unlikely that the crude oil in the reservoir underlying the Mose Bean Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Kahan and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Kahan to sell at upper tier ceiling prices 47.31 percent of the crude oil produced from the Mose Bean Lease for the benefit of the working interest owners for the period April 19, 1979 through September 1979.

Louis Kahan, Tulsa, Okla., DEE–2805, crude oil

Louis Kahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Polly B Lease located in Seminole County, Oklahoma. In considering the Application, the DOE found that the cost of producing crude oil from the Polly B Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Kahan had no economic incentive to continue to produce crude oil from the property, and that it was unlikely that the crude oil in the reservoir underlying the Polly B Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Kahan and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Kahan to sell at upper tier ceiling prices 55.83 percent of the crude oil produced from the Polly B Lease for the benefit of the working interest owners for the period April 25, 1979 through September 1979.

D. C. Latimer, Jackson, Miss.; DEE–0613, crude oil

D. C. Latimer filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D on behalf of the working interest owners of the Vyron Womack No. 1 Well. The exception, if granted would permit the owners to retroactively determine the selling prices of the crude oil produced from the well during the period December 1973 through December 1976 without regard to the cumulative deficiency in the well's base production control level (BPCL) which had accrued prior to that period. In his exception application, Latimer stated that although in March 1974 the volume of sales of crude oil from the well exceeded the property's BPCL for that month, the owners had no control over the amount of crude oil extracted by the purchaser from the well's accumulation tank, and that furthermore, the owners were not aware of the fact that new and released crude oil had been sold. As a result, the owners were also unaware of the fact that a cumulative deficiency began accumulating subsequent to March 1973, and in October and November 1974 the owners made a substantial investment in the well on the presumption that any future increased production levels which exceeded the property's BPCL would qualify for upper tier ceiling prices. Latimer stated that the owners did not learn of the cumulative deficiency until increased production occurred in December 1973. In his application, Latimer requested that the owners of the well be permitted to eliminate on a retroactive basis the cumulative deficiency that accrued between April 1, 1974 and December 1, 1974 and as a result be allowed to charge upper tier ceiling prices for a portion of the crude oil produced during the period December 1974 through December 1976. In considering Latimer's request, the DOE noted that pursuant to 10 CFR 212.72, the cumulative deficiency which accrued at the well during the period April through November 1973 had no effect on the classification of the crude oil that was produced from the well after February 1, 1976. Consequently, the DOE found that there was no basis for Latimer's request for retroactive exception relief for the period February through December 1976. With respect to Latimer's request for retroactive relief for the period December 1974 through January 1976, the DOE noted that even though a cumulative deficiency may arise as a result of circumstances which are beyond the control of a producer, the agency has consistently held that such a situation, in and of itself, does not constitute a gross inequity which warrants the approval of exception relief. Furthermore, the DOE determined that Latimer failed to make a clear showing that the owners were disproportionately affected in an adverse manner by the FEA regulatory requirements. Accordingly, Latimer's exception request was denied.

Leo Anger, Inc., Victoria, Tex.; DEE–2326, motor gasoline

Leo Anger, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of motor gasoline for the months of March, April and May 1979. In considering the request, the DOE stated that it would be inclined to grant an exception to a firm that demonstrates that:

(1) a substantial capital investment was made by a firm with the expectation that the investment would enable the applicant to increase its sales of motor gasoline and thereby realize an economic benefit from the investment;

(2) the increased sales volume and the intended benefits of that capital investment could not be realized until after the July 1977 through June 1978 base period; and

(3) in the absence of an exception increasing its allocation of gasoline, the firm will not be able to realize the intended benefits of the capital investment and will be adversely affected to a significant degree.

The DOE determined that Leo Anger met these criteria and therefore granted exception relief.

M. J. Mitchell, Dallas, Tex.; DXE–2126, *crude oil*

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices. *M. J. Mitchell,* 1 DOE Par. 80,130 (1977). In considering the exception application, the DOE found that M. J. Mitchell continued to incur increased operating expenses at the Mitchell State Minnelusa Sand Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that unit. In view of this determination and on the basis of the operating data which M. J. Mitchell had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit M. J. Mitchell to sell at upper tier ceiling prices 11.31 percent of the crude oil produced from the Mitchell State Minnelusa Sand Unit for the benefit of the working interest owners for a six-month period.

M. J. Mitchell, Dallas, Tex.; DXE–2229, *crude oil*

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Pickrel Ranch Minnelusa Sand Unit at upper tier ceiling prices. *M. J. Mitchell,* 3 DOE Par. ——— (1979). In considering the exception application, the DOE found that M. J. Mitchell continued to incur increased operating expenses at the Pickrel Ranch Minnelusa Sand Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which M. J. Mitchell had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit M. J. Mitchell to sell at upper tier ceiling prices 72.12 percent of the crude oil produced from the Pickrel Ranch Minnelusa Sand Unit for the benefit of the working interest owners for a six-month period.

Rex Monahan, Sterling, Colo.; DXE–2803, crude oil

Rex Monahan filed an Application for

Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Collums Muddy Sand Unit at prices which were in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the unit and exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part.

P & M Petroleum Management, Denver, Colo.; DXE–2184, *crude oil*

P & M Petroleum Management filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Track #1 Well at upper tier ceiling prices. *P & M Petroleum Management,* 2 DOE Par. 81,117 (1978). In considering the exception application, the DOE found that P & M Petroleum Management continued to incur increased operating expenss at the Track #1 Well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Well. In view of this determination and on the basis of the operating data which P & M Petroleum Management had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit P & M Petroleum Management to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Track #1 Well for the bnefit of the working interest owners for a six-month period.

Petroleum, Inc., Wichita, Kans., DXE–2131, crude oil

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Crowder Lease at upper tier ceiling prices. *Petroleum, Inc.,* 2 DOE Par. 81,127 (1978). In considering the exception application, the DOE found that Petroleum, Inc. continued to incur increased operating expenses at the Crowder Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Petroleum, Inc. had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Petroleum, Inc. to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Crowder Lease for the benefit of the working interest owners for a six-month period.

Sabo Oil Co.; Topeka, Kans.; DEE–2467, motor gasoline

Sabo Oil Company filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Sabo was experiencing a gross inequity that warranted exception relief. Accordingly, the DOE approved an agreement negotiated by the parties interested in the exception proceeding which established the rights of Sabo to certain volumes of motor gasoline and the obligation of certain suppliers to supply specified volumes of motor gasoline to Sabo.

Standard Oil Co. (Indiana), Chicago, Ill.; DXE–2536, crude oil

Standard Oil Company (Indiana) filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Sleepy Hollow Lansing Unit located in Red Willow County, Nebraska at prices which were in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the unit and exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part.

Sun Company, Inc., Dallas, Tex.; DEE–2272, crude oil

Sun Company, Inc. (Sun) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Southwest Nena Lucia Unit located in Nolan County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the Southwest Nena Lucia Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Sun had no economic incentive to continue to produce crude oil from the Southwest Nena Lucia Unit, and that it was unlikely that the crude oil in the reservoir underlying the Southwest Nena Lucia Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Sun and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Sun to sell at upper tier ceiling prices 38.21 percent of the crude oil produced from the Southwest Nena Lucia Unit for the benefit of the working interest owners for the period March 6, 1979 through August 31, 1979.

Tenneco Oil Co., Houston, Tex.; DEE–2159, crude oil

Tenneco Oil Company (Tenneco) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Slick Creek Phosporia Unit located in the Slick Creek Field in Washakie County, Wyoming. In considering the Application, the DOE found that the cost of producing crude oil from the Slick Creek Phosphoria Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Tenneco had no economic incentive to continue to produce crude oil from the Slick Creek Phosphoria Unit, and that it was unlikely that the crude oil in the reservoir underlying the Slick Creek Phosphoria Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Tenneco and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Tenneco to sell at upper tier ceiling prices 54.71 percent of the crude oil produced from the Slick Creek Phosphoria Unit for the benefit of the working interest owners for the period February 8, 1979 through July 31, 1979.

Texaco, Inc., Denver, Colo.; DXE–2205, crude oil

Texaco, Inc. (Texaco) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. the exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Maudlin Gulch Unit at upper tier ceiling prices. Texaco, Inc., 2 DOE Par. 81,099 (1978). In considering the exception application, the DOE found that Texaco continued to incur increased operating expenses at the Maudlin Gulch Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which Texaco had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Texaco to sell at upper tier ceiling prices 36.34 percent of the crude oil produced from the Maudlin Gulch Unit for the benefit of the working interest owners for a six-month period.

Wayne Operating Service, Washington, D.C.; DXE–4509, crude oil

Wayne Operating Service filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the T. F. Hodge Well No. 1 at prices which were in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the lease and exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part.

Class Exception Proceeding Concerning Extension of Relief Previously Granted in Certain Motor Gasoline Allocation Cases; DEE–6525

This determination affected a group of retail motor gasoline dealers who had received exception relief from the motor gasoline allocation regulations. The relief previously approved for these retailers expired on June 1, 1979, the expiration date of Standby Regulation Activation Order No. 1. Amendments extending the updated base period to September 30, 1979 were approved by the *Interim Final Rule and Notice of Proposed Rulemaking*, 44 Fed. Reg. 26712 (May 4, 1979). In this decision, the Department of Energy found that two classes of applicants should be formed for purposes of considering whether exception relief should be extended. One class had received relief pursuant to principles explained in *Leo Anger, Inc.* (Proposed Decision and Order issued March 23, 1979). Another received relief under the principles of *James Tidwell Chevron*, 3 DOE Par. (June 8, 1979). An extension of exception relief was approved for members of these classes until September 30, 1979, subject to limitations provided in the decision.

Class Exception Proceeding Adjusting April 1979 Base Period Volumes of Motor Gasoline for Retail Sales Outlets and Wholesale Purchaser-Consumers; DEE–3726, motor gasoline

On April 17, 1979, the Economic Regulatory Administration of the Department of Energy issued a formal Notice in which it stated it intends to promulgate certain rules with respect to the allocation of motor gasoline. The ERA indicated in the Notice that it intended to adopt an unusual growth adjustment that would increase the allocation of a retail outlet or a wholesale purchaser-consumer whose monthly purchase volume has increased by a significant amount since the new base period. Specifically, the ERA indicated that such a firm would be permitted to substitute its October 1978 through February 1979 average monthly purchaser volume as its April 1979 allocation if that average was at least 35 percent greater than actual purchases in April 1978. After reviewing the ERA announcement in the light of the exception applications pending before the Office of Hearings and Appeals, the OHA concluded that serious hardships, gross inequities, and unfair distributions of burdens would occur unless the growth adjustment contemplated for April of 1979 were implemented immediately.

In reaching this conclusion, the OHA observed that it had received more than 2,000 applications for administrative relief subsequent to the issuance of Activation Order No. 1 by the ERA on February 22, 1979. In the cases in which the applicant requested an increased allocation, the firm involved contended that the new base period established by the Activation Order (the months of March, April and May of 1978) did not reflect the firm's current level of operations. Most of the applicants also argued that the use of the new base period would have a substantial adverse impact on the firm's business operations. The OHA observed that, in virtually all of the cases in which exception relief had been granted, a finding was made that the firm involved had in fact experienced substantial growth since April 1978. As a result, the OHA concluded that a firm whose purchase volume during the October 1978–February 1979 period exceeded by 35 percent its purchases during the month of April 1979 would in all likelihood ultimately qualify for exception relief. In view of the probability that relief would ultimately be accorded to firms in this situation, either through the exceptions process or under the ERA rule, the OHA determined that a class exception should be implemented immediately to avoid the adverse impact which these firms would otherwise experience if they were unable to benefit from the new rule or the exceptions process prior to the end of April. In reaching this determination, the OHA specifically reviewed the criteria applicable to class exception proceedings and concluded that these criteria had been satisfied in this instance.

A Proposed Decision containing this determination was issued on April 19, 1979, along with an Interim Order which immediately implemented the relief set forth in the Proposed Decision. The Standard Oil Co. of Ohio subsequently filed a Statement of Objections in opposition to the determination reached in the Proposed Decisions. The DOE considered and rejected each of the arguments raised by Sohio in its Statement of Objections. Accordingly, the Proposed Decision was issued in final form.

Requests for Stay and/or Temporary Stay

Addie Fuel and Drum Co., Gloverville S.C.; DRT–0059, motor gasoline

Addie Fuel and Drum Company (Addie) filed an Application for Temporary Stay of an Interim Remedial Order for Immediate Compliance which was issued to the firm on May 25, 1979 by the Southeast District Office of Enforcement of the Department of Energy. In considering the Application, the DOE determined that the firm would not incur irreparable injury in the absence of immediate stay relief. The Addie termporary stay request was therefore denied.

Exxon Co., U.S.A. Standard Oil Co. of Illinois, Total Petroleum, Inc., Houston, Tex., Chicago, Ill., Detroit, Mich.; DES–0456, DST–0456, DES–0218, DST–0457, motor gasoline

Exxon Company, U.S.A., Standard Oil Company of Indiana (Amoco) and Total Petroleum Inc., filed Applications for Stay and Applications for Temporary Stay of Assignment Orders which had been issued by Region V directing them to supply motor gasoline to U.S. Oil Company. In considering the requests, the DOE determined that neither Exxon nor Amoco had demonstrated that they would be irreparably harmed by compliance with the assignment orders or that they were likely to succeed on the merits of their respective Appeals of those orders. However, the DOE also found that Total had not been provided adequate notice and opportunity to comment on the assignment order issued to it. Consequently, Exxon's and Amoco's request for stay were denied and Total's request for a temporary stay was granted for a period of five business days in order to permit Total the opportunity to submit its comments to Regions V.

Exxon Co., U.S.A., Washington, D.C.; DRS–0210; DRT–0210; motor gasoline

Exxon Company, U.S.A., filed an Application for Stay and an Interim Remedial Order for Immediate Compliance (IROIC). Under the terms of the IROIC Exxon was required to supply the Hydrocarbon Trading and Transport Company its motor gasoline allocation entitlement for March through May 1979. In considering the Application, the DOE determined that injury if it complied with the requirements of the IROIC. Accordingly, Exxon's temporary stay request was denied. However, the DOE found that the IROIC was procedurally defective and that Exxon was therefore very likely to succed on the merits of its objections to that Order. Since the approval of a stay was also desirable to preserve the *status quo ante* the stay request was granted.

Heil-Qutaker Corp., Nashville, Tenn.; DES–5955, consumer products

Heil-Quaker Corporation (Heil-Quaker) filed an Application for Stay in which it requested that certain provisions of 10 CFR, Part 430 be suspended. The stay request, if granted, would permit Heil-Quaker to make a specified modification of the energy efficiency test procedures set forth in 10 CFR, Part 430 which are applicable to the induced draft gas furnace which it intends to manufacture, pending a final determination on the Application for Exception which the firm filed on May 23, 1979. In considering the Application, the DOE found that the required test procedures appear to yield inappropriate results when applied to the induced draft gas furnace manufactured by Heil-Quaker. The DOE found that, in the absence of testing required by Part 430, the firm would be prevented from marketing the product on the basis of representations as to its energy utilization efficiency. Consequently the DOE concluded that Heil-Quaker would suffer irreparable injury in the event the request was denied and that there was a considerable likelihood of success on the merits of the firm's Application for Exception. Accordingly, the Heil-Quaker Stay request was granted.

Shell Oil Co., Houston, Tex.; DES–0453, DST–0453, motor gasoline

The Shell Oil Company filed an Application for Stay from a Temporary Assignment Order which required it to supply motor gasoline to the Southwest Research Institute (SRI). In considering the Application, the DOE determined that the order did not contain sufficient findings that SRI was experiencing "dire circumstances," as required by 10 CFR 205.39. Accordingly, the DOE ruled that Shell was very likely to succeed on the merits of its Appeal of that Order. Since the approval of a stay was required to preserve the *status quo ante*, the stay request was granted.

Motions for Evidentiary Hearing

C. K. Smith & Company, Inc., Worcester, Mass.; DRH–0061, No. 2 heating oil

C. K. Smith & Company, Inc. filed a Motion

for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that the DOE Region I Office of Enforcement issued to it on May 25, 1978. After considering the Motion, the DOE concluded that an evidentiary hearing should be convened to determine the factual basis for the Federal Energy Administration's rescission of its 1974 Agreement of Compliance with Smith. The DOE found that if Smith were to verify its claim that the rescission of that Agreement was based on a change in Region I's interpretation of the price regulation rather than on the discovery of new evidence, the firm could make a convincing argument that the Region acted arbitrarily in rescinding the Agreement and issuing the PRO to Smith. The DOE also concluded that a hearing should be held regarding whether Smith included transportation costs as part of its May 15, 1973 product cost, and whether the transportation costs incurred during the audit period, which the firm now claims as increased product costs, include charges for delivering No. 2 heating oil from the firm's inventory to its customers. The DOE determined that the resolution of these issues was central to whether a final remedial order should be issued to Smith.

Crystal Petroleum Co., Corpus Christi, Tex.; DRD-0081, DRH-0082, motor gasoline

Crystal Petroleum Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm by the DOE Region VI Office of Enforcement on June 20, 1978. In its Motion for Discovery Crystal sought the depositions of various FEA officials involved in an audit of the firm as well as certain admissions by ERA and the production of various documents. Crystal sought an evidentiary hearing in order to prove that it had been subjected to abuse of discretion by FEA officials and unusually harsh and unique audit policies in that the initial NOPV was withdrawn and a revised NOPV issued that included violations of the Phase III Freeze Period regulations of the Cost of Living Council. In view of Crystal's sworn affidavits regarding events at an NOPV conference, the Office of Hearings and Appeals granted an evidentiary hearing on the issue of bias and abuse of discretion by FEA auditors. The Motion for Discovery was granted in part by requiring ERA to answer the admissions, to submit copies of other NOPVs to support its denial of any of the admissions, and to allow Crystal access to the audit file for this proceeding, and any ERA documents concerning various policies regarding ERA audits, issuance of NOPVs, and the ERA's contemporaneous construction of certain relevant DOE regulations. Crystal's request for depositions of the FEA officials was denied because it would unduly delay the proceeding and Crystal would have opportunity to question them at the evidentiary hearing. Crystal's requests for access to ERA files to search for examples where ERA auditors allowed "netting" of undercharges against overcharges, lists of other firms audited by a certain ERA auditor, and certain other documents were denied as being overly broad or irrelevant.

Gulf Oil Corp., Houston, Tex.; DEH-1997 crude oil motor gasoline

Gulf Oil Corporation filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Decision and Order which was issued to Mid-Michigan Truck Service, Inc. on December 1, 1978. The December 1 Proposed Decision was the latest in a series of Orders which extended the exception relief that was originally granted to Mid-Michigan in 1976. In each of those Orders, the DOE found that if Gulf, Mid-Michigan's base period supplier of motor gasoline, were permitted under the provisions of 10 CFR 211.25 to supply Mid-Michigan through a designated substitute supplier, the Bestrom Oil Company, Mid-Michigan would experience a serious financial hardship as a result of the significant disparity between the prices charged by Bestrom and the prices charged by Gulf. Consequently, in each Order the DOE required Gulf to supply Mid-Michigan with motor gasoline directly rather than through Bestrom. In its Motion, Gulf maintained that it could establish the validity of its position as set forth in its Statement of Objectives only by eliciting the testimony of Mr. Wallace A. Graves, the principal shareholder and chief operating officer of Mid-Michigan, at an evidentiary hearing. In this regard, Gulf argued that any hardship experienced by Mid-Michigan was caused by factors other than the DOE regulations, and Gulf alleged that Mr. Graves' testimony would support Gulf's position. In considering Gulf's Motion, the DOE noted that under the precedent established in *Whitco, Inc.*, 2 FEA Par. 83,170 (1975), exception relief from the provisions of Section 211.25 is appropriate for Mid-Michigan if the firm can show that (i) there is a substantial disparity between the prices for gasoline charged by Bestrom and the prices charged by Gulf, and (ii) if Mid-Michigan were supplied by Bestrom, the increased costs which Mid-Michigan would incur as a result of that arrangement would cause the firm serious financial injury. The DOE determined that the matters which Gulf stated that it intended to explore in an evidentiary hearing were only peripherally relevant to these two particular considerations, and that therefore such a hearing was not warranted. Accordingly, Gulf's Motion was denied.

Supplemental Orders

Edgington Oil Co., Long Beach, Calif.; DEX-0172
Kern County Refinery, Inc., Bakersfield, Calif.; DEX-0173
Lunday-Thagard Oil Co., South Gate, Calif.; DEX-0174
Mohawk Petroleum Corp., Inc., Los Angeles, Calif.; DEX-0175
Southland Oil Co./VGS Corp., Memphis, Tenn.; DEX-0176
Warrior Asphalt Co. of Alabama, Inc., Tuscaloosa, Ala.; DEX-0177
Young Refining Corp., Douglasville, Ga.; DEX-0178 crude oil

The DOE issued a Decision and Order staying the obligations of each of the above firms to purchase entitlements to the extent specified in Proposed Decisions and Order issued to each of the firms on June 19, 1979. In granting the stay, the DOE noted that the Proposed Decisions and Orders would not be finalized for at least ten days, and that during the interim period, Entitlement Notices would be issued which would not take into consideration the relief contemplated in the Proposed Decisions. Therefore, on the basis of the precedent established in previous similar cases, the DOE determined that the entitlement purchase obligations of the firms should be stayed to the extent specified in the Proposed Decisions until the conclusion of the pending exception proceedings.

Glenn Martin Heller, Boston, Mass.; DRX-0180 motor gasoline

Glenn Martin Heller filed a Motion for Discovery in connection with his Statement of Objections to a Proposed Remedial Order which was issued to Heller on March 18, 1979. In his Motion, Heller requested that the Office of Enforcement of the Economic Regulatory Administration (ERA) be directed to respond to three interrogatories relating to the ERA's audit of a former lessee of the retail outlet that Heller operates. After reviewing the Motion, the DOE determined that the information sought by Heller was relevant and material to issues raised in the enforcement proceeding. Accordingly, the Heller Motion for Discovery was granted.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay, Temporary Stay, and/or Interim Order of the provisions of Standby Regulation Activation Order No. 1. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company, Case No., and Location

Corner Pantry Food Mart, Inc., Den-2408; Greensboro, Ga.
Duncan Oil Co., DEE-2259; Xenia, Ohio.
Peter H. Clark, Inc., DEN-5927; Nantucket, R.I.
"J" Oil Inc., DEN-2594; Colorado Springs, Colo.
State of New Jersey (New Jersey Highway Authority), DEE-4778; Woodbridge, N.J.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay and/or Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be denied:

Company Name, Case No., and Location

Fina Jobbers Association, DST-5568; Washington, D.C.
Keller-Piasa Terminals, DST-0057, DES-2234; Washington, D.C.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued a decision and order which finalized the Proposed Decisions and Orders issued to each firm:

Name of Petitioner and Case No.

A. A. Grocery; DEE–3113
Action Gas Co.; DEE–2260
Allied Oil Co.; DEE–2420
Allinder's Services, Inc.; DEE–2419
Barielle Oil Co., Inc.; DEE–2738
Bearsch's Penn Jersey Auto Store & Care Center; DEE–2477
Big Gulf Service Station; DEE–2661
Big John Exxon; DEE–3183
Bob's Vintage Texaco; DEE–2771
Boudreaus, Roland; DEE–2516
Bradshaw, Jack; DEE–2389
Briarvista Chevron; DEE–2328
Brockbridge Exxon; DEE–3048
Brook Plaza Exxon; DEE–2983
Browning's Exxon; DEE–3126
Brucker Service Station; DEE–2485
Bruder's Exxon; DEE–2448
Burnsville Crosstown Mobil; DEE–2775
C. J. Enterprises, Inc.; DEE–2729
C. M. Routh Oil Co.; DEE–2355
C. M. Spiegel Oil Co.; DEE–2308
Cal Bliss Enterprises; DEE–2388
Canal & Clairborne Rentals; DEE–2181
Central City Shell; DEE–2281
Charles & 20th Exxon; DEE–3346
Chevron Oil Service; DEE–2555
Clark's Exxon; DEE–2382
Clay's Auto Service; DEE–2481
Cole & Myers, Inc.; DEE–2313
Coleman's Service; DEE–2728
Commerce Crossroads Service; DEE–2320
Cramer, Don; DEE–2509
Crossroads Gulf Service Station; DEE–2646
Dale Auto Sales, Inc.; DEE–2648
Dalworth Oil Co., Inc.; DEE–2435
Day-Nite Food; DEE–2422
Delozier Chevron Station; DEE–2300
Dundalk Exxon; DEE–3026
Edward's Auto Service; DEE–2994
Ellis Burns Exxon; DEE–2852
Elm City Filling Station, Inc.; DEE–2423
Embrey's Mobil Service; DEE–2672
Exxon of Olney; DEE–2454
Ferguson Service; DEE–2511
Fleet-Wing River Oil Co.; DEE–2335
Frank Moody's Mobil Station; DEE–2635
Furtado's Garage; DEE–2783
G&C Grocery & Standard Oil Co.; DEE–2841
Glover Oil Co., Inc.; DEE–2563
Gonzales Truck Stop; DEE–3002
Grand River Shell of Howell; DEE–2596
H&H Manhattan Shell, Inc.; DEE–3150
Handeyside Oil Corp.; DEE–2380
Hannah's Service Center; DEE–3428
Hardee World, Inc.; DEE–2336
Harold's Exxon; DEE–2384
Harry's 66; DEE–2989
Hassan's "66" Service Station; DEE–2583
Hilltop Grand; DEE–2944
Homestead Gulf Tire Store; DEE–3085
Howard's Exxon; DEE–2691
Hunter's Lodge Exxon; DEE–3713
Hutton's Grove City 66; DEE–2343
Irv's Service Center; DEE–2614
J. Austin Oil Co.; DEE–2255
Jim's Central City Service; DEE–2512
Johnson Oil Co.; DEE–2972
Joshua Widman; DEE–2562
JSR Auto Center; DEE–2370
Kenny's Food Markets; DEE–2892
Kettle Moraine Standard; DEE–2412
Law, William; DEE–2682
Lloyd R. Crais Oil Co.; DEE–2478
M & B Oil Co.; DEE–2297
M & B Food Center; DEE–2595
Maricle, Luvern L.; DEE–2689
Mountain Oil, Inc.; DEE–2628
Mr. K. Exxon; DEE–2470
Northgate Texaco; DEE–2554
Northlake Chevron; DEE–2812
Northland Oil Co.; DEE–2744
Nu-Way Service, Inc.; DEE–2283
P & W Oil Co.; DEE–2890
Pates Wholesale Exxon; DEE–2507
Pine Ridge Standard; DEE–2498
Pro Oil, Inc.; DEE–2279
Red Clay Creek Exxon; DEE–2720
Riverdale Chevron; DEE–2285
Rosemont Exxon; DEE–2698
Saak, Robert F.; DEE–2655
Saginaw Valley Oil; DEE–2440
Sam Amari Arco; DEE–3012
Scott Boulevard Chevron; DEE–2814
Sissie Car Wash, Inc.; DEE–3135
Spruill Oil Company, Inc.; DEE–2394
Stadler, Larry E.; DEE–2746
Steve Paschall's Texaco; DEE–2395
Steve's Exxon Servicenter; DEE–2473
Stinson Grocery; DEE–2492
Summit Car Care; DEE–2461
Sumter Oil & Gas Co., Inc.; DEE–2725
Sunset 66, Inc.; DEE–2351
Taxi Service, Inc.; DEE–2319
Terry Exxon; DEE–2349
Vestal Grocery; DEE–3021
Walkey's Exxon; DEE–3256
Webco Southern Oil, Inc.; DEE–2354
Webster's Self Service Gulf DEE–2575
Weekly's Exxon Service Center; DEE–3036
West Taft St. Exxon Service; DEE–2587
Wheeler, Gary; DEE–2717
Whitman, Lyle; DEE–3115
Wilson Shell Service; DEE–2786
Young, Lee (d.b.a. Big Quickstop); DEE–3390

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Adams Oil Co.; DEE–2883; DST–2883
Albert Davis; DEE–3360
Ance Moffat; DEE–4718
Atso Mobil; DEE–5133
Auburn Mini Mart; DEE–3871; DES–3871; DST–3871
Belcher Oil Company, Inc.; DEE–3934
Big Stone Oil Co; DEE–3024; DES–3024; DST–3024
Bob's Chevron; DEE–4870
Chris Houser's Chevron; DEE–5326
Commandant, Fifth Naval District; DEE–2429; DST–2429
Exxon Service Station; DEE–3408
Falls Church Amoco; DEE–4267
Fleming's Garage; DEE–5725
Garret's Exxon; DEE–5340
Gough Oil Company, Inc.; DEE–3038; DES–3038
Granby Service Center; DEE–3924
Hauck Service Station; DEE–2676
Hillsville Tier & Gulf; DEE–2521; DES–2521
J&M Shell Service; DEE–5476
Justice Gulf Service; DEE–4062
Ken Southerland Gas & Oil Co.; DEE–2764
L.S. & J.M. Gravelle, Inc; DEE–3220
Louis Neuman; DEE–4722
Mr. R. Sullivan Oil Co; DEE–4801
Mayo's Gulf Service; DEE–4715
McLaughlin's Gulf; DEE–4716
Milford Jeep, Inc.; DEE–4717
N. E. Vincent Oil Co.; DEE–3067
Navy Exchange Officer Key West N.A.S.; DEE–4811
Nelson's Grocery Station & Feed; DEE–5980
Northlak Oil Co., Inc.; DEE–3480; DES–3480
Oak Park I 210 Shell; DEE–3226
Padonia Amoco; DEE–4931
Paule E. Dolley; DEE–4799
Pierson's Clairmon Mesa Arco; DEE–4949; DES–4949
Rau Corp.; DEE–4951
Redo Rock Petroleum Co., Inc.; DEE–2277
Redding Oil Co.; DEE–3453
Reich Oil Co.; DEE–4922; DST–4922
Roger's Mini Mart; DEE–5213; DES–5213
S & S Oil Co.; DEE–2519
Slavator Dipietro; DEE–5691
Stephen Kazarian; DEE–3352
Stewart Oil Corp.; DEE–3051
Thornton Oil Corp.; DEE–3081
Vanstory Oil Co.; DEE–2713
W. V. Austin; DEE–4482
Walt & Bill's Chevron; DEE–5056
Stan Boyett & Son; DEE–2833; DST–2833
Public Oil Co.; DST–5462
Ray's Paradise Mobil; DEE–5379
Transcontinental Oil Corp.; DEE–1835
E. J. Jones; DEE–4696
Dom York Petroleum, Inc.; DEE–5021
Donde's Texaco; DEE–5853
Ellis & Larry's Shell; DEE–4600
Jerry'Amoco; DEE–5419
Milt's Hess Station; DEE–5556
Moreland Bros., Inc.; DEE–5780
Saxon Petroleum Co.; DEE–3852; DES–3852
Anastasio's Service Station; DEE–4057
Bob Foster Shell; DEE–4603
Corner Pantry Food, Marts, Inc.; DES–2408
Anne-Cara Oil Co., Inc.; DEE–5849
Blakely's Automotive Service; DEE–5247
Branford Heights Getty; DEE–5636
Cromwell Chevron; DEE–5582
Greensburg Spar Station; DEE–3968
Kountry Korner Grocery; DEE–6207
Publix Oil Co.; DST–5462
Ray's Paradise Mobil; DEE–5379
Transcontinental Oil Corp.; DEE–1835
B. B. Oil Co.; DEE–6340
Colony West Gulf; DES–4579
Hancock Service Co.; DEE–4423
Pickens Oil Co.; DEE–5985
Smeester Oil Co.; DEE–6015
Wolter Wholesale Co.; DEE–5791

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a

commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeal.

November 6, 1979.

[FR Doc. 79-34991 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER78-145]

Arizona Public Service Co., Filing of Refunds

November 7, 1979.

The filing Company submits the following:

Take notice that on August 31, 1979, Arizona Public Service Company tendered for filing refunds completed pursuant to a Stipulation in the above captioned case.

The Stipulation and Office of Settlement was submitted to the Commission on May 22, 1979 and accepted by the Commission in an order dated July 26, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35122 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-6, et al.]

Arkansas Louisiana Gas Co., et al.; Docket Numbers Applicable to Protests to Collection of NGPA Price

Issued: November 7, 1979.

Take notice that each evidentiary submission filed with the Federal Energy Regulatory Commission (Commission) pursuant to 18 CFR 154.94(j) has been assigned the above referenced docket number. Take further notice that all protests filed with the Commission pursuant to 18 CFR 154.94(h) or (i) or 157.40(c)(1)(v)(B) have been reassigned to the docket number of the submission containing the contract which is the subject of the protest. The docket numbers to which these protests previously had been assigned are terminated. From this date forward any protest filed pursuant to 18 CFR 154.94(h) or (i) or 157.40(c)(1)(v)(B) should reference the docket number of the evidentiary submission to which it pertains.

The terminated docket numbers of protests and the new docket numbers to which these protests have been assigned are as follows:

Pipeline-protester	Producer	Old docket No.	New docket No.
Equitable Gas Co.	[several]	GP79-8	GP80-9.
Do	Cities Service Co.	GP79-44	GP80-9.
Do	Pennzoil Co		
Louisiana Nevada Transit Co.	Phillips Petroleum Co.	GP79-85	GP80-4.
Do	Hunt Oil Co	GP79-86	GP80-4.
Do	Exxon Corp	GP79-87	GP80-4.
Do	Cotton Valley Operators Committee.	GP79-130	GP80-4.
Kentucky W. Va. Gas Co.	[several]	GP79-89	GP80-39.
Arkansas Louisiana Gas Co.	Texas Pacific Oil Co., Inc.	GP79-90	GP80-6.
Southern Natural Gas Co.	Monsanto Inc	GP79-91	GP80-35.
Do	Getty Oil Co	GP79-92	GP80-35.
Do	Gulf Oil Co	GP79-93	GP80-35.
Do	Texaco Inc	GP79-94	GP80-35.
Do	Continental Oil Corp.	GP79-95	GP80-35.
Do	Perry R. Bass	GP79-96	GP80-35.
Do	Exxon Corp	GP79-97	GP80-35.
Do	Exxon Corp	GP79-98	GP80-35.
Do	Murphy Oil Co.	GP79-99	GP80-35.
Do	Exxon Corp	GP79-100	GP80-35.
Do	Exxon Corp	GP79-101	GP80-35.
Do	Exxon Corp	GP79-111	GP80-35.
Do	Perry R. Bass	GP79-112	GP80-35.
Columbia Gas Trans. Co.	R.E. Riley & Thadeus Scott, Agent.	GP79-131	GP80-11.
Do	Appalchian Exploration & Development Inc.	GP79-132	GP80-11.
Do	Eason Oil Co.	GP79-133	GP80-11.
Do	Ashland Exploration Inc.	GP79-134	GP80-11.
Do	Devon Corp	GP79-135	GP80-11.
Oklahoma Natural Gas Gathering Co.	Sun Oil Co	GP79-138	GP80-37.
Do	Tenneco Oil Co.	GP79-139	GP80-37.
Do	Texaco Inc	GP79-140	GP80-37.
Do	Entex Petroleum, Inc.	GP79-141	GP80-37.
Zenith Natural Gas Co.	Gulf Oil Co	GP79-142	GP80-38.
Consolidated Gas Supply Corp.	[several]	GP79-143	GP80-12.
Texas Gas Trans. Co.	Eason Oil Co.	GP79-144	GP80-23.
Do	Eason Oil Co.	GP79-145	GP80-23.
Do	Devon Corp	GP79-146	GP80-23.
Do	Transocean Oil, Inc.	GP79-147	GP80-23.
Michigan Wisconsin Pipe Line Co.	AIK Ltd. No. 2.	GP79-148	GP80-15.
Do	Gulf Oil Co	GP79-149	GP80-15.
Do	Sun Oil Co	GP79-150	GP80-15.
Do	Tenneco Oil Co.	GP79-151	GP80-15.
Do	Petroleum Inc	GP79-152	GP80-15.
Do	Texas Oil & Gas Corp.	GP79-153	GP80-15.

The protest of Standard Gas Company remains in Docket No. GP79-113, and the protest of Carnegie Natural Gas Company remains in Docket No. GP79-124.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35123 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-11]

Baltimore Gas & Electric Co.; Application

November 7, 1979.

Take notice that on October 29, 1979, Baltimore Gas and Electric Company (Applicant), a corporation organized under the laws of the State of Maryland, with its principal business office at Baltimore, Maryland, and is qualified to do business in the State of Maryland and the Commonwealth of Pennsylvania, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $250 million of unsecured promissory notes and commercial paper to be issued on or before December 31, 1980, with final maturity date of not later than December 31, 1981.

Proceeds from the borrowings will be used to provide funds for current corporate transactions and to provide interim funds for its construction program.

Any person desiring to be heard or to make any protest with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 29, 1979. The application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35124 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-1]

CP National Corp.; Application for Exemption

November, 7, 1979.

Take notice that CP National Corporation, on October 4, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, CP National Corporation states the following:

> CP National should be granted a permanent exemption from the reporting requirements of Section 290 because none of CP's separate electric systems exceed the 500 million kwh threshold, the nature of CP's organization make the requirements unduly burdensome, and gathering the required information does not comport with the purposes of section 133.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 28, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35125 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-5]

Central Telephone & Utilities Corp.; Amended Application

November 7, 1979.

Take notice that on October 31, 1979, Central Telephone & Utilities Corporation (Applicant) filed an amended application pursuant to Section 204 of the Federal Power Act seeking authority to extend to not later than December 31, 1982, the final maturity date of short-term unsecured promissory notes to be authorized to be issued not later than December 31, 1981, in an aggregate principal amount at any one time outstanding of $300,000,000.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Chicago, Illinois. It is engaged in electric utility operations in the southeastern part of Colorado and the central and western portions of Kansas.

The proceeds from the issuance of short-term notes are to provide temporary funds for the construction, completion, extension or improvement of facilities of Applicant and for advances to and investment in subsidiaries of Applicant. The estimated construction programs of the Applicant and its subsidiaries for 1980, 1981 and 1982 are $229,093,000, $243,520,000 and $228,853,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commissin and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35126 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-24]

Clay Basin Storage Co.; Application for Adjustment

November 7, 1979.

Take notice that on November 1, 1979, Clay Basin Storage Company (Storage Company), a Delaware Corporation whose mailing address is Clay Basin Storage Company, c/o Lawton S. Lamb, 61 Broadway, New York, New York 10006, filed with the Federal Energy Regulatory Commission pursuant to Section 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment exempting Storage Company from Part 282 of the Commission's Regulations established by Order No. 49, issued September 28, 1979 in Docket No. RM79-14, implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978.

Storage Company states that the volumes of natural gas which it purchases from El Paso Natural Gas Company are later resold (i) to El Paso's east-of-California Distributors (EOC) for protection of Priority 1 and 2 requirements, (ii) to El Paso for replacement of compressor fuel and gas lost or unaccounted for in the physical transportation of Storage Company's gas and (iii) to Southwest Gas Corporation through preservation of its Opinion No. 800-B "payback gas." Storage Company further states that since the EOC Priority 1 and 2 protection gas and any gas sold for compression fuel will not be sold for large volume boiler fuel use and any payback gas sold to Southwest has already been purchased by Storage Company prior to the institution of the incremental pricing rules, these volumes of gas are not volumes which are subject to incremental pricing.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure as set forth in Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35127 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-2]

Cliffs Electric Service Co.; Application for Exemption

November 6, 1979.

Take notice that Cliffs Electric Service Company, on October 25, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (October 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Cliffs Electric Service Company states that it should not be required to file the specified data for the following reasons:

(1) Because of the nature of Cliffs Electric's customers and their loads, as well as the obligation of the parent company (The Cleveland-Cliffs Iron Company) to meet the costs incurred by Cliffs Electric, gathering of these data has no significance in terms of the ratemaking standards set forth in Title I of PURPA.

(2) The standards established by § 113(b) of PURPA are not relevant to Cliffs' sales to its parent company.

(3) To require Cliffs to compile and submit the information required by the Commission's regulations would not serve the purposes of Section 133.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commisison's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 4, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35098 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-23]

East Tennessee Natural Gas Co.; Application for Adjustment

November 6, 1979.

Take notice that on November 1, 1979, East Tennessee Natural Gas Company (East Tennessee) filed in Docket No. SA80-23 an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) wherein East Tennessee seeks exemption from the tariff filing requirement of sections 281.204, 281.208, 281.302, 281.304, and 281.305 of the Commission's Regulations under the NGPA, all as more fully set forth in the application for adjustment.

East Tennessee requests an adjustment from the Commission's Regulations requiring East Tennessee to make effective December 1, 1979, in accord with Order No. 29 an index of End-Use Volumes (Index) and to resubmit a revised Index to be effective January 1, 1980, in accord with Order No. 55.

East Tennessee seeks interim relief by exemption from the November 1, 1979, filing deadline for tariff sheets and an Index to be effective on December 1. East Tennessee requests relief which would enable it to implement the proposed sheets on an interim basis and permit it to revise its Index to reflect the demotion of large agricultural boiler fuel customers.

East Tennessee states that an adjustment is necessary to implement the provisions of an unanimous Settlement Agreement dated November 1, 1979, in Docket No. TC80-34 wherein East Tennessee and all of its direct and resale customers agreed to delete from priority category 2 the large boiler fuel requirements over 300 Mcf per day of essential agricultural users which have the installed capability to utilize No. 5 or No. 6 fuel oil or coal as an alternate fuel and move these requirements to the appropriate lower priority category.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 229, 1979.

Kenneth F Plumb,

Secretary.

[FR Doc. 79-35099 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-34]

East Tennessee Natural Gas Co.; Filing of Proposed Settlement Agreement

November 6, 1979.

Take notice that on November 1, 1979, East Tennessee Natural Gas Company (East Tennessee) filed in Docket No. TC80-34 a proposed Settlement Agreement, including a request for a waiver of strict compliance with the requirements of Order Nos. 29 and 55.

The regulations promulgated in Order No. 29 require the filing of revised tariff sheets and a new index of entitlements providing protection for high-priority and essential agricultural users. The regulations contained in Order No. 55 establish the applicability of the Commission's alternative fuel determination to all essential agricultural requirements, and would require the downgrading of users in excess of 300 Mcf of gas per day who have installed alternative fuel capability to utilize residual fuel oil or coal.

East Tennessee seeks to implement tariff sheets and on index of end use volumes on December 1, 1979, for the duration of the agreement until its termination on October 31, 1980. The proposal would exclude from Priority 2 any volumes attributable to large boiler fuel users for which the user has the installed capacity to use No. 5 or No. 6 fuel oil or coal as an alternate fuel.

East Tennessee is requesting the adjustment to permit it to file a revised index of end-use volumes to be effective December 1, 1979. In a companion filing (Docket No. SA80-23), East Tennessee is seeking permission to implement its proposed settlement on an interim basis, pending Commission consideration of the settlement.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene on protest in accordance with the provisions of section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 29, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35100 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-38]

Florida Gas Transmission Co.; Tariff Filing

November 6, 1979.

Take Notice that on November 1, 1979, Florida Gas Transmission Company (FGT) filed in Docket No. TC80-38 certain tariff sheets pursuant to the requirements of Order No. 29 and section 281.204(a)(2) of the Commission's Regulations. Said section of the Regulations permits pipelines to defer from October 1, 1979, to November 1, 1979, the filing of tariff sheets containing a curtailment plan with an index of high-priority and essential agricultural use entitlements as required by Section 281.204(a)(1), providing it gave written notice of its intent to so defer by October 1, 1979.

The tariff sheets filed are:

Original Volume No. 1. Fourth Revised Sheet No. 29, First Revised Sheet No. 20-A, First Revised Sheet No. 20-B, First Revised Sheet No. 20-C, First Revised Sheet No. 20-D.

FGT also filed herewith a report of the data verification committee (DVC) and minutes of the DVC meetings.[1]

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protest must be filed on or before November 19, 1979. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35101 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-63]

Florida Power Corp.; Rate Filing

November 6, 1979.

The filing Company submits the following:

Please take notice that on October 31, 1979 Florida Power Corporation ("Florida Power") tendered for filing an agreement dated January 19, 1979 between itself and the Sebring Utilities Commission ("Sebring"). Sebring has an interconnection agreement with Florida Power (FERC Rate Schedule No. 78) and is presently taking 6000 kW of firm service under a letter of commitment entered into pursuant to Service Schedule D of that agreement and due to expire by its terms on December 31, 1979. The agreement tendered for filing supplements FERC Rate Schedule No. 78 to provide that Florida Power will begin to supply partial requirements service to Sebring under its FRC Electric Tariff beginning January 1, 1980 and that Sebring's contract demand will be 2000 kW for calendar year 1980 and 8000 kW for calendar year 1981.

Florida Power also tendered for filing a revised Index of Purchasers to its FPC Electric Tariff which shows the addition of Sebring as a partial requirements customer.

Florida Power states that it has served the filing on Sebring and the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before November 27, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Florida Power are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35102 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-70]

Idaho Power Co.; Filing

November 7, 1979.

The filing Company submits the following:

Take notice that on November 2, 1979, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during September, 1979, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *November 30, 1979.* 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35128 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-6]

Idaho Power Co.; Renotice of Application

November 7, 1979.

Take notice that on October 5, 1979, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine, and qualified to transact business in the States of Idaho, Oregon, Nevada and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to enter into negotiations with respect to the guarantee of Revenue Bonds to be issued by the American Falls Reservoir District in connection with the financing of the replacement of the American Falls Dam and Storage Reservoir.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 3, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35129 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-25]

Inter-City Minnesota Pipelines Ltd., Inc.; Application for Adjustment

November 7, 1979.

On November 1, 1979, Inter-City Minnesota Pipelines Ltd., Inc. filed with the Federal Energy Regulatory Commission an application for an adjustment under the Commission's Order No. 49 (September 28, 1979) implementing Title II of the Natural Gas Policy Act of 1978 (incremental pricing of industrial boiler facilities). Inter-City seeks relief from all filing, document collection and surcharge obligations of Order No. 49 on the ground that all of its gas is obtained from Canadian sources in volumes and under contracts which place it under the 207(e) NGPA exemption.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

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[1] At the present time, FGT has not filed its Index of Entitlements in tariff sheet form.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed within fifteen days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35130 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-37]

Inter-City Minnesota Pipelines, Ltd., Inc.; Filing of Tariff Sheets Pursuant to Order No. 29 and Motion for Extension of Time

November 6, 1979.

Take notice that on November 1, 1979, Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), tendered tariff sheets for filing pursuant to Sections 281.201 through 281.215 of the Commission's Rules and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15, as modified and amended. The tariff sheets are:

Original Volume No. 1

First Revised Sheet No. 69
First Revised Sheet No. 70
First Revised Sheet No. 71
First Revised Sheet No. 72
First Revised Sheet No. 73
First Revised Sheet No. 74
First Revised Sheet No. 74A
First Revised Sheet No. 75
First Revised Sheet No. 76

and are intended to be effective November 1, 1979 to provide for revisions in the pipelines curtailment plan regarding deliveries of natural gas for high priority and essential agricultural uses.

Attached to said tariff filing is a motion by Inter-City requesting a 60 day extension of time in which to file the index of requirements and report to the Data Verification Committee required by Order No. 29 and § 281.204(a).

Any person desiring to be heard or to protest said filing should, on or before November 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35103 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-15]

Michigan-Wisconsin Pipeline Co.; Extension of Time

Take notice that on November 6, 1979, the Federal Energy Regulatory Commission's Acting Director of the Office of Pipeline and Producer Regulation (Director) granted relief to the Public Service Commission of the State of Wisconsin for the filing of third party protests required to be filed pursuant to 18 CFR 154.94(j). The extension of time to December 21, 1979, is granted pursuant to the authority delegated to the Director in 18 CFR 3.5(f)(5).

Kenneth A. Williams,

Acting Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-35097 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-15 [1]]

Michigan Wisconsin Pipe Line Co. v. A.I.K. Ltd. No. 2, et al.; Protests

November 6, 1979.

Take notice that on August 15, 1979, Michigan Wisconsin Pipe Line Company (Mich-Wis) filed with the Federal Energy Regulatory Commission (Commission), pursuant to 18 CFR § 154.94, protests to the proposed rate changes in certain blanket affidavit or interim collection filings of six producers. On September 5, 1979, Mich-Wis filed protests to the proposed rate changes in certain filings of three additional producers. The protests relate to the following contracts and the contractual authority to charge and collect maximum lawful prices under the following sections of the Natural Gas Policy Act of 1978 (NGPA):

A.I.K. Ltd. No. 2
  Rate Schedule No. 10—NGPA § 104
Gulf Oil Corporation
  Rate Schedule No. 168—NGPA § 103
  Rate Schedule No. 243—NGPA § 108
  Rate Schedule No. 271—NGPA §§ 103, 109
Petroleum, Inc.
  Rate Schedule No. 80—NGPA § 106(a)
Sun Oil Company
  Rate Schedule No. 148—NGPA § 108
Tenneco Oil Company
  Rate Schedule No. 65—NGPA § 108
Texas Oil and Gas Corporation
  Rate Schedule No. 72—NGPA § 106(a)
  Rate Schedule No. 74—NGPA § 106(a)
  Rate Schedule No. 86—NGPA § 106)a)
  Rate Schedule No. 90—NGPA § 106(a)
Exploration Associates
  Rate Schedule No. Docket CS73-626—NGPA § 103
Petroleum International, Inc.
  Rate Schedule No. 1—NGPA § 103
Sovereign Exploration Company
  Rate Schedule No. Docket CS78-691—NGPA § 108

Mich-Wis asserts that the above-listed producers have claimed contractual authority to collect the maximum lawful prices under the above-listed sections of the NGPA, but that the applicable contracts do not authorize the collection of those prices.

These contracts are on file with the Commission and are open to public inspection.

Any person desiring to be heard or make any protest concerning the protest filed in this docket should on or before November 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules. After that date, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order 23-B (44 FR 38834, July 3, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35105 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-5]

Natural Gas Pipeline Co. of America; Extension of Time

Take notice that on November 6, 1979, the Federal Energy Regulatory Commission's Acting Director of the Office of Pipeline and Producer Regulation (Director) granted relief to the Public Service Commission of the State of New York for the filing of protests required to be filed pursuant to 18 CFR 154.94(j). The extension of time to December 18, 1979, is granted

[1] Formerly docketed as GP79-148 through GP79-153.

pursuant to the authority delegated to the Director in 18 CFR 3.5(f)(5).

Kenneth A. Williams,

Acting Director, Office of Pipeline and Producer Regulation.

[FR Doc. 79-35096 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 10]

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 1, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03099/79-1674
2. 17-727-20091
3. 102 000 000
4. Strata Energy Inc
5. State Lease 6618 No 1
6. Chandeleur Sound Block 71
7. St Bernard LA
8. 719.0 million cubic feet
9. October 18, 1979
10. Mid Louisiana Gas Co, Southern Natural Gas Co

1. 80-03100/79-1678
2. 17-101-21045
3. 102 000 000
4. Arco Oil and Gas Co
5. St Mary Parish Land Co #52
6. Bayou Sale Field
7. St Mary Parish LA
8. 75.0 million cubic feet
9. October 18, 1979
10. Michigan Wisconsin Pipeline Co

1. 80-03101/79-1675
2. 17-727-20092
3. 102 000 000
4. Strata Energy Inc
5. State Lease 6618 No 2
6. Chandeleur Sound Block 71
7. St Bernard LA
8. 1041.0 million cubic feet
9. October 18, 1979
10. Mid Louisiana Gas Co, Southern Natural Gas Co

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (FERC State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03008/01448
2. 34-127-23780-0014
3. 108 000 000
4. Petro-Lewis Corp
5. Oles #1 Jerry
6.
7. Perry OH
8. 1.2 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission

1. 80-03009/02653
2. 34-127-23632-0014
3. 108 000 000
4. Petro-Lewis Corp
5. Stenson-Forquer #1 T2
6.
7. Perry OH
8. .6 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission

1. 80-03010/03662
2. 34-009-21206-0014
3. 108 000 000
4. Cameron Brothers
5. Kuhns #1
6.
7. Athens OH
8. 1.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80-03011/03815
2. 34-115-21137-0014
3. 108 000 000
4. Cameron Brothers
5. Albert Newson #1
6.
7. Morgan OH
8. 1.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80-03012/03830
2. 34-115-21122-0014
3. 108 000 000
4. Cameron Brothers
5. William Roberts #2
6.
7. Morgan OH
8. 1.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80-03013/04550
2. 34-075-21828-0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Hipp-Steimel #2
6.
7. Holmes OH
8. 13.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03014/04551
2. 34-075-16900-0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Hipp-Steimel #1
6.
7. Holmes OH
8. 13.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03015/04552
2. 34-075-21947-0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. H Sigler #1
6.
7. Holmes OH
8. 15.0 million cubic feet
9. October 17, 1979
10. Pominex Inc

1. 80-03016/05631
2. 34-087-20230-0014
3. 108 000 000
4. Daniels Gas Co
5. Huston Daniels #1
6.
7. Lawrence OH
8. 4.8 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80-03017/06377
2. 34-121-21525-0014
3. 108 000 000
4. Mid-Atlantic Oil Co
5. J & E Boney #1
6.
7. Noble OH
8. 11.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03018/06378
2. 34-121-21430-0014
3. 108 000 000
4. Mid-Atlantic Oil Co
5. Cora Lorey #1
6.
7. Noble OH
8. 18.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03019/06379
2. 34-121-21431-0014
3. 108 000 000
4. Mid-Atlantic Oil Co
5. Dana Foraker #1
6.
7. Noble OH
8. 15.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03020/06381
2. 34-121-21398-0014
3. 108 000 000
4. Mid-Atlantic Oil Co
5. Mildred Mika #1
6.
7. Noble OH
8. 16.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03021/06505
2. 34-103-21058-0014
3. 108 000 000
4. Frances M Helmick
5. Reed-McIntyre (Hetman-Pipkin #1)
6.
7. Medina OH
8. 6.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03022/06570
2. 34-029-20601-0014
3. 108 000 000

4. Nucorp Energy Co
5. Gottardi-Benner Well #2
6.
7. Columbiana OH
8. 13.5 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03023/06649
2. 34-169-20929-0014
3. 108 000 000
4. Kenoil
5. Barbara Smeller #1
6.
7. Wayne OH
8. .4 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission

1. 80-03024/06895
2. 34-031-23546-0014
3. 103 000 000
4. Berwell Energy Inc
5. Briar Hill Stone No 16
6.
7. Coshocton OH
8. 72.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission

1. 80-03025/06948
2. 34-167-24405-0014
3. 103 000 000
4. Winston Oil Company
5. Anna Mae Reese #6
6.
7. Washington OH
8. 3.7 million cubic feet
9. October 17, 1979
10. River Gas Co

1. 80-03026/06950
2. 34-169-22163-0014
3. 103 000 000
4. Petro Evaluation Services Inc
5. James Hoffman #1
6. Wooster South
7. Wayne OH
8. 10.0 million cubic feet
9. October 17, 1979
10. Columbia Gas of Ohio

1. 80-03027/06951
2. 34-059-22534-0014
3. 103 000 000
4. Bauman Oil & Gas Co Inc
5. Bauman Clemens Heirs #1
6.
7. Guernsey OH
8. 75.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03028/06952
2. 34-121-22169-0014
3. 130 000 000
4. Green Gas Co
5. ITOL Reed-Ohio Power #3
6.
7. Noble OH
8. 2.0 million cubic feet
9. October 17, 1979
10. The East Ohio Gas Co

1. 80-03029/06953
2. 34-115-21728-0014
3. 103 000 000
4. Green Gas Co
5. Ohio Power-Roxie Reed #3
6.
7. Morgan OH
8. 2.0 million cubic feet
9. October 17, 1979
10. The East Ohio Gas Co

1. 80-03030/06954
2. 34-031-23441-0014
3. 103 000 000
4. EDCO Drilling and Producing I
5. MO-2A STASER
6.
7. Coshoction OH
8. 18.0 million cubic feet
9. October 17, 1979
10.

1. 80-03031/06958
2. 34-059-21996-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. Collins #3
6.
7. Guernsey OH
8. 2.2 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Owens Ill Glass Co

1. 80-03032/06959
2. 34-059-11950-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. Collins #1
6.
7. Guernsey OH
8. 1.1 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp Owens Ill Glass Co

1. 80-03033/06960
2. 34-059-11980-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. H Ramage #1
6.
7. Guernsey OH
8. 9.1 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp Owens Ill Glass Co

1. 80-03034/06961
2. 34-059-21886-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. Law #1
6.
7. Guernsey OH
8. 6.2 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp Owens Ill Glass Co

1. 80-03035/06962
2. 34-059-21940-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. Rose #1
6.
7. Guernsey County OH
8. 2.8 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp Owens Ill Glass Co

1. 80-03036/06963
2. 34-059-21860-0014
3. 108 000 000
4. Enterprise Gas & Oil Inc
5. Lahey-Day #1
6.
7. Guernsey OH
8. 3.7 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp Owens Ill Glass Co

1. 80-03037/06966
2. 34-151-22966-0014
3. 103 000 000
4. Belden & Blake and Co L P No 71
5. E Riggenbach Comm #1-879
6.
7. Stark OH
8. 36.5 million cubic feet
9. October 17, 1979
10.

1. 80-03038/06967
2. 34-083-22259-6001-4
3. 103 000 000
4. W E Shrider Co
5. Everett Beckley #2
6.
7. Knox OH
8. 3.0 million cubic feet
9. October 17, 1979
10. National Gas & Oil Corp

1. 80-03039/06968
2. 34-075-22186-0014
3. 103 000 000
4. Morgan-Pennignton Inc
5. Frary No. 1
6.
7. Holmes OH
8. 20.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03040/06969
2. 34-059-22594-0014
3. 103 000 000
4. Pominex Inc
5. Byrne-Schrader U #4
6.
7. Guernsey OH
8. 15.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03041/06970
2. 34-119-24764-0014
3. 103 000 000
4. Wilson Petroleum Corp
5. Lena Pavlovish #1
6.
7. Muskingum OH
8. 24.0 million cubic feet
9. October 17, 1979
10. National Gas & Oil Corp

1. 80-03042/06970
2. 34-155-21080-0014
3. 103 000 000
4. Bois Darc Corp
5. H Hyde #1
6.
7. Trumbull OH
8. 75.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03043/06972
2. 34-007-20969-0014
3. 103 000 000
4. Bois D Arc Corp
5. L Northrup #1
6.
7. Ashtabula OH
8. 85.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03044/06973

2. 34–151–23035–0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Dominic-Medure Well No 1
6.
7. Stark OH
8. 250.0 million cubic feet
9. October 17, 1979
10.

1. 80–03045/06974
2. 34–155–21078–0014
3. 103 000 000
4. Bois Darc Corp
5. E Shaffer #1
6.
7. Trumbull OH
8. 90.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03046/06975
2. 34–155–21179–0014
3. 103 000 000
4. Bois Darc Corp
5. W Berg #1
6.
7. Trumbull OH
8. 65.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03047/06976
2. 34–007–20970–0014
3. 103 000 000
4. Bois Darc Corp
5. R R Rocco #1
6.
7. Ashtabula OH
8. 16.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03048/06977
2. 34–155–21082–0014
3. 103 000 000
4. Bois Darc Corp
5. L Eiermann #1
6.
7. Trumbull OH
8. 80.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03049/06978
2. 34–007–20972–0014
3. 103 000 000
4. Bois Darc Corp
5. A Westcott #1
6.
7. Ashtabula OH
8. 65.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03050/06979
2. 34–155–21079–0014
3. 103 000 000
4. Bois Darc Corp
5. H S Sredniawa #1
6.
7. Trumbull OH
8. 80.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03051/06980
2. 34–007–20971–0014
3. 103 000 000
4. Bois Darc Corp
5. G Merritt #1
6.
7. Ashtabula OH
8. 60.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03052/06981
2. 34–155–21093–0014
3. 103 000 000
4. Bois Darc Corp
5. E Kabat #1
6.
7. Trumbull OH
8. 70.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80–03053/06982
2. 34–127–24402–0014
3. 103 000 000
4. Thomas A & Mark R Noll
5. James P Noll #3
6.
7. Perry OH
8. 8.0 million cubic feet
9. October 17, 1979
10. National Gas & Oil Corp

1. 80–03054/06983
2. 34–103–22141–0014
3. 103 000 000
4. WOA Inc & Mellenco Inc
5. Louise Lang #2
6.
7. Medina OH
8. 20.0 million cubic feet
9. October 17, 1979
10.

1. 80–03055/06984
2. 34–099–20699–0014
3. 103 000 000
4. Wray Petroleum Corp of Ohio
5. Burkey #1
6.
7. Mahoning OH
8. 18.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03056/06985
2. 34–099–20698–0014
3. 103 000 000
4. Wray Petroleum Corp of Ohio
5. Burkey #2
6.
7. Mahoning OH
8. 18.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03057/06986
2. 34–075–22195–0014
3. 103 000 000
4. Berwell Energy Inc
5. Charles Siarner No 1
6.
7. Holmes OH
8. 80.0 million cubic feet
9. October 17, 1979
10. Columbia Gas

1. 80–03058/06987
2. 34–059–22610–0014
3. 103 000 000
4. K S T Oil & Gas Co Inc
5. Jack & Sarah Youngs #1
6.
7. Guernsy OH
8. 30.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03059/06988
2. 34–167–24652–0014
3. 103 000 000
4. C W Riggs Inc
5. Schneider #1
6. Reno Field
7. Washington OH
8. 14.0 million cubic feet
9. October 17, 1979
10.

1. 80–03060/06989
2. 34–169–22088–0014
3. 103 000 000
4. Wenner Petroleum Corp
5. Dan T Hostetler #1
6. Moreland Field Extension
7. Wayne OH
8. 10.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80–03061/06991
2. 34–075–22184–0014
3. 103 000 000
4. John C Mason
5. Merle Hood #4
6.
7. Holmes OH
8. 15.0 million cubic feet
9. October 17, 1979
10. Cincinnati Gas & Electric

1. 80–03062/06992
2. 34–105–21826–0014
3. 103 000 000
4. J A Gormley & E D Johnson
5. Harold Ramsburg #2
6.
7. Meigs OH
8. 9.0 million cubic feet
9. October 17, 1979
10.

1. 80–03063/06993
2. 34–029–20757–0014
3. 103 000 000
4. Bill Blair Inc.
5. Gene Kitzmiller #1–A
6. Homeworth Field
7. Columbiana OH
8. 38.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Company

1. 80–03064/06994
2. 34–053–20461–0014
3. 103 000 000
4. J A Gormley & E D Johnson
5. Pauline Rife #2
6.
7. Gallia OH
8. 10.0 million cubic feet
9. October 17, 1979
10.

1. 80–03065/06996
2. 34–119–24538–0014
3. 103 000 000
4. Hilltop Development Corp
5. #1 John Baughman
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. October 17, 1979
10. National Gas & Oil Corp

1. 80–03066/06998
2. 34–133–21987–0014
3. 103 000 000
4. Viking Resources Corp
5. Harbaugh #3
6.

7. Portage OH
8. 30.0 million cubic feet
9. October 17, 1979
10.

1. 80-03067/06999
2. 34-133-21983-0014
3. 103 000 000
4. Viking Resources Corp
5. Harbaugh #2
6.
7. Portage OH
8. 30.9 million cubic feet
9. October 17, 1979
10.

1. 80-03068/07000
2. 34-133-21984-0014
3. 103 000 000
4. Viking Resources Corp
5. Harbaugh #1
6.
7. Portage OH
8. 3.0 million cubic feet
9. October 17, 1979
10.

1. 80-03069/07001
2. 34-083-22636-0014
3. 103 000 000
4. Maran Energy Co
5. Temple #1
6.
7. Knox OH
8. 12.0 million cubic feet
9. October 17, 1979
10.

1. 80-03070/07003
2. 34-029-20751-0014
3. 103 000 000
4. Bill Blair Inc
5. Howard Lee #1
6. Homeworth Field
7. Columbiana OH
8. 34.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03071/07005
2. 34-059-21789-0014
3. 103 000 000
4. Tiger Oil Inc
5. Tooms #3
6.
7. Guernsey OH
8. 20.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03072/07006
2. 34-119-24816-0014
3. 103 000 000
4. Oxford Oil Co
5. Cliff Ratliffe #1
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. October 17, 1979
10.

1. 80-03073/07007
2. 34-031-23324-0014
3. 103 000 000
4. Oxford Oil Co
5. Walter J Adams #2
6.
7. Coshocton OH
8. 9.0 million cubic feet
9. October 17, 1979
10.

1. 80-03074/07009
2. 34-155-21259-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Taylor
6.
7. Trumbull OH
8. 100.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03075/07010
2. 34-099-21185-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Masternick
6.
7. Mahoning OH
8. 100.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03076/07011
2. 34-109-22113-0014
3. 103 000 000
4. Riverland-Krabill #8
5. R & H Krabill #1
6. Canaan-Wayne Pool
7. Wayne OH
8. .0 million cubic feet
9. October 17, 1979
10. Columbia Gas Trans Corp

1. 80-03077/07013
2. 34-075-22204-0014
3. 103 000 000
4. B T Simpson Jr
5. William A. Brannon #2
6. Nashville
7. Holmes OH
8. 45.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03078/07014
2. 34-153-20710-0014
3. 103 000 000
4. Bartlo Associates Inc
5. A P Lafatch #1
6.
7. Summit OH
8. 30.0 million cubic feet
9. October 17, 1979
10.

1. 80-03079/07015
2. 34-153-20729-0014
3. 103 000 000
4. Bartlo Oil and Gas Co
5. Heslop Inc #2
6.
7. Summit OH
8. 30.0 million cubic feet
9. October 17, 1979
10.

1. 80-03080/07016
2. 34-153-20728-0014
3. 103 000 000
4. Bartlo Oil and Gas Co
5. Heslop Inc #1
6.
7. Summit OH
8. 30.0 million cubic feet
9. October 17, 1979
10.

1. 80-03081/07017
2. 34-153-20721-0014
3. 103 000 000
4. Bartlo Oil and Gas Co
5. R Cox #1
6.
7. Summit OH
8. 30.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03082/07028
2. 34-133-22007-0014
3. 103 000 000
4. Orion Energy Corp
5. Chamner #1
6.
7. Portage OH
8. 10.0 million cubic feet
9. October 17, 1979
10.

1. 80-03083/07029
2. 34-153-20663-0014
3. 103 000 000
4. KST Oil & Gas Co Inc
5. Seasons Property Investors II #1
6.
7. Summit OH
8. 36.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co.

1. 80-03084/07030
2. 34-153-20661-0014
3. 103 000 000
4. KST Oil & Gas Co Inc
5. Seasons Property Investors II #2
6.
7. Summit OH
8. 36.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03085/07031
2. 34-153-20657-0014
3. 103 000 000
4. KST Oil & Gas Co Inc
5. Seasons Property Investors II #3
6.
7. Summit OH
8. .0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03086/07032
2. 34-153-20658-0014
3. 103 000 000
4. KST Oil & Gas Co Inc
5. Seasons Property Investors II #4
6.
7. Summit OH
8. 36.0 million cubic feet
9. October 17, 1979
10. East Ohio Gas Co

1. 80-03087/07033
2. 34-105-21825-0014
3. 103 000 000
4. Carl E Smith Inc
5. State of Ohio Shade River Sta 2-187
6.
7. Meigs Co OH
8. 17.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03088/07034
2. 34-105-21821-0014
3. 103 000 000
4. Carl E Smith Inc
5. Grace Smith Unit 1-186
6.
7. Meigs Co OH
8. 30.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80-03089/07035

2. 34–105–21760–0014
3. 103 000 000
4. Carl E Smith Inc
5. State of Ohio Shade River Sta 1–175
6.
7. Meigs Co OH
8. 26.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03090/07036
2. 34–105–21759–0014
3. 103 000 000
4. Carl E Smith Inc
5. Otto A Marcinko 1–174
6.
7. Meigs Co OH
8. 18.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03091/07037
2. 34–105–21724–0014
3. 103 000 000
4. Carl E Smith Inc
5. E D Parker #1–160
6.
7. Meigs Co OH
8. 25.0 million cubic feet
9. October 17, 1979
10. Columbia Gas Transmission Corp

1. 80–03092/07039
2. 34–083–22557–0014
3. 103 000 000
4. Independent Oil Investors
5. Edith Elliott #2
6.
7. Knox OH
8. .0 million cubic feet
9. October 17, 1979
10.

1. 80–03093/07040
2. 34–083–22623–0014
3. 103 000 000
4. Independent Oil Investors
5. Edith Elliott #4
6.
7. Knox OH
8. .0 million cubic feet
9. October 17, 1979
10.

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–03094
2. 47–085–02442
3. 108 000 000
4. S & S Oil Co
5. S & S Well #2
6. L C Sinnett
7. Ritchie WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80–03095
2. 47–017–00497
3. 108 000 000
4. Knotts Oil Co
5. Knotts #1
6. Smith Scott Surface
7. Dodridge WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80–03096
2. 47–085–03824
3. 103 000 000
4. Williams Well Surveys Inc
5. Glen W Roberts #3 W
6. Murphy District (crab run)
7. Ritchie WV
8. 21.9 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80–03097
2. 47–085–02762
3. 108 000 000
4. Hill Oil Co
5. W C McKibben #2
6. White Oak
7. Ritchie WV
8. .0 million cubic feet
9. October 15, 1979
10. Southwestern Development

1. 80–03098
2. 47–085–02645
3. 108 000 000
4. Zinn Oil Co
5. Zinn Oil Co #1
6. White Oak
7. Ritchie WV
8. .0 million cubic feet
9. October 15, 1979
10. Southwestern Development

1. 80–03102
2. 47–001–00117
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Paul D Pickens 10394
6. West Virginia Other A–85772
7. Barbour WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

1. 80–03103
2. 47–045–00671
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Lawson Hrs 10040
6. West Virginia Other A–85772
7. Logan WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

1. 80–03104
2. 47–045–00415
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Boone County Coal Corp. 9886
6. West Virginia Other A–85772
7. Logan WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

1. 80–03105
2. 47–045–00299
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Roane County Coal Corp 9727
6. West Virginia Other A–85772
7. Logan WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

1. 80–03106
2. 47–043–00341
3. 108 000 000
4. Consolidated Gas Supply Corp
5. R E Chapman 8578
6. West Virginia Other A–85772
7. Lincoln WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

1. 80–03107
2. 47–097–00983
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Maye L Brooks 10837
6. West Virginia Other A–85772
7. Upshur WV
8. 3.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03108
2. 47–007–00935
3. 108 000 000
4. Consolidated Gas Supply Corp
5. I N Brown 11243
6. West Virginia Other A–85772
7. Braxton WV
8. 13.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03109
2. 47–001–00593
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Janes & Ware 11459
6. West Virginia Other A–85772
7. Barbour WV
8. 8.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03110
2. 47–013–00664
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Bennett Heirs 8594
6. West Virginia Other A–85772
7. Calhoun WV
8. 8.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03111
2. 47–013–01310
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Louis Bennett 9915
6. West Virginia Other A–85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03112
2. 47–013–01483
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Issac Tucker 10003
6. West Virginia Other A–85772
7. Calhoun WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02

1. 80–03113
2. 47–085–00723
3. 108 000 000
4. Consolidated Gas Supply Corp

5. A T Prather 7844
6. West Virginia Other A–85772
7. Ritchie WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02
1. 80–03114
2. 47–033–00569–DD
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L J Ayers 8173
6. West Virginia Other A–85772
7. Harrison WV
8. 6.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02
1. 80–03115
2. 47–033–00540
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Wm Burnside 11263
6. West Virginia Other A–85772
7. Harrison WV
8. 16.0 million cubic feet
9. October 18, 1979
10. General System Purchasers Q02
1. 80–03116
2. 47–001–00012
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. James E Callihan 8896
6. West Virginia Other A–85772
7. Barbour WV
8. 6.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03117
2. 47–001–00159
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. John A Strader 10526
6. West Virginia Other A–85772
7. Barbour WV
8. 8.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03118
2. 47–001–00387
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. D O Mitchell 10969
6. West Virginia Other A–85772
7. Barbour WV
8. 9.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03119
2. 47–001–00176
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. D Dickenson 10650
6. West Virginia Other A–85772
7. Barbour WV
8. 8.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03120
2. 47–001–00402
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Oneal—Lantz 11002
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03121
2. 47–001–00968
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Lizzie Holleron 10159
6. West Virginia Other A–85772
7. Jackson WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03122
2. 47–001–00750
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. E Slaughter 9458
6. West Virginia Other A–85772
7. Jackson WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03123
2. 47–033–00594—DD
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. John K Free 8092
6. West Virginia Other A–85772
7. Harrison WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03124
2. 47–033–00593–DD
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Hattie Goff Porter 7997
6. West Virginia Other A–85772
7. Harrison WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03125
2. 47–033–00592
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Leeman Maxwell 11422
6. West Virginia Other A–85772
7. Harrison WV
8. 6.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03126
2. 47–033–00542
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. J B Gusman 11225
6. West Virginia Other A–85772
7. Harrison WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03127
2. 47–033–00163–D
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. James S Law 8180
6. West Virginia Other A–85772
7. Harrison WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03128
2. 47–001–00274
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. E A Sandridge 10758
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03129
2. 47–001–00272
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. James F Saffle 10811
6. West Virginia Other A–85772
7. Barbour WV
8. 3.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03130
2. 47–001–00263
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Zola R Booth 19767
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03131
2. 47–001–00185
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. P Bennett 10657
6. West Virginia Other A–85772
7. Barbour WV
8. 11.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03132
2. 47–001–00174
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. H B Watson 10648
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03133
2. 47–013–01177
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. A L Gainer 9788
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03134
2. 47–013–01041
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Louis Bennett 9393
6. West Virginia Other A–85772
7. Calhoun WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03135
2. 47–013–00678
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Allen Hardman 8602
6. West Virginia Other A–85772
7. Calhoun WV
8. 7.0 million cubic feet

9. October 18, 1979
10. General System Purchasers
1. 80–03136
2. 47–013–00509
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Alice Francis 7843
6. West Virginia Other A–85772
7. Calhoun WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03137
2. 47–007–00983
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. I N Brown 11369
6. West Virginia Other A–85772
7. Braxton WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03138
2. 47–007–00003
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. J S Nicholson 5897
6. West Virginia Other A–85772
7. Braxton WV
8. 2.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03139
2. 47–005–01001–REV
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Federal Coal Co 10879
6. West Virginia Other A–85772
7. Boone WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03140
2. 47–001–00357
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Glen G Douglas 10919
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03141
2. 47–001–00276
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. W G Rorrer 10810
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03142
2. 47–001–00062
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Roborta A Burnor 9173
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03143
2. 47–001–00014
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. Osea L Jackson 8897
6. West Virginia Other A–85772
7. Barbour WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03144
2. 47–041–01119
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. M L Waldeck 10547
6. West Virginia Other A–85772
7. Lewis WV
8. 5.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03145
2. 47–041–01033
3. 108 000 000
4. Consolidated Gas Supply Corp.
5. S R Evans 10428
6. West Virginia Other A–85772
7. Lewis WV
8. 5.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03146
2. 47–041–00944
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Robert C Blair 10415
6. West Virginia Other A–85772
7. Lewis, WV
8. 1.5 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03147
2. 47–041–00825
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Bryan Hardman 10342
6. West Virginia Other A–85772
7. Lewis, WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03148
2. 47–041–00788
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E D Darnall 10330
6. West Virginia Other A–85772
7. Lewis, WV
8. 7.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03149
2. 47–001–00165
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Lena R Smith 10624
6. West Virginia Other A–85772
7. Barbour, WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03150
2. 47–001–00157
3. 108 000 000
4. Consolidated Gas Supply Corp
5. C Mitchel—522
6. West Virginia Other A–85772
7. Barbour, WV
8. 12.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03151
2. 47–001–00155
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Merle J Movicker 10520
6. West Virginia Other A–85772
7. Barbour, WV
8. 4.0 million cubic feet
9. October 18, 1979
10. General System Purchasers
1. 80–03152
2. 47–001–00149
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Bly S Haller 10510
6. West Virginia Other A–85772
7. Barbour, WV
8. 2.0 million cubic feet
9. October 18, 1979
10. General System Purchasers

U.S. Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–03153/G9–289
2. 17–705–40270–00D1–0
3. 102 000 000
4. Ocean Production Co
5. OCS–G–3393 No 2A
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. October 18, 1979
10. Transcontinental Gas Pl Corp, Consolidated Gas Supply Corp
1. 80–03154/G9–288
2. 17–705–40274–00S1–0
3. 102
4. Ocean Production Co
5. OCS–G3393 No 1
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. October 18, 1979
10. Transcontinental Gas Pipeline, Consolidated Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission, on or before November 29, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35104 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-33]

Mid Louisiana Gas Co.; Tariff Filing

November 6, 1979.

Take notice that on October 31, 1979, Mid Louisiana Gas Company (Mid Louisiana) in Docket No. TC80-33 tendered for filing pursuant to Order No. 29, as amended, and Section 281.204 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) the following sheets of its FERC Gas Tariff, First Revised Volume No. 1:

Third Revised Sheet No. 22
Third Revised Sheet No. 23
Second Revised Sheet No. 23a
Second Revised Sheet No. 23b
Second Revised Sheet No. 23c
Second Revised Sheet No. 23d
Second Revised Sheet No. 23e
Second Revised Sheet No. 23f
Second Revised Sheet No. 23g
First Revised Sheet No. 23h
Third Revised Sheet No. 23i

The sheets are proposed to become effective December 1, 1979.

Mid Louisiana states that the filing is being made in accordance with the FERC's permanent curtailment rule adopted by Order 29 issued May 2, 1979, in Docket No. RM79-15 establishing a system of priorities for high-priority and essential agricultural use requirements pursuant to the provisions of Section 401 of the NGPA. Mid Louisiana further states that the tariff sheets: (1) expand the existing priority to include all high-priority uses; (2) establish a new priority 2 for the protection of essential agricultural uses; and (3) renumber existing priorities 2 through 9 as priorities 3 through 10, all as more fully set out in the filing with the Commission and available for public inspection. Said filing also includes an Index of Entitlements by customer based on Mid-Louisiana's curtailment plan adjusted for the priority of delivered categories and the report of the Data Verification Committee.

Mid Lousiana included an addition to section 13.1 of its Tariff to clarify the Company's limitation of liability resulting from interruption of deliveries pursuant to the curtailment plan or by order of any governmental authority having jurisdiction.

In addition, Mid Louisiana is proposing to extend its currently effective curtailment plan as modified by Order 29, until December 31, 1980. By order dated February 7, 1977 in Docket No. RP76-69, the temporary curtailment plan is presently effective only until December 31, 1979.

Any person desiring to be heard or to protest said tariff filings should on or before November 19, 1979, file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35106 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL80-2]

Minnesota Power & Light Co.; Application

November 7, 1979.

The filing Company submits the following:

Take notice that Minnesota Power & Light Company on November 2, 1979 tendered for filing an application for Commission approval of the sale of certain transmission facilities. The purchaser of a portion of 500 kV Number 601 Line is to be United Power Association, a Minnesota Cooperative Corporation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35132 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-22]

Montana-Dakota Utilities Co.; Application for Adjustment and Request for Interim Relief

November 7, 1979.

On November 1, 1979, Montana-Dakota Utilities Co. ("MDU") filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA"). MDU seeks relief from Part 282—Incremental Pricing as set forth in Order 49 (RM79-14) and the filing deadline of November 1, 1979 contained in § 282.601 and the December 1, 1979 deadline in § 282.602 of the Commission's Regulations under Title II of the NGPA. MDU also requests interim relief pending determination of the application.

Section 282.601 and 282.602 require: (i) the filing of an Incremental Pricing Surcharge provision and a revised Purchased Gas Adjustment provision by November 1, 1979; (ii) the filing of tariff sheets on or before December 1, 1979 reflecting the projected Incremental Pricing Surcharges by month for each of the direct sale, non-exempt industrial boiler fuel facilities; and (iii) the monthly aggregate amount applicable to each sale-for-resale customer on the pipeline system. MDU has only one "non-exempt" industrial boiler fuel user on its system. This customer, Homestake Mining Co., used less than 300 Mcf per day in 1977 on an annual basis. However, since the use is for space heating and other temperature sensitive applications, the highest monthly average in 1977 was 591 Mcf per day.

MDU contends that the requirements of Part 282 as established in Order 49 and §§ 282.601 and 282.602 in particular would cause special hardship and result in an unfair distribution of burdens on MDU, and consequently, MDU requests an exemption from the requirements set forth in Part 282 as established by Order 49 and the filing requirements of § 282.601 and § 282.602.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a

petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before November 29, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35131 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-19]

Montana-Dakota Utilities Co.; Application for Adjustment

November 8, 1979.

Take notice that on November 1, 1979, Montana-Dakota Utilities Co. (MDU), filed in Docket No. SA80-19 an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) wherein MDU seeks exemption from the tariff filing requirements of section 281.201 *et seq.*, of the Commission's Regulations under the NGPA, all as more fully set forth in the application for adjustment.

MDU has filed a proposed Stipulation and Agreement which it seeks to implement December 1, 1979, with the termination of the settlement agreement in 1983. Said Stipulation and Agreement has been previously filed and notice published in the **Federal Register** in Docket No. RP76-91.

MDU seeks a waiver of the requirement to file tariff sheets by November 1, 1979, effective December 1, 1979, implementing the curtailment priorities required in Orders No. 29 and 55 and seeks in lieu thereof an adjustment allowing the filing of the required tariff sheets after completion of the Commission's decision on the Stipulation and Agreement in RP76-91 and a decision on the substantive adjustments requested in its Application for Adjustment. Further, MDU requests, as interim relief, authority to file an amended tariff sheet that extends its presently effective interim curtailment plan past the current termination date of December 1, 1979, such extension to be effective, if necessary, only until tariff sheets implementing a final curtailment plan can be made effective.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, a petition to intervene in accordance with the provisions of § 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 29, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35107 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-64]

NEPOOL Executive Committee; Filing of Amendment to Interconnection Agreement Between the New England Power Pool and the New York Power Pool

November 6, 1979.

The filing company submits the following:

Take notice that on November 1, 1979, the NEPOOL Executive Committee filed an Amendment to Section 6.5(b) of the Interconnection Agreement between the New England Power Pool and the New York Power Pool, dated as of April 4, 1977. Certificates of concurrence were filed on behalf of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation. The proposed amendment expands the present provisions for economy energy transactions between the NEPOOL and NYPP pools by providing for the pools to participate in economy transactions involving additional remote systems not signatories to the Interconnection Agreement. The proposed arrangements are intended to facilitate the NEPOOL and NYPP systems in supplying customer load with the most economical generation available and will serve to more fully utilize lower cost fuels, thereby conserving the higher cost fuels.

The parties have requested that the Commission waive its notice requirements and permit the proposed amendment to become effective as of November 1, 1979.

Any person desiring to be heard or to make any protest with reference to this rate schedule amendment should, on or before November 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-35108 Filed 11-13-79; 8:45]

BILLING CODE 6450-01-M

[Docket No. ER80-72]

New England Power Co.; Filing

November 7, 1979.

The filing Company submits the following:

Take notice that on November 2, 1979, the New England Power Company (NEP) tendered for filing amendments to its FERC Electric Tariff. Original Volume No. 2.

The amendments contain the Terms and Conditions under which NEP will make available to its customers "Limited Capacity Entitlements." NEP request that this submittal be permitted to become effective on November 1, 1978 and that the Commission's notice requirements be waived.

Copies of this filing have been mailed to Ashburnham, (MA) Municipal Light Department, Middleton (MA) Municipal Light Department, Peabody (MA) Municipal Light Department, Wakefield Bayleston (MA) Municipal Lighting Plant, and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35133 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-67]

New England Power Co.; Proposed Changes in Rates and Charges

November 6, 1979.

The filing Company submits the following:

The Federal Energy Regulatory Commission issues notice that on November 1, 1979 New England Power Company ("NEP") filed revised tariff sheets constituting a new Rate W-2 for its Primary Service for Resale and its Contract Demand ("CD") Service. NEP requests an effective date of January 1, 1980. NEP states that its revised tariff sheets will result in an increase in jurisdictional revenues on the basis of a 1980 test year of approximately $20,545,687. This increase results from an increase in revenues of $992,716 from CD customers and an increase in revenues of $19,552,971 from the Primary customers.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before November 27, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35109 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket NO. ER80-66]

New England Power Co.; Proposed Tariff Change

November 6, 1979.

The filing Company submits the following:

Take notice that New England Power Company ("NEP") on November 1, 1979, tendered for filing a proposed change in its Service Agreement for Primary Service for Resale with The Narragansett Electric Company ("NARRAGANSETT"). The proposed change would increase the fixed credits allowed Narragansett on its purchased power billing by NEP in the amount of $2,907,700 annually based on the 12 month period ending December 31, 1980.

NEP, conjunctively with its affiliate Narragansett, reviews annually that part of Narragansett's system which is used by it in providing all-requirements service to Narragansett, and upon a substantial change in circumstance, refiles with the Commission the revised generation and transmission credits. The instant revision if primarily due to an increased requirement in the rate of return and associated income taxes, plus additional transmission investment required to provide all-requirements service.

Copies of the filing were served upon Narragansett and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plum,

Secretary.

[FR Doc. 79-35110 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-68]

New England Power Co.; Filing

November 6, 1979.

The filing Company submits the following:

Take notice that New England Power Company ("NEP") on November 1, 1979 tendered for filing amendments to its FERC Electric Tariff, Original Volume No. 2 and Power Contracts between NEP and 25 of its Customers. The proposed effective date is January 1, 1980.

NEP states that the proposed amendment will increase the Rate for the sale of System Power-Unreserved from $50.30 per KW-year to $64.00 per KW-year.

NEP states further that the proposed Rate is predicated upon a collateral filing made November 1, 1979 and designated as Rate W-2. For this reason, NEP requests consolidation of the two matters in the event of further Commission investigation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

November 6, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-35111 Filed 11-13-79; 8:45]

BILLING CODE 6450-01-M

[Project No. 2706]

Niagara Mohawk Power Corp.; Application for Major License for Constructed Project

November 6, 1979.

Take notice that an application was filed on February 3, 1970, under the Federal Power Act, 16 U.S.C. Section 791a-825r, by Niagara Mohawk Power Corporation for a major license for the constructed Ephratah Project. The project is located on Caroga Creek, a tributary to the Mohawk River, in the town of Ephratah, Fulton County, New York. Correspondence with the applicant should be sent to: Mr. Hohn H. Terry Esq., Senior Vice President, General Counsel and Secretary, Niagara Mohawk Power Corporation 300 Erie Boulevard West, Syracuse, New York, 19202.

The Ephratah Project, a run-of-river-project in operation since August 11, 1911, consists of: (1) a composite reinforced concrete dam, about 736 feet long including (a) a non-overflow gravity section about 82 feet long and about 58 feet high at the north (right) abutment, (b) a multiple arch-buttress non-overflow section about 182 feet long and about 56 feet high, (c) a gravity overflow section about 251 feet long, and 53.3 feet high to the spillway crest elevation of 974.15 feet m.s.l., and (d) an earth dike with a concrete core wall about 221 feet long and about 48 feet high connecting to the south abutment; (2) a reservior with a surface area of 40 acres and negligible storage capacity; (3) a

reinforced concrete intake structure; (4) a pressure pipeline consisting of (a) a reinforced concrete tunnel 369 feet long and 7 feet in diameter connected to (b) 533 feet of 6.5-foot diameter steel pipe, thence to (c) a wood stave pipe 6.5 feet in diameter and 2,908 feet long connecting to (d) 5,230 feet of steel pipe 6.5 feet in diameter leading to (e) a 6.5 to 8-foot diameter steel pipe transition 20 feet long to a concrete surge tank, and (f) a steel penstock 8 feet in diameter approximately 2,200 feet long; (5) a powerhouse containing four turbine-generator units, having total installed capacity of 5,150 KW; and (6) appurtenant facilities.

There are no existing recreational facilities at the Ephratah Project and the Applicant proposes none.

The energy generated at the Ephratah Project is and will continue to be incorporated into the Applicant's distribution network which is interconnected with an interstate distribution system.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Sec. 1.8 or Sec. 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene, or agency comments must be filed on or before January 7, 1980. The Commission's address is: 825 North Capitol Street, N. E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35112 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CP79-264 and CP79-484]

Northern Natural Gas Co.; Informal Settlement Conference

November 6, 1979.

In the matter of Northern Natural Gas Company, Florida Gas Transmission Company, and Southern Natural Gas Company.

Take notice that on November 28, 1979, at 10:00 a.m. an informal conference will be held in the above-captioned cases. Said conference will be held in room 8402 of the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, and will consist of a discussion of the technical aspects of the above-captioned dockets, and the possibility of resolving the same through settlement and compromise. Any interested person may attend, but mere atttendance will not serve to make any person formally a party to this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35113 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-21]

Pacific Gas Transmission Co.; Application for Adjustment

November 7, 1979.

On November 1, 1979, Pacific Gas Transmission Company filed with the Federal Energy Regulatory Commission an application for an adjustment under the Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978, promulgated in Order No. 49 (Docket No. CP79-14) wherein PGT sought to be exempted from such regulations on the basis (i) that the estimated volumes of incrementally priced gas purchased by PGT are negligible in absolute terms and in relation to its total system supply (.09% of such supply), (ii) that the volumes and incremental costs of incrementally priced gas sold by PGT to its customers are minute in absolute terms and in relation to such customers' total volumes and gas acquisition costs and (iii) such regulations are, by their terms, inapplicable to PGT's existing tariff and would cause special hardship and burden to PGT without serving any purpose other than increasing the cost of PGT's operations. PGT requests that it be exempt from such regulations unless and until the volume of gas purchased by it and subject to the incremental pricing provisions of the Natural Gas Policy Act exceeds 10,000 Mcf per average day or 3,650 MMcf per year.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before November 29, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35135 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-73]

Pacific Power & Light Co.; Rate Schedule Filing

November 7, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on November 2, 1979, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for power sales to The Montana Power Company (Montana). Under this schedule Pacific supplies firm thermal energy to Montana.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 3, 1979, which it claims is the date of commencement of service.

Copies of the filing were supplied to Montana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 30, 1979. Protests will be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35136 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-36]

Panhandle Eastern Pipe Line Co.; Change in Tariff

November 6, 1979.

Take notice that on November 1, 1979 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following Tariff Sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1. Sixth Revised Interim Original Sheet No. 42–A; Fourth revised Interim Original Sheet No. 42–E.

FERC Gas Tariff, Original Volume No. 1–A. Original Sheet Nos. 1 through 38.

An effective date of December 1, 1979 is proposed.

Panhandle states that such revised tariff sheets in Original Volume No. 1 are filed pursuant to Sections 281.201 through 281.215 of the Commission's Regulations. These revised tariff sheets reflect changes to provisions in Panhandle's existing curtailment plan to protect deliveries of natural gas for high priority and essential agricultural users.

Panhandle's FERC Gas Tariff, Original Volume No. 1–A, consisting of Original Sheet Nos. 1 through 38 are filed pursuant to Section 281.204(a) and 281.204(b) of the Commission's Regulations. Under Panhandle's curtailment plan, these tariff sheets expand existing priority 1 to include newly defined high priority users and establish a new priority of service for essential agricultural users.

A copy of this filing has been served on all affected customers and appropriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth Plumb,

Secretary.

[FR Doc. 79–35114 Filed 11–13–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP80–54]

El Paso Natural Gas Co.; State of New Mexico, Section 108 NGPA Determination; Preliminary Finding

November 2, 1979.

On September 19, 1979, the Commission received a notice of determination from the New Mexico Oil Conservation Division that the San Juan 28–5 Unit Well No. 15 meets all the requirements of a "seasonally-affected" stripper well under § 271.804(d) of the Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of this determination on October 5, 1979.

Section 271.804(d)(2) provides that if at any time after a final determination of stripper well status the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is "seasonally affected," a petition may be filed with the jurisdictional agency for a designation as a seasonally affected well. The designation of a stripper well as "seasonally affected" insures the seller exemption from the "continuing qualification" filing requirements of § 271.805, unless the rate of production exceeds an average of 60 Mcf per production day for a 12-month period. Accordingly, if the well qualifies as "seasonally affected" the seller's right to continue to collect the section 108 price does not terminate when the well exceeds an average 60 Mcf per production day during any 90-day production period.

This well was classified as a stripper well by the Commission (JD79–780) but later has produced more than an average of 60 Mcf per production day during a 90-day production period. The applicant claims that the production in excess of 60 Mcf is due to seasonal fluctuations.

Section 271.804(d)(1) provides that in order to qualify for a designation as "seasonally affected," a well's 24-month production reports must demonstrate that the well is subject to seasonal fluctuations "which temporarily increase average production above 60 Mcf per production day" and the jurisdictional agency must find that the seasonal fluctuations "have not increased and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period." In addition, § 274.206(d)(4) requires that the applicant must file "a description of the nature of the seasonal fluctuations as inferred from the data supplied."

With the petition, El Paso submitted the wells production records for the 24 months from July, 1977, through June, 1979. These records demonstrate substantial increases in production during May and June of 1979 which are inconsistent with the production variations in the preceding 22 months. Moreover, the company did not specifically identify the cause of the production increases during May and June. Accordingly, the Commission cannot find substantial evidence in the record that the large increases in production are only temporary and are due to seasonal fluctuations.

The Commission makes a preliminary finding, under 18 CFR §§ 275.202(a)(1)(i) and 271.806(b) that the notice of determination submitted by the state of New Mexico Oil Conservation Division for the above-listed well is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc 79–35134 Filed 11–13–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–65]

Southern Co. Services, Inc.; Proposed Tariff Change

November 6, 1979.

The filing Company submits the following:

Take notice that Sourthern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company on November 1, 1979, tendered for filing The Southern Company Intercompany Interchange Contract, together with an Allocation Methodology and Periodic Rate Computation Manual showing the basis for interchange and pooling transactions between such companies. The filing also includes informational schedules which detail the charges and derivation of components of the rate to be used during the calendar year 1980. The new Intercompany Interchange Contract is proposed to be effective on January 1, 1980.

The new Southern Company System Intercompany Interchange Contract constitutes a coordination and interchange agreement between the operating companies of The Southern Company system, provides for certain power pooling transactions, including exchange of interchange energy and the pricing therof, the purchase and sale of capacity and the rates and charges therefor, as well as other interchange arrangements between the operating companies.

Copies of the filing were served upon the parties of record in Southern Company Services, Inc., Docket No. ER79–84.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E.,

Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35115 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-59]

Southwestern Electric Power Co.; Filing

November 6, 1979.

Take notice that on October 30, 1979, Southestern Electric Power Company (SWEPCO) tendered for filing a letter agreement between SWEPCO and Central Louisiana Electric Company (CLECO) dated August 21, 1979. SWEPCO states that this agreement provides for SWEPCO to offer to sell and CLECO to purchase 200 MW of capacity without reserves from Welsh Power Plant during the period from January 1, 1980 through December 31, 1980 and from month to month thereafter until the 345 Kv transmission tie from SWEPCO to Gulf States Utilities Company (Gulf States) is in commercial service but not later than May, 1981.

SWEPCO further states that this offer of capacity is contingent upon CLECO entering into a satisfactory agreement making equivalent capacity available to Gulf States and is also contingent upon approval of both agreements by all regulatory bodies having jurisdiction.

SWEPCO requests an effective date of January 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 north Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35116 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-2]

Tennessee Gas Pipeline Co.; Supplemental Tariff Filing

November 6, 1979.

Take notice that on October 30, 1979, Tennessee Gas Pipeline Company a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, tendered tariff sheets for filing pursuant to §§ 281.201 through 281.215 of the Commission's Rules and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15 as modified and amended and as required by the Commission order of October 30, 1979 in this docket. The filed tariff sheets are Substitute Original Sheet Nos. 2, 22-24, 31-34, 66, 75, 87, 102, 124 and 125 to its FERC Gas Tariff Orignal Volume No. 1-A to become effective on November 1, 1979.

On October 1, 1979, Tennessee filed tariff sheets reflecting an Index of End-Use Volumes for each of its customers. As stated in the notice issued on October 5, 1979, for that filing, that data did not contain data for five of its customers but that Tennessee had received that data and that its Data Verification Committee had reviewed and approved the matter. The five companies are Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, Inland Gas Company, Midwestern Gas Transmission Company, and Texas Gas Transmission Corporation. In addition, Tennessee now states that two of the above-listed tariff sheets reflect corrections to the data for Haverhill Gas Company and Orange and Rockland Utilities, Inc. which were discovered subsequent to the October 1, 1979 filing date.

This filing completes Tennessee's compliance with the requirements of Order No. 29, it is stated, and satisfies ordering paragraph (A) of the Commission's Order of October 30, 1979.

Any person desiring to be heard or to protest said filing should, on or before November 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure 918 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35117 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-35]

Trunkline Gas Co.; Change in Tariff

November 6, 1979.

Take notice that on November 1, 1979 Trunkline Gas Company (Trunkline) tendered for filing the following Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet NO. 21-C.2
First Revised Sheet No. 21-C.3
First Revised Sheet No. 21-C.4
First Revised Sheet No. 21-C.5
First Revised Sheet No. 21-C.6
First Revised Sheet No. 21-C.7
First Revised Sheet No. 21-C.8

An effective date on December 1, 1979 is proposed.

Trunkline states that such revised tariff sheets are filed pursuant to Sections 281.201 through 281.215 of the Commission's Regulations. These revised tariff sheets reflect revisions to Trunkline's currently effective gas supply deficiency curtailment provisions to reflect reclassification of high priority and essential agricultural users.

A copy of this filing has been served on all affected customers and appropriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35118 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-133 (PGA 79-1), et al.]

United Gas Pipeline Co.; Consolidating Proceedings

November 6, 1979.

On May 21, 1979, the Commission's Staff filed a motion to consolidate proceedings in the above-captioned dockets. In an earlier order issued June 30, 1978, the Commission consolidated eight pending proceedings relating to PGA rate filings made by United Gas Pipeline Company (United), to-wit: Docket Numbers RP72-133 (PGA-78-2), RP72-133 (PGA75-1), RP72-133 (PGA75-3), RP72-133 (PGA76-1), RP72-133 (PGA77-1), RP72-133 (PGA77-1a), RP72-133 (PGA77-2) and RP 72-133 (PGA 78-1). Consolidation was ordered in recognition of the similarity of one issue in each of the foregoing dockets: the reasonableness and prudence of United's emergency purchases.

On December 28, 1978, the Commission accepted and suspended United's most recent PGA filing in Docket No. RP72-133 (PGA79-1). Again, the only issue set for immediate hearing is the reasonableness and prudence of United's emergency purchases made during the period covered by the PGA79-1 filing. Staff states that discovery in the previously consolidated dockets commenced shortly after the Commission's June 30, 1978 order and is continuing. Staff also states that discovery in PGA79-1 is nearly completed.

United has joined Staff in the motion to consolidate RP72-133 (PGA79-1) with the proceedings previously consolidated under the lead Docket Number RP72-133 (PGA78-2), *et al.*, and Staff has asserted in its motion that all parties present at the May 8, 1979 conference in the RP72-133 (PGA78-2), *et al.*, proceedings indicated agreement that the proceedings should be consolidated.

Pursuant to the authority delegated to the Secretary by the Commission by operation of 18 CFR 3.5(a)(6) regarding delegation of authority to consolidate and sever proceedings, the Secretary, upon review of Staff's motion, concludes that as the issues involved in the above-captioned dockets are interrelated, the proceedings would be handled more expeditiously on a consolidated basis. Accordingly, it is ordered that the above-captioned dockets be consolidated for purposes of hearing and decision on the issue of the reasonableness and prudence of United's emergency purchases.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35119 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-53]

State of West Virginia, Section 108 NGPA Determination, Cities Service Co., Benson A-1 Well JD No. 79-21833; Preliminary Finding

Issued: November 2, 1979.

On September 25, 1979, the Commission received notice of determination from the West Virginia Department of Mines, Oil and Gas Division (West Virginia), that the Benson A-1 Well does not qualify as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission issued public notice of this determination on (October 18, 1979).

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must have produced nonassociated natural gas at a rate not exceeding 60 Mcf per production day during the preceding 90-day production period. The records accompanying this notice of determination indicate that the subject well produced an average of 55 Mcf of nonassociated gas per production day during the relevant 90-day production period. Accordingly, the well meets the initial requirement for a stripper well.

Section 108(b)(1)(B) provides that in order to qualify as a stripper well, a well must also have produced at its maximum efficient rate of flow (MER) during the preceding 90-day production period. Section 271.804(d) of the Commission's Interim Regulations [1] prescribes the methods by which MER may be established. In particular, § 271.804(d)(2) states that a well which has produced nonassociated gas at an average rate of 60 Mcf or less for the 90-day production period will be presumed to have produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced gas at a rate not exceeding an average of 60 Mcf per production day. The records accompanying the notice of determination indicate that the subject well produced an average less than 60 Mcf per production day during the 12-month period ending concurrently with the 90-day production period. Accordingly, the well appears to meet the MER requirement for stripper well natural gas.

Notwithstanding the record evidence described above, West Virginia made a negative determination regarding the well's MER on the basis that during certain months of the 12-month period the well's average production exceeded 60 Mcf per production day. The Commission believes this determination was based on a misinterpretation of § 271.804(d)(2). Accordingly, on the basis of our review of the record submitted with this determination, the Commission makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the determination by West Virginia that the Benson A-1 Well does not qualify as a section 108 stripper well is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35137 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Section 271.804(d) of the Interim Regulations was revised and renumbered in the Final Regulations for Section 108. (Order No. 44, issued August 22, 1979, Docket No. RM79-73). However, the revised rule (§ 271.807) was made effective prospectively. Since the revised rule applies only to applications for determinations filed with the jurisdictional agency on or after September 21, 1979, the (application) for the above well remains subject to § 271.804 of the Interim Regulations.

[Docket No. GP80-51]

State of West Virginia, Section 108 NGPA Determination, Consolidated Gas Supply Corp., Seven Wells; Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979, the Commission received notice of determination from the West Virginia Department of Mines, Oil and Gas Division (West Virginia), that the seven wells [1] of Consolidated Gas Supply Corporation do not qualify as stripper wells under Section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission issued public notice of the determinations on October 5, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must have produced nonassociated natural gas at a rate not exceeding 60 Mcf per production day during the preceding 90-day production period. The records accompanying this notice of determination indicate that the

[1] E. G. Powley 10858 (JD79-020968), Burton A. Roy 1187 (JD79-020974), J. W. Kemper 8634 (JD79-020969), Clella Stalmaker 11316 (JD79-020975), L. S. Witt 8971 (JD79-020973), Zona J. Nuzum 11279 (JD79-021361), W. A. Streets (JD79-020967).

subject wells produced an average of 60 Mcf or below of nonassociated gas per production day during the relevant 90-day production period. Accordingly, the wells meet the initial requirement for a stripper well.

Section 108(b)(1)(B) provides that in order to qualify as a stripper well, a well must also have produced at its maximum efficient rate of flow (MER) during the preceding 90-day production period. Section 271.804(d) of the Commission's Interim Regulations [2] prescribes the methods by which MER may be established. In particular, § 804(d)(2) states that a well which has produced nonassociated gas at an average rate of 60 Mcf or less for the 90-day production period will be presumed to have produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced gas at a rate not exceeding an average of 60 Mcf per production day. The records accompanying these notices of determination indicate that the subject wells produced an average of less than 60 Mcf per production day during the 12-month period ending concurrently with the 90-day production period. Accordingly, the well appears to meet the MER requirement for stripper well natural gas.

Notwithstanding the record evidence described above, West Virginia made a negative determination regarding the well's MER on the basis that during certain months of the 12-month period the wells' average production exceeded 60 Mcf per production day. The Commisson believes these determinations were based on a misinterpretation of § 271.804(d)(2). Accordingly, on the basis of our review of the record submitted with these determinations, the Commission makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determinations by West Virginia that the seven wells do not qualify as section 108 stripper wells are not supported by substantial evidence in the record on which the determinations were made.

[2] Section 271.804(d) of the Interim Regulations was revised and renumbered in the Final Regulations for Section 108. (Order No. 44, issued August 22, 1979, Docket No. RM79-73). However, the revised rule (§ 271.807) was made effective prospectively. Since the revised rule applies only to applications for determinations filed with the jurisdictional agency on or after September 21, 1979, the applications for the above wells remain subject to § 271.804 of the Interim Regulations.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35138 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-50]

State of West Virginia, Section 108 NGPA Determination, Consolidated Gas Supply Corp., F. M. Atterholt No. 10789 Well JD89-20914, State File No. 790227-108-033-0421; Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979 the State of West Virginia Department of Mines, Oil and Gas Division (West Virginia) submitted to the Federal Energy Regulatory Commission (Commission) a notice of determination that the Consolidated Gas Supply Corporation F. M. Atterholt No. 10789 Well qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of West Virginia's determination on October 5, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during such period. Section 108(b)(3) defines "production day; as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The record submitted with this determination for the above-captioned well indicates that this well did not produce any natural gas during the 90-day production period upon which the application is based. There were no findings that this well was shut-in due to State law or practice. Accordingly, the 90-day production period upon which this application is based does not contain any production days. Since section 108(b) requires that a well produce natural gas at a rate not exceeding an average 60 Mcf per production day, a well's rate of production cannot be calculated where the 90-day production period is void of any production days.

On the basis of the records submitted with this determination, the Commission hereby make a preliminary finding, pursuant to 18 CFR § 275.202(a)(i), that the determination submitted by Department of Mines, Oil and Gas Division of the State of West Virginia that the above-captioned well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35139 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-49]

State of West Virginia, Section 108 NGPA Determination, Pennzoil Co., 35 Wells, JD79-20699, et al.;[1] Preliminary Finding

Issued: November 1, 1979.

On September 17 and 18, 1979, the State of West Virginia, Department of Mines, Oil and Gas Division (West Virginia) submitted to the Commission notice of its determinations that Pennzoil Company's 35 wells do not qualify as stripper wells pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621. The Commission published notice of the determinations in the **Federal Register** on October 16, 1979.

To qualify as a stripper well under section 108(b)(1) a well must have produced "nonassociated" natural gas at an average rate not greater than 60 Mcf per production day during a 90-day production period. The well also must have been producing at its Maximum Efficient Rate of Flow during the same period.

Under our regulations, "nonassociated" natural gas is defined as gas produced from a well that does not produce more than certain small quantities of crude oil during the production period on which the determination is based. For a well producing an average of less than 30 Mcf of gas per day during the 90-day producing period, the allowable quantity of crude is an average of 3 barrels or less per day during that period. 18 CFR § 271.803(b).

The production records accompanying West Virginia's determinations show that the average daily production of natural gas from the subject wells did not exceed 30 Mcf for the relevant 90-day production periods. Moreover, the production records show that the average daily production of crude oil from the wells did not exceed 3 barrels during the 90-day production periods.

However, West Virginia made these negative determinations based not on

[1] See Appendix (attached).

the definition of "nonassociated" natural gas, but on the basis that during one or more months of the 12 months ending concurrently with the 90-day production period,[2] each of these wells produced oil in excess of 3 barrels per day.

The issue raised by West Virginia's negative determinations is whether "nonassociated" gas must have been produced from the subject wells not only during the 90-day production period, but also during each of the 12 months ending concurrently with the 90-day production period. The Commission previously considered the question of oil production in months which fall outside the 90-day production period in a final order issued in Docket No. GP79–32 (issued October 5, 1979). At that time we noted our conclusion, based on section 108(b)(1) of the NGPA, that the phrase "nonassociated natural gas" refers only to the kind of gas which must be produced during a 90-day production period.

The records accompanying these notices of determination indicate that the subject wells produced natural gas and crude oil within the allowable limits of section 108(b)(1) for the relevant 90-day production period, and produced at their maximum efficient rate of flow during that period.

We therefore make a preliminary finding (pursuant to 18 CFR § 275.202(a) that the determinations by West Virginia that subject wells do not qualify as stripper wells under section 108 of the NGPA are not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Appendix.—*State of West Virginia, Section 108 NGPA Determinations, Pennzoil Company*

FERC JD79—	West Virginia File No.	Well Name
(a) [1]	(b)	(c)
20699	790227-108-043-1568	H. Adkins #4.
20700	790227-108-085-3661	S. C. Hammet #19.
20701	790227-108-043-1307	R. H. Adkins #1.
20702	790227-108-043-1527	R. H. Adkins #4.
20703	790227-108-043-1529	R. H. Adkins #3.
20705	790227-108-043-1545	Spurlock #14.
20706	790227-108-043-1698	Woodrum #6.
20707	790227-108-043-1793	Hilbert #10.
20708	790227-108-043-1564	Pauley #6.
20713	790227-108-043-1528	R. H. Adkins #2.
20714	790227-108-043-1708	C. C. Clay #2.
20715	790227-108-043-1501	A. E. Robertson #2.
20716	790227-108-043-1542	Zona Hughes #2.
20717	790227-108-043-1707	C. C. Clay #1.
20718	790227-108-043-1700	A. D. Spurlock #4.
20719	790227-108-043-1557	L. Hilbert #5.
20720	790227-108-043-1488	E. T. Spurlock #9.

[2] The applicant had submitted 12-month production data in order to establish each well's maximum efficient rate of flow under § 271.804(d)(4)(ii) of the interim egulations.

Appendix.—*State of West Virginia, Section 108 NGPA Determinations, Pennzoil Company*—Continued

FERC JD79—	West Virginia File No.	Well Name
(a) [1]	(b)	(c)
20721	790227-108-043-1531	E. G. Pauley #4.
20740	790227-108-043-1546	R. Pauley #3.
20741	790227-108-043-1517	X. E. Campbell #6.
20742	790227-108-043-1706	X. E. Campbell #5.
20743	790227-108-043-1599	W. E. Williams #2.
20744	790227-108-043-1621	A. D. Spurlock #2.
20745	790227-108-043-1696	J. V. Alford #4.
20746	790227-108-043-1605	S. Bowman #2.
20747	790227-108-043-1699	A. D. Spurlock #3.
20748	790227-108-043-1697	A. A. Woodrum #5.
20760*	790227-108-043-1543	Zona Hughes #3.
20761*	790227-108-043-1548	W. T. Harris #5.
20762*	790227-108-043-1688	Lelia Smith #2.
20763*	790227-108-085-3682	S. C. Hammett #21.
20764*	790227-108-043-1556	H. Adkins #.3
20765*	790227-108-043-1487	E. T. Spurlock #8.
20766*	790227-108-043-1486	Stower Heirs #5.
20767*	790227-108-043-1533	R. Pauley #2.

[1] All filed with FERC on 9/17/79, except those with an asterisk, which were filed on 9/18/79.

[FR Doc. 79-35140 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1356-3]

Approval of Nebraska's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: notice of approval of the State of Nebraska's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) with respect to Federal facilities.

SUMMARY: November 2, 1979, the Environmental Protection Agency (EPA) approved the State of Nebraska's request to include regulation of Federal facilities under their State water pollution permit program. Previously the State had been approved to participate in the National Pollutant Discharge Elimination System (NPDES).

FOR FURTHER INFORMATION CONTACT: Joel Blumstein, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendment, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the National Pollutant Discharge Elimination System (NPDES), were precluded from regulating Federal facilities. Therefore, the Environmental Protection Agency (EPA) in approving State programs under section 402(b) reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's **Federal Register** notice is to announce the approval of the State of Nebraska's request to assume NPDES authority over Federal facilities.

Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pre-treatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		
Delaware	04/01/74		
Georgia	06/28/74		
Hawaii	11/28/74	06/01/79	
Illinois *	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	06/01/74		
Missouri	10/30/74	06/26/79	
Montana	06/10/74		
Nebraska	06/12/74	11/02/79	
Nevada	09/19/75	08/31/78	
New York	10/28/75		
North Carolina	10/19/75		
North Dakota	06/13/75		
Ohio	03/11/74		
Oregon	09/26/73	03/02/79	
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75		
Tennessee	12/28/77		
Vermont	03/11/74		
Virgin Islands	06/30/76		
Virginia	03/31/75		
Washington **	11/14/73		
Wisconsin	02/04/74		
Wyoming	01/30/75		

* On January 26, 1979, the United States Court of Appeals for the Seventh Circuit invalidated the Agency's approval of the Illinois NPDES program in *Citizens for a Better Environment* v. *Environmental Protection Agency* (No. 78–1042; Petition for rehearing denied May 16, 1979). However, on May 30, 1979, the Court stayed the enforcement of its order until February 23, 1980, in order to provide EPA an opportunity to revise its regulations governing public participation in enforcement. In the interim, the State of Illinois is operating an approved program.

For further information on the *Citizens for a Better Environment* case and the Agency's response thereto, see the public participation in enforcement regulations that were recently proposed in the Federal Register (44 FR 49275, August 22, 1979).

** On August 15, 1979, EPA approved a modification to Washington's NPDES program to allow the State Energy Facility Site Evaluation Council to issue and enforce permits.

Dated: November 2, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-35089 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1358-1]

Administrator's Toxic Substances Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 9:30 a.m. to 4:30 p.m. on Thursday, November 29, 1979, and 9:00 a.m. to 1:00 p.m. on November 30, 1979. The meeting will be held in Room 3906–3908, Waterside Mall, EPA, 401 M Street, SW, Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION: Ms. Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Pesticides and Toxic Substances (TS/793), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Telephone: (202) 426–1800.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94–569). The agenda includes a discussion of the process by which chemicals are identified and ranked for the development of information, testing and regulation; upcoming rulemaking ativities; and ATSAC administrative business.

The meeting will be open to the public and time will be set aside for public comments. Any member of the public wishing to present an oral or written statement should contact Ms. Marsha Ramsay at the address or phone number listed above.

Dated: November 7, 1979.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-35019 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50420A; FRL 1358-3]

Amendment to Experimental Use Permit Issued to American Cyanamid Company

On Tuesday, April 17, 1979 (44 FR 22807), information appeared pertaining to the issuance of an experimental use permit, No. 241-EUP-93, to American Cyanamid Company. At the request of the company, that permit has been amended. The experimental use permit now allows the use of approximately 1,105 pounds of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone(3-[4-(trifluoromethyl)phenyl]-1-(2-[4-(trifluoromethyl)phenyl]ethenyl)-2-propenylidene)hydrazone on pasture and noncropland and to evaluate control of imported fire ants. A total of 110,000 acres in involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit period was also extended and the permit is now effective from October 16, 1979 to October 16, 1980. A temporary tolerance for residues of the active ingredient and metabolites in or on the raw agricultural commodity forage grass has been established. (PM-15, George Larocca, Room: E-329, Telephone: 202/426-9490).

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: November 6, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-35025 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1357-6]

Approval of PSD Permit to Pike Industries, Inc.

Notice is hereby given that on November 5, 1979 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Pike Industries, Inc. for approval to construct an asphalt batch plant in Rutland Town, Vermont. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations (40 CFR Part 52.21). While Pike Industries, Inc. has complied with the regulations entitling them to the PSD permit, the EPA recognizes that other environmental issues, outside of our regulatory authority, should be addressed. Those other environmental concerns are to be addressed in the Vermont Land Use Act 250 permitting process.

The PSD permit has been issued subject to the following conditions:

General Requirements

1. The construction and opertion of the asphalt batch (#906) shall be undertaken in accordance with the PSD application submitted on January 4, 1979.

2. Construction and operation of asphalt batch plant #906 shall comply with all applicable State and Federal air pollution control regulations. This PSD permit shall not exempt Pike Industries, Inc. from any additional or more stringent requirements deemed applicable to plant #906 including, but not limited to, any conditions imposed by the approval Order issued by the Vermont Agency of Environmental Conservation and the Act 250 Permit to be issued by the Vermont Environmental Commission.

3. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78-1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and permits issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect permits issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this permit may be subject to reevaluation as a result of the final court decision and its ultimate effect.

Testing Requirement

No later than 180 days after initial start-up, Pike Industries shall conduct a source test to demonstrate compliance with the 0.04 gr/dscf emission standard (for particulate matter) of the Vermont State Implementation Plan. EPA must approve the testing methods and procedures used to comply with this condition prior to any such testing.

Fuel Requirement

Pike Industries, Inc. is restricted to the use of fuel oil with a sulfur content less than or equal to 1% (by weight) for firing the burner of the rotary dryer of plant #906.

Notification and Reporting Requirements

1. Pike Industries, Inc. shall inform EPA of the date construction of Plant #906 is commenced postmarked no later than thirty (30) days after such date.

2. Pike Industries, Inc. shall inform EPA of the actual date of initial startup of Plant #906 postmarked within fifteen (15) days after such date.

3. Pike Industries, Inc. shall inform EPA Region I, in writing, of the date of source testing not less than thirty (30) days prior to such date.

4. Prior to the acceptance of any fuel oil for use in Plant #906, Pike Industries, Inc. shall submit to EPA a letter from the

fuel oil supplier(s) certifying that only fuel oil with a sulfur content less than or equal to 1% by weight shall be supplied to Plant #906.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Second Circuit Court of Appeals. A petition for review must be filed on or before January 14, 1980.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, MA 02203.

Air and Solid Waste Programs, Division of Environmental Engineering, State Office Building, Montpelier, Vermont 05602.

Dated: November 5, 1979.

William R. Adams, Jr.,

Regional Administrator.

[FR Doc. 79-35026 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1359-1]

Borg-Warner Corp., Borg-Warner Chemicals, Linmar Plant, Ottawa, Ill.; Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to Borg-Warner Corporation, Borg-Warner Chemicals (Borg-Warner), Linmar Plant, Ottawa, Illinois.

On April 27, 1979, Borg-Warner submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a resin compounding facility. The application was submitted pursuant to the regulations for PSD. On May 5, 1979, and June 20, 1979, Borg-Warner submitted additional information for review.

On July 13, 1979, Borg-Warner was notified that its application was complete and preliminary approval was granted. On July 25, 1979, Borg-Warner requested an amendment to the conditions for approval which was granted.

On August 11, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to Borg-Warner. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by Borg-Warner, the Company was notified on October 19, 1979, that the U.S. EPA had determined that the proposed new construction in Ottawa, Illinois would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Borg-Warner of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore, a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2090.

John McGuire,

Regional Administrator, Region V.

Environmental Protection Agency—Region V

Approval to Construct EPA-5-A-80-4

In the Matter of The Borg-Warner Corporation, Borg-Warner Chemicals, Linmar Plant, Ottawa, Illinois; proceeding pursuant to the Clean Air Act, as amended.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et. seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Borg-Warner Corporation proposes to construct a resin compounding facility at their Linmar Plant, Canal Road, Ottawa, Illinois.

2. The Linmar Plant is located in La Salle County, Rutland Township. Rutland Township is a Class II area as determined pursuant to the Act and has been designated an attainment area for total suspended particulate (TSP) and nonattainment for ozone pursuant to Section 107 of the Act.

3. The proposed compounding facility is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The proposed source is not subject to the Emission Offset Interpretative Ruling (44 F.R. 3274, January 16, 1979) because the increase in allowable hydrocarbon (HC) emissions is less than 50 tons per year (TPY), and it meets all applicable emission requirements of the State Implementation Plan (SIP), New Source Performance Standards (NSPS), and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). The increase in allowable TSP emissions is less than 50 TPY, therefore, the source is exempt from air quality impact analysis and from best available control technology (BACT).

4. The Borg-Warner Corporation submitted a PSD application on April 27, 1979. On May 5, 1979, and June 20, 1979, Borg-Warner submitted additional information for review. On July 13, 1979, the application was determined to be complete and preliminary approval was issued. On July 25, 1979, Borg-Warner requested an amendment to the conditions for approval which was granted.

5. On August 11, 1979, notice was published in the *Ottawa Daily Times*. The notice sought written comments from the public on Borg-Warner Corporation's application and U.S. EPA's preliminary approval of the proposed construction. There were no public comments and no requests for a public hearing.

6. After review of all the materials submitted by the Borg-Warner Corporation, U.S. EPA has determined that emissions from the operation of the compounding facility will be controlled by restricted hours of operation.

Conditions

7. The TSP emissions from all sources shall not exceed 10 TPY, including 8 TPY from controlled sources.

8. The total HC emissions from all sources shall not exceed 41 TPY.

9. The maximum operating hours and emission rates for each source shall be as specified in the attached Appendix A.

10. Borg-Warner must construct and operate the resin compounding facility in accordance with the descriptions presented in their application for approval to construct. Any change in the plan might alter U.S. EPA's conclusions and therefore, any changes must receive the prior written authorization of U.S. EPA.

Approval

11. Approval to construct the resin compounding facility is hereby granted to the Borg-Warner Corporation subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Company. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of U.S. EPA.

12. In addition, the United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78-1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for consideration, it is possible that the final decision will require modification of the PSD regulations and could affect approvals issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

13. This approval to construct does not relieve the Borg-Warner Corporation of the

responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

14. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if expansion is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

15. A copy of this approval has been forwarded to the Illinois Valley Community College Library, Route 1, Oglesby, Ilinois, for public inspection.

Dated: October 19, 1979.

John McGuire,

Regional Administrator.

Appendix A

Conditions for Approval

1. The total particulate emissions from all sources shall not exceed 10 tons/year, including 8 tons/year from controlled sources.

2. The total hydrocarbon emissions from all sources shall not exceed 41 tons/year.

3. The maximum operating hours and emission rates for each source shall be as specified below:

Stack No. and source	Maximum hours per year	Particulate pounds per hour
1 Pigment and solid additive weighing station	5,460	<0.001
3 Vacuum cleaning	218	0.02
4 Booster station	2,038	6.00
5 Storage source	2,038	0.45
6 Storage source	600	0.45
7 Storage source	201	0.45
8 Storage source	146	0.45
9 Collector source	4,306	0.36
10 Collector source		
11 Collector source		
12 Mixers	6,552	0.04
14 Hopper source	2,184	0.10
15 Hopper source	939	0.10
16 Hopper source	939	0.10
17 Storage source	4,641	<0.001
18 Transfer station	2,023	1.00
21 Cyclone demistor	6,552	0.10
13 Local ventilation	6,373	0
Compounding vacuum system	6,734	0

[FR Doc. 79-35023 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1349-7; Docket A-79-43]

Data Collection for 1982 Ozone Implementation Plan Submittals

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is initiating efforts which will lead to the development of control strategies and implementation plans to attain the ozone National Ambient Air Quality Standard by 1987 for those areas needing an extension beyond 1982 in accordance with the requirements of Section 172 of the Clean Air Act as amended. As a first step in this process, the Agency has prepared preliminary information and guidance for the collection of emission, air quality, and meteorological data. This guidance identifies the data presently believed to be necessary to complete modeling analyses and plan development in the time period and to the degree expected to be necessary to complete these tasks. This guidance should not be construed as a requirement in a regulatory sense. Rather, it should be regarded as the Agency's preliminary estimate of the data necessary to prepare a plan. While the Agency has already distributed this information, primarily for initial planning purposes, the Agency is soliciting comments on this guidance.

Docket No. A-79-43, containing material relevant to this action is located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M Street S.W. Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. John Calcagni, Environmental Scientist, Environmental Protection Agency (MD-15), Research Triangle Park, North Carolina 27711, telephone: (919) 541-5365.

Dated: October 24, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

Environmental Protection Agency

October 23, 1979.

Subject: Data Collection for the 1982 Ozone Implementation Plan Submittals.

From: David G. Hawkins, Assistant Admininstrator for Air, Noise, and Radiation.

Memo to: Regional Administrator, Regions I-X.

As you are aware, the Clean Air Act Amendments of 1977 require a State which needs an extension of the attainment date for the National Ozone Ambient Air Quality Standard to submit a revision to its implementation plan by July 1, 1982. A principal component of this submittal will be the demonstration of attainment. In most cases, if a State is to prepare its plan revision in a timely manner, the data collection effort will have to be completed during the fiscal year 1980. Hence, it is essential that data collection programs be initiated this fall.

In order to assist you and your States in preparing the necessary data collection plans for this effort, a summary of the anticipated air quality and emission data requirements for the more comprehensive models is attached. (Attachment 1.) In addition, the anticipated level of modeling for each of the major urban areas (over 200,000 pop. 1970 census) requesting an extension of the attainment date is delineated in Attachment 2.

The data requirements summarized in Attachment 1 have been divided into four levels based upon four generic types of models: (1) Photochemical dispersion models, (2) Simplified trajectory models, (3) City-specific EKMA, and (4) Standard EKMA. The Attachment provides a description of the analysis technique, emissions data requirements, air quality data requirements, and meteorological data requirements for each level. These date requirements vary depending upon the complexity and comprehensiveness of the model. Generally, the most severe problem areas will require application of the most comprehensive models and therefore the most extensive data bases. Areas with lesser problems will require less comprehensive models and correspondingly simpler data bases.

With regard to the urban areas delineated in Attachment 2 and the level of modeling expected, it should be noted that this was derived based on consideration of the complexity and magnitude of the air quality problem as projected by the 1979 State Implementation Plan submittals and data reviews conducted by Headquarters and regional staff. Should there be any discrepancies between our expectations for a particular city and the State plans for that area, it should be discussed with the Office of Air Quality Planning and Standards before you commit to accept a different level of analysis.

The above efforts will likely result in a need for additional resources beyond those included in the FY 80 budgets for those agencies responsible for collecting the data. The Agency has made special allocations of Sections 105 and 175 funds to accomplish the above tasks. The Section 105 funds have already been allocated to the Regional Offices for distribution to the appropriate agencies. The Section 175 funds are being held in Headquarters and will be allocated to each Regional Office for distribution, preferably to Metropolitan Planning Organizations. These special funds are being provided primarily for level 1 and 2 data collection activities. Level 3 and 4 data collection should be accomplished within the scope of the general Section 105 allocation. Final decisions on distribution of funds should be based upon an integrated workplan for the 1982 ozone SIP.

In order to assure thorough dissemination of these requirements, I am having this memorandum published in the **Federal Register.**

Attachments

cc: D. Bickart, Director, Air and Hazardous Materials Division, Regions I-X, Director, Surveillance and Analysis Division, Regions I-X

Attachment 1.—Summary of Data Input Requirements for Various Levels of Ozone Modeling

The following pages provide summaries of data input requirements for four levels of ozone modeling analysis:

(a) Level I—Photochemical Dispersion Models
(b) Level II—Simplified Trajectory Models
(c) Level III—Photochemical Dispersion Models
(d) Level IV—Standard EKMA

It most likely will be necessary to plan and execute a special field sampling program during the smog season (e.g., typically June–September) to collect the air quality and meteorological data needed for the various levels of analysis. The level of effort needed to carry out such a field study can vary widely, depending upon the level of modeling analysis required and the size and distribution of the existing ambient network. Generally, a larger effort would be required for Levels I and II than for III or IV. For Levels III and IV, current ambient data collection activities should provide much of the data input required for the modeling analyses.

Estimates of the number of monitors/stations which are made herein are general ones which are useful in estimating resource requirements. In the final design of environmental monitoring networks for individual cities however, care must be taken to consider such factors as roughness of terrain, local meteorology, size and shape of the urban area and the nature and distribution of the city's emissions. Although available guidance and User's Manuals provide a useful framework for the design and interpretation of information forthcoming from the different levels of analysis, the advice of modelers, meteorologists and other air pollution specialists familiar with the area being modeled is likely to be essential, particularly for Levels I and II.

For additional information please contact Mr. John Calcagni of the Standards Implementation Branch at FTS 629–5365.

Level I: Photochemical Dispersion Models

Description of Analysis. This level of sophistication requires the application of validated photochemical dispersion models. The procedure is to apply one of several available photochemical dispersion models to the urban area, encompassing the area of major emissions and the downwind area of maximum ozone concentrations. In order to validate the model and to specify the critical meteorological scenario(s) associated with the design level ozone concentration it is necessary to conduct a rather extensive field study during an ozone season. The extent and density of the environmental data collection network in this field study depends on the expected spatial/temporal variability of the data within the area and on the sensitivity of the model to the data. It is also necessary to assemble or derive spatially/temporally resolved emissions inventories of VOC classes and NO/NO_2 for (1) the base year (corresponding to the field study); (2) for one to two projection years (effect of regulations "on the books" plus growth); and (3) for the various control strategy scenarios to be tested. Expertise in air pollution meteorology, photochemical modeling, air pollution monitoring, and emissions inventories are generally required to design the data collection effort and to conduct the modeling analysis.

A. Emissions Data Requirements

1. *Spatial Resolution.* These models require the use of a gridded VOC, NO_x and CO emissions inventory. Grid squares are typically one kilometer to five kilometers on a side. County-wide area sources are allocated to the grid squares using various activity indicators. Roadway emissions are calculated by link and assigned to the appropriate grid. Smaller point sources are generally allocated to the appropriate grid as an area source, whereas major point sources, with stack parameters, are located exactly. Emission inventory guidance is available in EPA 450/4–79–18.

2. *Temporal Resolution.* All emissions must be temporally resolved on an hourly basis for a typical ozone simulation day. Roadway emissions are temporally resolved from traffic data. Information on the diurnal variability of point source emissions is obtained directly from the sources. For area sources, local information on the source categories is used to derive the diurnal emission behavior.

3. *Pollutant Splits.* VOC emissions must be split into three to six hydrocarbon classes (specific to the model used); NO_x emissions are split into NO/NO_2. Information on pollutant splits is available in EPA 450/3–78–119.

B. Air Quality Data Requirements

1. *Ozone Monitors.* Typically 10–20 sites are required in the modeling area. One to three upwind sites are needed to establish incoming transport and five or more sites, generally located 15–40 kilometers downwind to encompass the area of maximum concentrations, are needed for model validation purposes. The number and location of the upwind and downwind sites should be dependent on the wind direction during periods of high concentration. The five to 12 remaining sites should be distributed over the modeling region in such a fashion that a reasonably accurate depiction of the ozone concentration field can be derived using interpolation.

2. *NO/NO_x.* Typically six to 12 sites are required, usually collocated with O_3 monitors and with THC/CH_4 monitors. The NO/NO_x sites should be concentrated in the urban/suburban and near downwind areas. The data are used in an analogous fashion to the ozone data.

3. *THC/CH_4.* Three to six sites are required and should be collocated with NO/NO_x monitors in high emission density areas within the modeling region.

4. *Species.* A total of approximately 200 samples should be taken and analyzed for hydrocarbon species (C_1 through C_{10} plus aromatics) during the field study. These data are used to derive the mix of pollutants within the modeling region. Samples should be taken at one or two upwind sites to provide an estimate of incoming transport and at two to three sites within the urban area where pollutant mixes might be expected to be different. Some samples should be taken at the THC/CH_4 sites for comparison with the THC/CH_4 data. If possible, approximately 50 samples should be collected aloft (see B6 below).

5. *Carbon Monoxide.* Data from six to 10 sites within and downwind of the city should be collected. The data from these sites are helpful in troubleshooting any initial poor performance of the model in that estimates for an inert pollutant such as CO allow the dispersion aspects of the model to be isolated from the photochemical aspects. Thus the sites should be located such that the data are representative of an average concentration over a grid and not a hot spot within the grid.

6. *Aircraft Data.* Ozone, NO_x, and hydrocarbon grab samples should be taken by aircraft. These data are used to provide an estimate of upper-level transport into and out of the modeling region and the downward transport of pollutants from aloft. Aircraft flight patterns should consist of vertical profiles over key ground stations and horizontal flights: (1) In the early morning, upwind and over the city to measure incoming transport and initial conditions aloft; (2) mid-morning over and near downwind of the city to measure rapid changes during inversion dissipation; and (3) afternoon over a broad area downwind up to 80 kilometers to assess the pattern of highest ozone concentration and verify the maximum value. The two to four vertical profiles over key stations in each of these flights should include temperature data used in C3 below.

C. Meteorological Data Requirements

1. *Surface Winds.* A total of 10–25 sites should be distributed over the modeling region in such a fashion that the data can be spatially interpolated to derive wind vectors for each grid.

2. *Upper Level Winds.* Data from one or two radiosonde sites and two to three movable pibal sites are required to derive the upper level wind fields as a function of space and time. These sites should take advantage of existing radiosonde sites (usually at an airport) but should generally encompass the entire modeling region.

3. *Temperature Data.* Data from five to 15 surface temperature sites (usually collocated with wind sites) and the radiosonde and aircraft soundings mentioned above are needed to spatially/temporally derive the mixing height and/or stability inputs to the model.

4. *Solar Radiation.* Continuous data from two to three surface sites are needed as input to the kinetics module. It is preferable to use an ultraviolet pyranometer; a net solar radiometer can often be substituted.

D. *Other Data Requirements*

Some models require the specification of other variables which may require ambient/meteorological/emissions data. The modeler should consult the user/planning manuals for the specific photochemical dispersion model to determine the required input parameters.

Level II: Simplified Trajectory Model

Description of Analysis. Level II analysis is essentially the application of the city-specific EKMA approach using a more comprehensive and detailed data base than required for Level III analysis. The larger data base provides added confidence in (a) defining ambient levels of ozone, (b) determining control requirements, and (c) testing various control strategies.

The procedure involves calculating backward trajectories from the site(s)

observing a high hourly ozone concentration. Atmospheric chemistry is simulated within a uniformly mixed parcel of air as the parcel moves along the calculated trajectory. Fresh emissions encountered along the trajectory and pollutants entrained from aloft are considered as well. For a given trajectory, the simulation is repeated a number of times for different VOC and NO_x emission levels. An ozone isopleth diagram is thus obtained. The EKMA procedure (described in EPA–450/2–77–021 a and b and EPA–600/8–78–14a) is then applied to estimate needed controls and test the effectiveness of control strategies. A similar procedure is followed using trajectories corresponding with other observed high ozone concentrations as well. More detailed guidance on selecting specific trajectories and applying the EKMA approach in this mode will be available in summer 1980, prior to the time the analysis will need to be applied for 1982 ozone SIPs.

A. Emissions Data Requirements

1. *Spatial Resolution.* Level II analyses require the use of a gridded VOC and NO_x emission inventory with a network of grid squares approximately 10 km on a side. *Gridded CO emissions* are also highly desirable and are used with ambient CO data to test the dispersion aspects of the model. The area covered by the grid should at least encompass all of the air quality monitors deployed in accordance with paragraph B. Distinction should be made between point and area sources for each grid square. Line sources are treated as area sources. In order to provide satisfactory emission projections in accordance with EPA–450/4–79–18, it is useful to identify emissions from each major kind of VOC, NO_x and CO source in each grid square.

2. *Temporal Resolution.* Hourly emission estimates are required for each source category in each grid square between the hours of 8:00 a.m.–6.00 p.m. LDT inclusive for a typical summer day. Procedures to compile such an emission inventory are contained within EPA–450/4–79–18.

3. *VOC Splits.* Consideration of reactivity is not required for Level II analysis. However, consideration is being given to making available an option which would allow the user to assess the impact of changing reactivity more satisfactorily. In order to exercise such an option, VOC emissions from each source category would need to be divided into several lumped categories. Guidance contained in EPA–450/3–78–119 should be utilized in making estimates of VOC emissions by lumped species if it is desired to exercise such an option.

B. Air Quality Data Requirements

1. *Ozone Monitors* (7–11 sites). Since it may be necessary to simulate several trajectories, ozone monitors should be located in the prevailing wind direction during the smog season and in other wind directions frequently observed to cause high ozone levels. Ozone monitors should be located at (a) one site upwind of the urban area, (b) one site downtown, (c) 1–3 sites on the downwind edge of the city, and (d) 4–6 sites 15–40+ km downwind of the urban area to encompass the areas of maximum ozone concentration.

2. NO/NO_x *Monitors* (4–6 sites). NO/NO_x monitors should be (a) located at one upwind site, (b) collocated with THC/CH_4 continuous monitors in two (or more) representative locations likely to observe high concentrations of precursors (i.e., downtown sites, industrial areas, etc.), and (c) collocated with ozone monitors on the downwind edge of the city.

3. *Organic Compounds.* Two continuous THC/CH_4 monitors should be collocated with NO/NO_x monitors in areas with high precursor levels (e.g., downtown or industrial sector). An optional third site on the downwind edge of the city is desirable. In addition, a number of integrated grab samples should be taken upwind of the city (at the same site where continuous O^{T23} and NO/NO^{T2} monitors are deployed) for a period of several weeks during the early morning hours during the smog season. Species data thus obtained should be summed to estimate upwind VOC being transported into the urban areas.*

4. *CO Data.* Although CO data are not required in Level II analysis, they can be extremely useful in trouble shooting model performance. CO data are used to test the dispersion aspects of the model. To the extent possible, it is recommended that CO monitors be collocated with all NO/NO_x monitors. CO measurements should be indicative of areawide representativeness rather than hot spot concentrations.

C. Meteorological Data Requirements

1. *Surface Winds.* Because Level II requires simulation of specific trajectories, it is important to define the wind field as carefully as possible. It is difficult to specify what number of properly sited surface wind stations is sufficient because this will depend on such factors as terrain, surface roughness and the presence of complicating factors such as large bodies of water. As a rule of thumb, the number of surface wind measurements should be about the same number as the number of air quality monitoring stations (i.e., about 8–12 sites).

2. *Upper Air and Surface Temperatures.* Hourly estimates of mixing height between 8:00 a.m. and 6:00 p.m. are needed. These estimates should be made using local rawinsonde and surface temperature data. If there are no suitable rawinsonde data being collected, these measurements should be made at least twice a day for at least 60 days during the smog season, at *one* site. Generally, an airport location should suffice. Surface temperature data should be collocated at 4–6 sites where surface wind data are being collected.

Level III: City-Specific EKMA

Description of Analysis. City specific EKMA allows consideration of local sunlight intensity, temporal and spatial VOC and NO_x emission patterns and transported ozone and precursors in constructing an ozone isopleth diagram. Such a diagram is constructed using a published user's guide and a widely available computer program (EPA-600/8–78–014a and b). Control requirements are estimated by using the ozone design value and prevailing 6–9 a.m. $NMHC/NO_x$ rations to identify a starting point on the isopleth diagram. Control requirements are estimated using procedures described in EPA–450/2–77–021a, b. The impact on peak ozone concentrations resulting from gross changes in temporal or spatial emission patterns and/or pollutants transported into the city can be assessed as described in EPA–450/2–77–021a and EPA–600/8–78–014a.

A. Emission Data Requirements

1. *Temporal Resolution of VOC and NO_x Emission Patterns.* Diurnal patterns of emissions (on an hour-by-hour basis) are superimposed over the seasonal adjusted annual emission rate for each broad source category identified in the discussion of Level IV analysis. Only emissions between 8:00 a.m. LDT and 6:00 p.m. LDT are considered.

2. *Spatial Disaggregation of Emission.* Gross spatial disaggregation of emissions and growth rates can be considered. For example, urban area emission patterns could be disaggregated into component counties, and surrounding rural counties. Alternatively, existing information, such as land use maps, or population distribution could be used as a rough basis for spatial disaggregation of emissions. It is not required to obtain a gridded inventory for Level III analysis.

B. Air Quality Data Requirements

1. *Ozone Monitors* (3 sites). Ozone monitors should be located at (a) one upwind site, (b) one monitor on the downwind edge of the city, and (c) one monitor 15–40 km downwind of the city.

2. *THC/CH_4NO_x* Monitors (1 site required, 2 sites desirable). Guidance presented in EPA–450/2–77–021b should be followed.

Upwind Precursor Data. Optional air quality data for Level III are measurements of ambient NO_x and THC/CH_4 at one site upwind of a city. These data are only needed if explicit account of transported precursors is to be taken in the analysis. Most studies have indicated that transported ozone is of greater significance than transported precursors in contributing to urban problems. Because of the imprecision attendant with NMHC estimates from continuous THC/CH_4 measurements, use of these instruments at upwind sites is not recommended. It is preferable to collect a limited number of grab samples and analyze these chromatographically and sum species to estimate upwind NMHC. Continuous measurement of NO/NO_x is appropriate.

C. Meteorological Data Requirements

1. *Upper Air and Surface Temperature Data.* Estimates of the morning (8 a.m.) and maximum afternoon mixing heights are required. Preferably, estimates should be obtained using National Weather Service rawinsonde data (if available) at a nearby airport in conjunction with hourly surface temperature data. If rawinsonde data are not available, morning and afternoon mixing heights can be estimated using AP–101.

2. *Surface Wind Data.* Surface wind data at two sites (one site located in an area of high precursor emissions in addition to the airport site) are desirable. The wind data are used in

* See discussion in Level III for rationale of using grab samples at upwind location.

helping to assure that the recorded design value is downwind of the city.

Level IV: Standard EKMA

Description of Analysis. Level IV analysis entails the use of published ozone isopleth curves. Two pieces of input information are needed: (1) the O_3 design value; and (2) prevailing 6–9 a.m. NMHC/NO_x ratios downtown. In order to be reasonably assured that representative levels of high ozone and appropriate NMHC/NO_x ratios are observed, it is highly desirable that data be collected for at least one smog season (e.g., June-September). The procedure for *utilizing* the isopleths has been described in EPA–450/2–77–021a. In order for estimated control requirements to be translated into meaningful control programs, comprehensive, current seasonably adjusted VOC and NO_x emission inventories are needed.

A. Emission Data Requirements

1. *Spatial and Temporal Resolution of VOC and NO_x Emissions.* Seasonally adjusted VOC and NO_x inventories for the county (counties) comprising the urban area. It is not necessary to grid the inventory. Procedures to compile the emission inventory are contained within EPA–450/4–79–18. Hourly emission estimates are not necessary.

2. *Disaggregation Among Source Types.* Although not required, it is desirable to disaggregate VOC and NO_x emissions into major source categories such as light-duty vehicles, stationary area sources, heavy-duty vehicles, stationary point sources, etc. Such disaggregation is likely to prove highly useful in making projections of future aggregated emissions.

B. Air Quality Data Requirements

1. *Ozone Monitors* (2 sites). At least one site should be deployed 15–40 km in the prevailing downwind direction and one site at the downwind edge of the commercial district or in the inner downwind suburbs. In order to estimate transported ozone, an upwind monitor is highly desirable.

2. *THC/CH_4* and NO_x Monitors (1 site). THC/CH_4 and NO/NO_x monitors should be collocated at at least one site in the city's major commercial district, following the guidance in EPA–450/2–77–021b.

C. Meteorological Data Requirements

Although no meteorological data are required by the standard EKMA procedure, to enhance credibility, it is desirable to show that the wind carries emissions from the city to the monitoring site on the design value day. In many cases, such a rough assessment can be made using wind data which are collected at a local airport.

References

1. *Uses, Limitations and Technical Basis for Quantifying Relationships between Photochemical Oxidants and Precursors.* EPA–450/2–77–021a, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, November 1977.

2. *Procedures for Quantifying Relationships between Photochemical Oxidants and Precursors: Supporting Documentation.* EPA–450/2–77–021b, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, February 1978.

User's Manual for Kinetics Model and Ozone Isopleth Plotting Package. EPA–600/8–78–014a, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, July 1978.

4. *Kinetics Model and Ozone Isopleth Plotting Package Computer Program.* EPA–600/8–78–014b, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, July 1978.

5. *Procedures for the Preparation of Emission Inventories for Volatile Organic Compounds—Volume I.* EPA–450/4–77–028, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, December 1977.

6. *Procedures for the Preparation of Emission Inventories for Volatile Organic Compounds—Volume II: Emission Inventory Requirements for Photochemical Air Quality Simulation Models.* EPA–450/4–79–18, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, September 1979. (in print)

7. G. C. Holzworth, *Mixing Heights, Wind Speeds, and Potential for Urban Air Pollution Throughout the Contiguous United States.* AP–101, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, January 1972.

8. *Volatile Organic Compound (VOC) Species Data Manual.* EPA–450/3–78–119, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, December 1978.

Attachment 2.—Anticipated Level of Ozone Modeling for Major Urban Areas Requesting Extension

Level 1

Boston, MA	Chicago, IL/IN
New York, NY/NJ	Houston, TX
Philadelphia, PA/NJ	St. Louis, MO/IL
Baltimore, MD	Los Angeles, CA
Washington, DC/MD/VA	

Level 2

Springfield, MA	Detroit, MI
Pittsburgh, PA	Milwaukee, WI
Wilmington, DE	Sacramento, CA
Cleveland, OH	San Diego, CA
Cincinnati, OH/KY	Ventura-Oxnard, CA

Level 3

Worcester, MA	Youngstown, OH
Providence, RI	Dayton, OH
Hartford, CT	Indianapolis, IN
New Haven, CT	Denver, CO
Bridgeport, CT	Salt Lake City, UT
Trenton, NJ	Phoenix, AZ
Allentown, PA	San Francisco, CA
Scranton, PA	Fresno, CA
Richmond, VA	San Bernardino, CA
Louisville, KY/IN	Seattle, WA
Nashville, TN	Portland, OR/WA

Level 4

None identified at this time.

[FR Doc. 79–35028 Filed 11–13–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1359–2]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 8:30 a.m. on December 12 and 13, 1979, at the Sheraton Crabtree Inn, Governor's Room, U.S. Highway 70, Crabtree Valley Shopping Center, Raleigh, North Carolina 27612. The commercial telephone number is (919) 787–7111.

The tentative agenda for the meeting is as follows:

December 12 (Wednesday)

8:30 a.m.—Asphalt Roofing Manufacturing Plants, New Source Performance Standards for Particulate Emissions.

Ethylbenzene/Styrene Production, National Emission Standards for Hazardous Air Pollutants for Benzene Emissions.

Pressure Sensitive Tapes and Labels Manufacture, New Source Performance Standards for Volatile Organic Chemical Emissions.

December 13 (Thursday)

8:30 a.m.—Pressure Sensitive Tapes and Labels Manufacture, New Source Performance Standards for Volatile Organic Chemical Emissions (Continued).

Publication Rotogravure Printing Industry, New Source Performance Standards for Volatile Organic Chemical Emissions.

Adjourn.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mrs. Naomi Durkee, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by December 7, 1979. The commercial telephone number is (919) 541–5271, and the FTS number is 629–5271.

Dockets containing material relevant to the asphalt roofing manufacturing plants (Docket Number A–79–39), ethylbenzene/styrene production (Docket Number A–79–49), pressure sensitive tapes and labels manufacturing (Docket Number A–79–38), and publication rotogravure printing industry (Docket Number A–79–50) rulemaking are located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M Streets, SW., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: November 17, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-35020 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1358-2]

National Municipal Policy and Strategy; Availability

On October 1, 1979, the Environmental Protection Agency issued a *National Municipal Policy and Strategy* to be implemented immediately by EPA Regions and NPDES States.

The Policy and Strategy serves to clarify and formalize the concepts first introduced in the "Interim National Municipal Policy and Strategy", previously issued on October 2, 1978. It also includes significant aspects of the municipal Enforcement, Permit, and Construction Grant Programs, and new Agency policy concerning waste treatment more stringent than secondary.

Copies of the *National Municipal Policy and Strategy* are available from the General Services Administration (8FSS), Authorized Mailing List Services, Building 41, Denver Federal Center, Denver, Colorado, 80225. Please cite the ordering number UNA-13.0 and title of publication.

Anyone desiring more information about this publication should contact David L. Guthrie, P.E., Office of Water Enforcement (EN-338), U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460, telephone 202-755-0994.

Dated: September 26, 1979.

Joan Z. Bernstein,

Acting Assistant Administrator for Enforcement.

Dated: August 29, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management

[FR Doc. 79-35027 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[OPTS—51007; FRL 1359-4]

Office of Pesticide and Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Kirk Maconaughey Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

SUPPLEMENTARY INFORMATION: Under § 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date (44 FR 28559). The § 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided that the § 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under § 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: November 5, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1079-0019A

Close of Review Period: January 23, 1980.

Manufacturer's Identity: Ferro Corporation, 7040 Krick Rd., Bedford, Ohio 44146.

New Chemical Substance: The Chemical identity of the substance for this PMN is benzene, ethenyl-, tribromo derivative, homopolymer. The common name is brominated polystyrene.

Uses: The substance is intended to be used as an additive for flame retarding in plastic products. The company estimates an annual production of 8-10 million pounds per year after the first 5 years. The company also claims that the number of workers who will be exposed to the substance and the duration of exposure is unknown.

Data Submitted: The company submitted the following data concerning physical and chemical properties: The substance is a tan to white powder which has a bromine content of 68 percent, a softening point (DSC) of 220°, and a specific gravity of 2.8. The substance is insoluble in water. Byproducts of

manufacture are sodium or calcium chloride from absorption of hydrogen chloride (HCl) in caustic soda or lime slurry. The method of disposal for the substance will be by landfill.

The company also submitted test data related to health and environmental effects. Tests for toxicity and bacterial mutagenicity were conducted with the following results:

1. Acute Toxicity Studies:

Acute Oral Toxicity Study

Albino Rats, LD_{50}>15,380 mg/kg

Eye Irritation Test—Minimally Irritating

Albino Rabbits (5.7/110.0) [1]

2. Acute Dust Inhalation Toxicity Study: 4 hours exposure, 14 days observation, LC_{50}>1.92 mg/1 air

Complete necropsies on all rats (10) showed no gross tissue changes attributed to effects of test material in any of the rats examined.

3. Acute Dermal Toxicity in Albino Rabbits:

Results of tests indicated acute dermal median lethal dose (LD_{50}) in the albino rabbits was greater than 3,038 mg/kg. The test material was accordingly classified as practically nontoxic. The material was moderately irritating to the skin of the albino rabbit. Necropsy examinations did not reveal any gross pathological alterations.

4. *Salmonella*/Microsomal Assay for Bacterial Mutagenicity:

The test agent did not induce a significant increase in the number of point mutations in *Salmonella typhimurium* strains.

The report on which data are based and other information concerning this notice are available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days Room E-447, 401 M Street, S.W., Washington, D.C. 20460.

[FR Doc. 79-35022 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[1] The cornea, iris, and palpebral conjunctiva were examined and graded for irritation and injury according to a standard 110-point scoring system. For further information see table c, page 16, of the report entitled "Eye Irritation Test" submitted by Ferro Corp.

[OPP-30154A; FRL 1358-6]

Pesticide Programs; Approval of Applications To Register Pesticide Products Containing New Active Ingredient

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of approval of registration.

SUPPLEMENTAL INFORMATION: On October 4, 1978, notice was given (43 FR 45918) that ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897 had filed applications to register the following pesticide products:

EPA File symbol and Product Name

10182-EA—Talon Rodenticide Pellets
10182-ER—Talon Rodenticide Bait Pack (Mini Pellets)
10182-EU—Talon Rodenticide Bait Pack (Pellets)
10182-EN—Talon Rodenticide Mini Pellets

Each containing 0.005 percent of the active ingredient 3-[3-(5'-bromo[1,1'-biphenyl]-4-yl)-1,2,3,4-terahydro-1-naphthalenyl]-4-hydroxy-2*H*-1-benzopyran-2-one which has not been included in any previously registered pesticide products at the time of submission.

These applications were approved in November 2, 1979 and the products have been assigned EPA Registration numbers as follows:

EPA Registrtion No. and Product Name

10182-20—Talon Rodenticide Pellets
10182-21—Talon Rodenticide Bait Pack (Mini Pellets)
10182-24—Talon Rodenticide Bait Pack (Pellets)
10182-26—Talon Rodenticide Mini Pellets

These pesticides are classified for general use for the control of the Norway and roof rats and house mice in homes, industrial, and agricultural buildings.

PUBLIC RECORD/INSPECTION: Copies of the approved labels and list of data references used to support registrations are available for public inspection in the Product Manager's (PM-16, Mr. William Miller) office, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9458. The data and other scientific information use to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the information Services Branch, Room EB-35, EPA, telephone number 202/426-8850 in accordance with section 8(c)(2) of FIFRA, within 30 days after the registration date of November 2, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

(40 CFR 162.7(d)(2).)

Dated: November 8, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35024 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-00108; FRL 1358-8]

Pesticide Programs; Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a one-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m. on Thursday, November 29, 1979. The meeting will be held in Salon F, Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766). EPA, Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202, Telephone: 703/557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact of regulatory actions under sections 6(b) and 25(a) on health and the environment prior to implementation. The agenda for this meeting will include the following topics:

1. Review of the Agency's proposed regulatory action to conclude the Rebuttable Presumption against Registration (RPAR) of products containing pronamide;

2. Completion of any unfinished business from previous Panel meetings; and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting Mr. Frank Parsons, Special Pesticide Review Division (TS-791), Room 728, Crystal Mall, Building No. 2, at the address given above, Telephone: 703/557-8195.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm

that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than November 26, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is December 19–20, 1979.

(Section 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770).)

Dated: November 7, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35018 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-a51008; FRL 1354]

Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS–793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Kirk Maconaughey, Premanufacturing Review Division (TS–794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

SUPPLEMENTARY INFORMATION: Under § 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under § 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date (44 FR 28559). The § 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided that the § 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under § 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled **"Notice in the Federal Register"** on p. 28567 of the Interim Policy.

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).)

Dated: November 7, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ–1079–0037(A)

Close of Review Period: January 27, 1980

Manufacturer's Identity: Daubert Chemical Company, Inc., 4700 South Central Avenue, Chicago, Illinois 60683.

New Chemical Substance: The company claims as confidential the chemical identity of the substance. The generic name provided for this substance is dodecenyl succinic acid mono alkylester.

Uses: The company claims as confidential the specific use of the substance. The company has agreed to the following generic use description: The substance will be used as a sprayable organic coating intended for industrial and commercial use. The company estimates that for the first three calendar years a maximum of 800,000 lb/yr, 1,000,000 lb/yr, and 1,500,000 lb/yr, respectively, will be produced for this use.

Data Submitted: The company submitted the following information concerning the physical properties of the substance:

Flash Point	440° F.
Cloud Point	102° F.
Solidification Point	98° F.
Molecular Weight	530–760 for 95%
(theoretical range)	760 or greater for 5%
Density	7.13 lbs/gallon
Solubility in Water	Insoluble

The company also submitted the following information on worker exposure at the manufacturing site during manufacturing and processing.

Route	Number of exposed employees	Maximum duration exposure
Vapor	6	4 hrs/wk
Liquid & Solid		4 hrs/wk

The company stated that the vapor concentration has not been measured but is

estimated to be 1 part per million (ppm) in workplace air.

In addition, the company provided the following data on consumer/commercial use exposure:

Route	Number of exposed employees	Maximum duration exposure
Inhalation	10,000	Daily
Dermal	2,500	Daily

The company indicates that test data concerning health and environmental effects of the new chemical substance are not available at this time but acute animal toxicity (skin, oral, and inhalation) studies are currently being conducted. These test results will be submitted at a later date.

The report on which data are based and other nonconfidential information concerning this notice are available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room E-447, 401 M Street, S.W., Washington, D.C. 20460.

[FR Doc. 79-35021 Filed 11-13-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 26, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement: No. T-3876.

Filing Party: Warren C. Ingersoll, Lord, Bissell & Brook, 115 South La Salle Street, Chicago, Illinois 60603.

Summary: Agreement No. T-3876 between the Chicago Regional Port District (District) and Ceres, Inc. (Ceres) establishes the "Iroquois Landing Ground Lease" which provides for the 15-year lease by the District to Ceres of approximately 110,000 square feet of land, upon which Ceres will construct a terminal warehouse. Ceres will compensate the district for the premises according to a schedule of rental fees as mutually agreed to and as set forth therein.

Dated: November 8, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-35054 Filed 11-13-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 6, 1979 (FTC), and November 7, 1979 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** in to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 3, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Trade Commission

The FTC requests clearance of a new, single-time, voluntary questionnaire that will be sent to members of Market Facts, Inc. Consumer Mail Panel, pursuant to the authority granted in the Magnuson-Moss Warranty Federal Trade Commission Improvement Act of 1975. This questionnaire will be a screening questionnaire to identify panel members who have recently purchased funeral services. The FTC estimates that potential respondents will number approximately 60,000 and that 3 minutes will be the average time required to complete the questionnaire.

The FTC requests clearance of a new, single-time, voluntary real estate industry Multiple Listing Services questionnaire pursuant to the authority granted in Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. The questionnaire is designed to obtain information from real estate Multiple Listing Services about their operations. The data collected will be used by FTC to gain a better understanding of the competitive process in the real estate industry. The FTC estimates that respondents will number approximately 1,150 Multiple Listing Services nationwide and that time to complete the questionnaire will average 75 minutes.

Civil Aeronautics Board

The CAB requests an extension without change clearance of CAB Form 2786—Report of Ownership of Stock and Other Interests Under Section 407(c) of the Federal Aviation Act of 1958 and Part 245 of the Economic Regulations. Form 2786 requires that officers and directors of air carriers disclose, on an annual basis, interest held in any air carrier, common carrier, or person engaged in a phase of aeronautics. The CAB estimates respondents will number approximately 2,000 and that burden will average 30 minutes per report.

The CAB requests an extension without change clearance of the reporting requirements contained in §§ 245.12, 245.13, 245.14, and 245.15 of Part 245 of the Board's Economic Regulations—Reports of Ownership of Stock and Other Interests. The CAB states that submission of this data is mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates that respondents will number approximately 42 and that reporting time will average 90 minutes annually for § 245.12; 90 minutes per transaction for § 245.13; 3 hours quarterly for

§ 245.14; and 30 minutes per transaction for § 245.15.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-35095 Filed 11-13-79; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 103; Case No. 7384]

Potomac Electric Power Co., Maryland Public Service Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Maryland Public Service Commission concerning the application of the Potomac Electric Power Company for an increase in electric rates. GSA represents the interests of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before December 14, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: November 2, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-35055 Filed 11-13-79; 8:45 am]

BILLING CODE 6820-38-M

Public Buildings Service

[GSA Order ADM 1095.1C]

Environmental Considerations in Decisionmaking; Final Internal Procedure

AGENCY: General Services Administration.

ACTION: Final internal procedure.

SUMMARY: This notice announces that GSA is publishing final internal procedures to be followed in implementing the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321, et seq.); Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; and the Regulations issued by the Council on Environmental Quality (43 FR 55978).

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1416).

SUPPLEMENTARY INFORMATION: On June 11, 1979, GSA published a notice of a proposed internal procedure to implement the Regulations issued by the Council on Environmental Quality (43 FR 55978). The Council on Environmental Quality (CEQ) was the only party outside of the agency to comment on the proposed procedures. CEQ expressed objection to the categorical exclusion of all lease actions involving existing or substantially completed buildings.

Upon consideration GSA has adopted the CEQ recommendation. The Public Buildings Service (PBS) of GSA published proposed service implementing procedures on May 10, 1979. As a result of consultation with the Council on Environmental Quality, all service procedures, including those of PBS, have been included in the GSA procedures and thus will not be published separately.

Dated: November 2, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-35056 Filed 11-13-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on Thursday, December 6, 1979. The meeting will be held from 10:00 a.m. to 4:00 p.m., in Room 2010, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

The purpose of the meeting is to report on ongoing projects and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order, dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201, Telephone 202/755-7947.

The meeting will be open to the public.

Dated: November 5, 1979.

C. Carson Conrad,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 79-35081 Filed 11-13-79; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs and activities of the Department on the status of women will meet on Monday, December 3, 1979, from 10:00 a.m. to 5:00 p.m., Room 337-A and on Tuesday, December 4, 1979, from 10:00 a.m. to 3:00 p.m., in Room 723-A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The agenda will include health and family policy issues.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: November 7, 1979.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-35080 Filed 11-13-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Shoalwater Bay, Wash.; Ordinance Regulating the Possession, Use, Consumption and Sale of Alcoholic Beverages on the Shoalwater Bay Indian Reservation

November 5, 1979.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd congress, 1st Session (67 Stat. 586). I certify that the following Resolution and

Ordinance relating to the application of the Federal Indian Liquor Laws on the Shoalwater Bay Indian Reservation, Washington, was adopted on February 14, 1979, and amended on September 17, 1979, by the Shoalwater Bay Tribal Council which has jurisdiction over the area of Indian Country included in the Resolution and Ordinance, reading as follows:

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

Resolution No. 2–22–79–7 of the Shoalwater Bay Tribal Council

Whereas, the Shoalwater Bay Tribal Council is duly constituted governing body of the Shoalwater Bay Indian Reservation by the authority of the Constitution of the Shoalwater Bay Tribe of the Shoalwater Bay Reservation, Washington, as approved on March 10, 1971, by the Commissioner of Indian Affairs; and

Whereas, the Shoalwater Bay Tribal Council has the duty and responsibility of regulating the possession, use, consumption, and sale of alcoholic beverages on the Shoalwater Bay Indian Reservation;

Now, Therefore be it resolved that the Shoalwater Bay Tribal Council does adopt the attached Liquor Ordinance; and

Be it further resolved that the Chairperson (or the Vice Chairperson in his or her absence) is authorized and directed to execute this resolution and any documents connected herewith; and the Secretary-Treasurer is authorized and directed to execute the following certification.

Shoalwater Bay Indian Tribe.

Douglas M. Davis,

Chairperson, Shoalwater Bay Tribal Council.

Certification

As Secretary-Treasurer of the Shoalwater Bay Tribal Council, I hereby certify that the above Resolution No. 2–22–79–7 was adopted at a *Regular* meeting of the Council held on the *14* day of *February 1979,* at which time a quorum of *3* was present, and was adopted by a vote of *3* For, *0* Against, and *0* Abstentions.

Leah Thomas,

Secretary-Treasurer Shoalwater Bay Tribal Council.

Ordinance No. 2–22–79 of the Shoalwater Bay Indian Tribe

Section 1. Title. This ordinance shall be known as the "Shoalwater Bay Liquor Control Ordinance."

Section 2. Findings and Purposes. (a) The introduction, possession, and sale of liquor within Indian country have been repeatedly recognized as matters of special concern to Indian tribes and to the United States government. The control of liquor within Indian country remains exclusively subject to United States and tribal government authority.

(b) The United States government has, through legislative enactment, prohibited the introduction, sale, and possession of liquor within Indian country (18 U.S. C 1154, 1156). Indian Tribes have the authority to make federal Indian liquor laws inapplicable to liquor transactions within their jurisdiction and to regulate when and to what extent these transactions shall be permitted. (18 U.S.C. 1161.)

(c) Present day circumstances make a complete ban on liquor within the Shoalwater Bay Indian Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over liquor distribution.

(d) The enactment of a tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and, at the same time, will provide an important source of revenue for the continued operation and strengthening of tribal government and the delivery of tribal government services.

(e) In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Shoalwater Bay Tribal Council adopts this liquor ordinance.

Section 3. Relation to Other Tribal Laws. All prior ordinances and resolutions of the Shoalwater Bay Indian Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and are of no further force and effect. 25 CFR 11.55 is hereby repealed and rendered inapplicable to the Shoalwater Bay Indian Tribe.

Section 4. Definitions. As used in this ordinance, the following definitions shall apply unless the context clearly indicates otherwise:

(a) "Liquor" includes the four varieties of liquor hereinafter defined (alcohol, spirits, wine and beer), and all fermented, spiritous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(b) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(c) "Spirits" means any beverage which contains alcohol by distillation, including wines exceeding seventeen percent of alcohol by weight.

(d) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, which any saccharine substances may have been added before, during, or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

(e) "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this ordinance, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer".

(f) "Sale" and "Sell" include the exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying, or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within an area of tribal jurisdiction to a foreign consignee or his agent.

(g) "Tribal Court" means, for purpose of this ordinance, that Tribal Court or Court of Indian Offenses having jurisdiction over matters on-reservation.

(h) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains. Live music and dancing is not considered acceptable restaurant activities.

(i) "Licensee" means the holder of a liquor license issued by the Council, and includes any employee or agent of the license.

(j) "Public place" includes streets and alleys of incorporated cities and towns; state, county, tribal or federal highways or roads; public dance halls and grounds adjacent thereto; those parts of establishments, where beer may not be sold under this ordinance; soft drink establishments, public buildings, public meeting halls, lobbies, halls, and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open and are generally used by the public and to which the public is permitted to have unrestricted access; buses and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds, and all other places of the like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(k) "Package" means any container or receptacle used for holding liquor.

(l) "Council" means the Shoalwater Bay Tribal Council.

(m) "Reservation" means the Shoalwater Bay Indian Reservation.

(n) "Tribe" means the Shoalwater Bay Indian Tribe.

Section 5. Regulation and Control of Liquor. The introduction, purchase, sale, or dealing in liquor, other than when done by the Shoalwater Bay Indian Tribe through its tribal enterprise, or pursuant to license under this ordinance, is prohibited and is a violation of tribal law. The federal Indian liquor laws are intended to remain applicable to any act of transaction which is not authorized by this ordinance. Violations of this ordinance by any person shall be subject to federal prosecution as well as to legal action in accordance with tribal law.

Section 6. Sale of Liquor. (a) There is hereby established a Shoalwater Bay Tribal Liquor Enterprise for the sale of liquor, said enterprise to be exclusively owned and operated by the Shoalwater Bay Indian Tribe. The Enterprise is hereby empowered to establish an outlet or outlets for the sale of liquor: *Provided,* That the outlet or outlets shall only be located within the exterior boundaries of the Shoalwater Bay Indian Reservation upon tribal land. The Shoalwater Bay Liquor Enterprise shall be deemed to be an agency and department of the Shoalwater Bay Indian Tribe.

(b) (1) All sales at tribal liquor outlets shall be on a cash only basis and no credit shall be extended to any person, organization, or entity.

(2) All sales shall be for the personal use of the purchaser, and resale for profit of any liquor purchased at a tribal liquor outlet is prohibited within the Shoalwater Bay Indian Reservation. Any person who purchases liquor at a tribal store and resells that beverage for profit, whether in the original container or not, shall be subject to the penalties in this ordinance.

(3) The entire stock of liquor and alcoholic beverages sold under this Section shall remain tribal property owned and possessed by the Shoalwater Bay Indian Tribe until sold.

(c) The Shoalwater Bay Tribal Council shall have authority to do all things necessary and proper for the establishment, operation, and maintenance of the Shoalwater Bay Tribal Liquor Enterprise, including but not limited to:

(1) Collecting, auditing, and issuing fees, licenses, taxes, and permits as needed;

(2) Purchasing, warehousing, and selling of liquor;

(3) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(4) Hiring and firing of employees, including a manager, fixing of duties, and delegating to employees specific powers and authorities;

(5) Paying all customs, duties, excises, charges, and obligations related to the business of the enterprise;

(6) Performing all matters and things incidental and necessary to conduct its business and carry out its duties and functions;

(7) Promulgating administrative procedures governing the operation of the enterprise;

(8) Promulgating rules and regulations governing the time, place, and manner of sale.

Section 7. Sovereign Immunity Preserved. Except as provided in Section 9, nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Shoalwater Bay Indian Tribe. No employee or agent of the Tribe or of the Shoalwater Bay Liquor Enterprise shall be authorized, nor shall he or she attempt, to waive the immunity of the Tribe.

Section 8. Beer and Wine Licenses—Three Classes. (a) Notwithstanding any other provisions in this ordinance, the Council may, pursuant to the procedures and conditions in Section 9 issue the following licenses accompanied by payment of the prescribed fee:

(1) Beer retailers license—Class A. There shall be a beer retailers license designated as a Class A license to sell beer at retail for consumption on the premises only. Such license is to be issued only to restaurants. The annual fee for such license shall be sixty-two dollars and fifty cents ($62.50).

(2) Wine retailers license—Class B. There shall be a wine retailers license designated as a Class B license to sell wine at retail for consumption on the premises only. Such license is to be issued only to restaurants. The annual fee for said license shall be forty-seven dollars ($47.00).

(3) Special beer license—Class C. There shall be a beer retailers license designated as Class C as a special license to a society or organization to sell beer at picnics or other special occasions at a specified date and place. The fee shall be ten dollars ($10.00) per day. Sale, service, and consumption of beer is to be confined to specified premises or designated areas only. Nothing herein shall prevent the Council from charging additional fees for the lease of tribal land for these occasions.

(b) Every license issued under this ordinance shall be subject to all conditions and restrictions imposed by this ordinance or by the regulations in force from time to time.

Section 9. Liquor Licenses: Issuance, Refusal, Suspension, Cancellation Conditions and Restrictions—(a) *Issuance.* (1) Applications for licenses under Section 8 shall be submitted in the prescribed form to the Council or to its authorized employees. The Council may within its sole discretion and subject to the conditions in this ordinance issue or refuse to issue the license applied for upon payment of the prescribed fee.

(2) For the purpose of considering any application for a license, the Council may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises.

(3) No Class A or B license of any kind shall be issued to:

(a) A person who is not a member of the Shoalwater Bay Indian Tribe;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation, unless all of the officers and shareholders thereof are members of the Shoalwater Bay Indian Tribe;

(3) A person who has been convicted of a felony within five years prior to filing his application;

(f) A person who has been convicted of a violation of any federal, tribal, or state law concerning the manufacture, possession, or sale of alcoholic liquor within the last preceding five years, or has forfeited his or her bond to appear in court within the last preceding five years to answer charges for any such violation;

(g) A person who is not twenty-one (21) years of age.

(4) Every license shall be issued in the name of the applicant and no license shall be transferable, nor shall the holder thereof allow any other person to use the license.

(5) Before the Council shall issue a Class A or B license, notice of the application for the license shall be posted in public places and comments shall be received on the application for a period of twenty (20) days at the Shoalwater Bay Tribal Office.

(6) Before the Council shall issue any license it shall give due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools and public institutions.

(7) Every licensee shall post and keep its license, or licenses, in a conspicuous place on the premises.

(b) *Inspection.* (1) All licensed premises used in the storage or sale of liquor, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business, shall at all times be open to inspection by any tribal inspector or tribal police officer.

(2) Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal inspector or tribal police officer demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer of the peace, or who refuses to allow the inspector to examine the books of the licensee, or who refuses or neglects to make any return required by this ordinance or the regulations passed pursuant thereto shall thereby be deemed to have violated this ordinance.

(c) *Suspension and Cancellation.* (1) the Council may, for violation of this ordinance, suspend or cancel any liense; and all rights of the licensee to keep or sell beer or wine thereunder shall be suspended or terminated as the case may be. Prior to cancellation or suspension the Council shall send notice of its intent to cancel or suspend the license to the licensee. The Council shall provide notice to the licensee at least ten (10) days prior to the cancellation or suspension. The licensee shall have the right, prior to the cancellation or suspension date, to apply to the tribal Court for a hearing to determine whether the license was rightfully suspended or cancelled. The sovereign immunity of the Shoalwater Bay Indian Tribe is waived for this hearing; *Provided, however,* That such waiver shall not be construed to allow an award of money damages against the Tribe nor any relief other than a declaration of rights nor shall it be construed to waive the sovereign immunity of the Tribe in any court but Tribal Court. This waiver shall not apply to a denial of an application for a license nor to a refusal to renew an expired license.

(2) Upon suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the Council. Where the license has been suspended only, the Council shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink.

(d) *Expiration.* Unless sooner cancelled, every Class A or B license issued by the Council shall expire at midnight on the thirtieth day of January of the fiscal year for which it was issued. Licenses issued less than six months before that date shall only cost one-half of the annual fee.

Section 10. Illegal Activities.—(a) *Liquor Stamp—Contraband.* No liquor, other than beer or wine sold pursuant to a retail tribal license, shall be sold on the Shoalwater Bay Indian Reservation unless there shall be affixed a stamp of the Shoalwater Bay Tribal Council. Any sales made in violation of this provision shall be a violation of this ordinance which shall be remedied as set out in Section 15 herein. All liquor other than beer or wine sold pursuant to a tribal license not so stamped which is sold or held for sale on the Shoalwater Bay Indian Reservation is hereby declared contraband and, in addition to any penalties imposed by the Court for violation of this section, it may be confiscated and forfeited in accordance with the procedures set out in Section 11 herein.

(b) *Proof of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish *prima facie* the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

(c) *Use of Seal.* No person other than an employee of the Shoalwater Bay Tribal Council shall keep or have in his or her possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor outlet, nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person violating this provision shall be in violation of this ordinance.

(d) *Illegal Sale of Liquor By Drink or Bottle.* Except as expressly allowed in this ordinance, any person who sells any liquor by the drink or bottle, shall be in violation of this ordinance.

(e) *Illegal Transportation, Still, or Sale Without Permit.* Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or have in his or her possession without a permit, any mash capable of being distilled into liquor, shall be in violation of this ordinance.

(f) *Illegal Purchase of Liquor.* Any person within the boundaries of the Shoalwater Bay Indian Reservation who buys liquor from any person other than at a properly authorized tribal liquor outlet or tribal licensee shall be in violation of this ordinance.

(g) *Illegal Possession of Liquor—Intent to Sell.* Any person who keeps or possesses liquor on his or her person or in any place or on premises conducted or maintained by him or her as a principal or agent with the intent to sell it contrary to the provisions of this ordinance, shall be in violation of this ordinance.

(h) *Sales to Persons Apparently Intoxicated.* Any person who sells liquor to a person apparently under the influence of liquor shall be in violation of this ordinance.

(i) *Drinking in a Public Conveyance.* Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be in violation of this ordinance. Any person who shall drink any liquor in a public conveyance shall be in violation of this ordinance.

(j) *Furnishing Liquor to Minors.* Except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his or her parent or guardian for beverage or medicinal purposes, or administered to him or her by his or her physician or dentist for medicinal purposes, no

person under the age of twenty-one (21) years shall consume, acquire, or have in his or her possession any alcoholic beverages except when such beverage is being used in connection with religious services. No person shall give or otherwise supply liquor to any person under the age of twenty-one (21) nor shall he or she permit any person under the age of twenty-one (21) to consume liquor on his or her premises or on any premises under his or her control except as allowed in this section. Any person violating this section shall be in violation of this ordinance.

(k) *Sales of Liquor to Minors.* Any person who shall sell any liquor to any person under the age of twenty-one (21) years shall be in violation of this oridnance.

(l) *Unlawful Transfer of Identification.* Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be in violation of this oridnance; provided, that corroborative testimony of a witness other than the minor shall be a requirement for a judgement against the defendant.

(m) *Possession of False or Altered Identification.* Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years shall be in violation of this ordinance.

(n) *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(1) Liquor control authority card of identification of any state.

(2) Driver's license of any state or "Identi-Card" issued by any state Department of Motor Vehicles.

(3) United States Active Duty Military identification.

(4) Passport.

(5) Shoalwater Bay Tribal Identification or Enrollment card.

(o) *Defense to Action for Sale to Minors.* It shall be a defense to a suit for serving liquor to a person under twenty-one (21) years of age if such person has presented a card of identification.

(1) In addition to the presentation by the holder and verification by the licensee of such card of identification, the licensee shall require the person whose age may be in question to sign a card and place a date and number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any tribal peace officer or employee of the Tribal Council at all times.

(2) Such card in the possession of a licensee may be offered as a defense in any hearing held by the Tribal Court for serving liquor to the person who signed the card and may be considered by the Court as evidence that the licensee acted in good faith.

Section 11. Contraband—Seizure Forfeiture. (a) All liquor within this reservation held, owned, or possessed by any person or liquor outlet operating in violation of this ordinance are hereby declared to be contraband and subject to forfeiture to the Tribe. Upon application of the Council the Tribal Judge shall issue an order directing the Tribal Law Enforcement Officer to seize contraband liquor within this reservation and deliver it to the Council. A copy of the court order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized.

(b) Within two weeks following the seizure of the contraband a hearing shall be held in Tribal Court, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

(c) Adequate notice of the hearing shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at some other public place. The notice shall describe the property seized, and the time, place, and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

(d) Judgment of Forfeiture—Disposition of proceeds of property sold. If upon the hearing, the evidence warrants, or, if no person appears as claimant, the Tribal Court shall thereupon enter a judgment of forfeiture, and order such articles destroyed forthwith.

Section 12. Abatement.—(a) *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance, of any lawful regulations made pursuant thereto, or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, are hereby declared to be a common nuisance.

(b) *Institution of Action.* The Council shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this ordinance. The plaintiff shall not be required to give bond in this action. Restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than One Thousand Dollars ($1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable tribal law, and that he or she will pay all fines, costs, and damages assessed against him or her for any violations of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in this ordinance.

(c) *Abatement.* In all cases where any person has been found by the Tribal Court to have violated this ordinance, applicable tribal regulations or tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court by the Council to abate as a nuisance any real estate and other property involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and *prima facie* evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 13. Revenues. All revenues received, funds collected, and property acquired by the Shoalwater Bay Tribal Council or by the Shoalwater Bay Tribal Liquor Enterprise pursuant to this ordinance shall be the property of the Shoalwater Bay Indian Tribe. The net

proceeds shall be paid through the tribal treasurer into the general tribal fund of the Shoalwater Bay Indian Tribe for the general tribal fund of the Shoalwater Bay Indian Tribe for the general governmental services of the Tribe.

Section 14. Liquor Sales Excise Tax. (a)(1) There is hereby levied and shall be collected a tax upon each sale of liquor, except beer and wine, in whatever packages or container, in the amount of three (3) cents per fluid ounce or fraction thereof contained in such package or container.

(2) There is hereby levied and shall be collected a tax upon each sale of beer and wine in the amount of five percent (5 percent) of the selling price.

(b) These excise taxes shall be added to the sale price of the liquor sold and shall be paid by the buyer to the Shoalwater Bay Tribal Liquor Enterprise or licensed tribal seller who shall collect the same and hold those taxes in trust until collected by the Shoalwater Bay Tribal treasurer. The taxes provided for herein shall be the only taxes applicable to the activities of the Shoalwater Bay Liquor Enterprise.

(c) All tax revenues shall be transferred to the Tribal treasurer for deposit in the tribal tax fund and shall be used for the benefit of the Reservation and Tribal community. In appropriating from these tax revenues, the Council shall give priority to:

(1) Strengthening tribal government, which shall include but not be limited to strengthening tribal court and law enforcement systems and the system for administering and enforcing this ordinance.

(2) Fire protection, roads, and water and sewage services.

(3) Health, education, and other social services, and land acquisition and development needs.

The Council shall have the discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

(d) The Enterprise and retail licensees shall keep such records required by the Tribal treasurer to determine the amount of taxes owing and shall complete the tax returns in accordance with instructions from the Tribal treasurer.

(e) Amendments to the amounts and types of taxes levied on the sale of liquor in this section may be made from time to time by the Shoalwater Bay Tribal Council.

Section 15. Violations-Remedies. (a) If any person is found to have violated this ordinance, or any lawful regulation or rule made pursuant thereto for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than five hundred dollars ($500.00) plus costs per violation.

(b) The Shoalwater Bay Tribal Court shall have jurisdiction over any case brought by the Shoalwater Bay Tribe for violations of this ordinance. The Tribal Court may, in addition to the above penalty, grant to the Tribe such other relief as is necessary and proper for the enforcement of this ordinance, including but but not limited to injunctive relief against acts in violation of this ordinance.

Section 16. Severability. (a) If any clause, part, or section of this ordinance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the ordinance, but shall be confined in its operation to the clause, part,or section directly involved in the controversy in which such judgment was rendered.

(b) If any application of this ordinance or any clause, part, or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

Section 17. Disclaimer. Nothing in this ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

Section 18. Application 18 U.S.C. 1161. All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Washington to the extent required by 18 U.S.C. 1161.

Section 19. Regulations. The Council shall have the authority to adopt and enforce rules and regulations to implement this ordinance and further the purposes thereof.

Section 20. Effective Date. This ordinance shall be effective upon the date that the Secretary of the Interior certifies this ordinance and publishes it in the **Federal Register.**

Section 21. Amendment. This ordinance may be amended by majority vote of the Tribal Council.

[FR Doc. 79-35057 Filed 11-13-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Availability of Desolation and Gray River Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of Desolation and Gray River Management Plan.

SUMMARY: The River Management Plan for Desolation and Gray Canyons portion of the Green River is available to the public. A copy of the plan can be obtained by writing to:

District Manager, Moab District, P.O. Box 970, Moab, Utah 84532, Phone: (801) 259-6111; or Area Manager, Price Resource Area, Box AB, Price, Utah 84501, Phone: (801) 637-4584.

The plan primarily provides for the management of float boating recreation resource on the river from Sand Wash (three miles north of the Carbon County line) to Swasey's Rapid (12 miles north of the town of Green River, Utah).

FOR FURTHER INFORMATION CONTACT: River Management Specialist, Moab District, P.O. Box 970, Moab, Utah 84532, Phone: (801) 259-6111.

SUPPLEMENTARY INFORMATION: The first draft was issued during the fall of 1978, and the final draft was issued during the spring of 1979. During the comment periods on the draft and final draft, numerous comments were received from the public. Many of these comments resulted in modifications of the draft and final draft plans.

The Desolation and Gray Canyons Management Plan Environmental Assessment, UT-060-PR-9-5, has been prepared. It has been determined, based on the analysis of environmental impacts that the implementation of this management plan will not have a significant effect on the human environment and, therefore, an environmental impact statement was not necessary.

S. Gene Day,
District Manager.

[FR Doc. 79-35087 Filed 11-13-79; 8:45 am]
BILLING CODE 4310-84-M

Area Managers, Boise District, Idaho; Redelegation of Authority

In accordance with Bureau Order No. 701 of July 23, 1964 (FR Doc. 64-7492; 29 FR 10526), as amended, the Area Managers of the Cascade, Bruneau, Jarbidge, and Owyhee Resource Areas of the Boise District, Idaho, are authorized to perform in their respective areas of responsibility, in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

Section 3.2—General and Miscellaneous Matters. On matters in which he/she is authorized to act, the Area Manager may take all action on:

(b) Cancellations or surrender of contracts, leases, and permits. Make partial or complete cancellation or accept surrenders of contracts, leases, and permits.

Section 3.3—Fiscal Affairs. On matters in which he/she is authorized to act, the Area Manager may take action on:

(a) Bonds and Forfeitures. (1) Take all actions on bonds required in connection with matters pertaining to the lands or the resources thereof under his jurisdiction.

(2) Expend funds made available as a result of the forfeiture of a bond or deposit by a timber purchaser or permittee or of a compromise under the Public Land Administration Act (43 U.S.C. 1381).

(d) Trespass. Determine liability for trespass on the public lands when actual damages do not exceed $5,000. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Section 3.6—Minerals. The area Manager may take all actions on:

(m) Oil and gas Exploration Operations. All actions on oil and gas exploration matters pursuant to 43 CFR Subpart 3045.

(n) Geothermal Resource Leases. Take all actions involving geothermal resource exploration operations as provided in 43 CFR 3203.6 and Subpart 3209.

Section 3.7—Range Management. The Area Manager may take all listed actions on:

(a) Grazing District Administration. (1) Licenses and permits to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) The expenditure of funds appropriated by Congress, or contributed by individuals, associations, advisory boards, or others for the construction, purchase, or maintenance of range improvements.

(8) Refunds pursuant to 43 CFR 4130.5–2(a).

(b) Grazing Leases. (1) Grazing leases of public lands, under Section 15 of the Act of June 28, 1934, as amended (43 U.S.C. 315m), the permits or cooperative agreements to construct and maintain improvements on lands so leased, and to determine the value of such improvements.

(c) Appropriation of Water. Applications under State laws to appropriate water on lands under the administration of the Bureau of Land Management where required in connection with BLM projects for the development, control, or utilization of water, and procurement of easements or rights-of-way upon or over private lands, or over federally-owned lands not under the administration of the Bureau and upon or over State, county, and municipally-owned lands where improvements are installed.

(d) Soil and Moisture. (1) Soil and moisture conservation on the public lands, pursuant to the National Soil Conservation Act of April 27, 1935 (16 U.S.C. 590a et seq.).

(f) Protection and management of wild free-roaming horses and burros, except authorizations to capture and remove excess animals.

Section 3.8—Forest Management. The Area Manager may take all the actions on:

(a) Disposition of forest products except sales of timber in excess of 10,000,000 board feet measure must be approved by the State Director or his delegate prior to advertisements.

Section 3.9—Land Use. The Area Manager may take all the listed action on:

(g) Material other than forest products not exceeding $2,000 unless authority to make sales in greater amounts is delegated to the District Manager.

(m) Grant rights-of-way over public and acquired land pursuant to 43 CFR Subpart 2811.

(o) Temporary Use Permits. (1) Issue temporary use permits for public lands within the grazing district.

(3) Issue temporary land-use permits for lands outside established grazing and forest districts when specifically authorized by the District Manager.

Section 3.10—Designation of Acting Officials.

(a) Area Managers may, by written order, designate any qualified employee of the Resource Area to perform the functions of the Area Manager in his/her absence.

(b) Each employee who serves in such capacity (a) above, shall prepare a memorandum to be kept in the District Office showing the date and hour of the commencement and termination of each period of his/her service in that capacity.

This delegation supersedes all previous Bureau Order No. 701 redelegations to Area Managers by the District Manager, Boise, Idaho.

This redelegation will be effective November 14, 1979.

D. Dean Bibles,

District Manager.

Approved: October 17, 1979.

Robert O. Buffington,

State Director.

[FR Doc. 79–35060 Filed 11–13–79; 8:45 am]

BILLING CODE 4310–84–M

[A–12162]

Arizona; Proposed Withdrawal and Reservation of Public Lands; Correction

In **Federal Register** Document No. 79–31556 appearing on Page 58971 in the issue of Friday, October 12, 1979, the serial number at the beginning of the Notice should have appeared as A–12162.

Dated: November 5, 1979.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–35058 Filed 11–13–79; 8:45 am]

BILLING CODE 4310–84–M

[Colorado 28493]

Colorado; Invitation for Coal Exploration License—Energy Fuels Corporation

November 5, 1979.

Members of the public are hereby invited to participate with Energy Fuels Corporation, a Colorado corporation, in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Routt County, Colorado:

T. 4 N., R. 86 W., 6th P.M.
Sec. 7: Lots 5, 6.
T. 4 N., R. 87 W., 6th P.M.
Sec. 11: NE¼SE¼;
Sec. 12: Lots 1, 2, 3, S½NE¼, SE¼NW¼, N½S½.
T. 5 N., R. 86 W., 6th P.M.
Sec. 21: E½E½;
Sec. 22: W½;
Sec. 27: NW¼;
Sec. 28: NE¼, NE¼NW¼.
T. 5 N., R. 87 W., 6th P.M.
Sec. 36: Lots 6 thru 9, 14, 15, W½NW¼.
Containing 1550.24 Acres.

Any party electing to participate in this proposed program must send written notice of that election to the Bureau of Land Management and Energy Fuels Corporation, directed to the following persons at the addresses shown:

Leader, Craig Team, Colorado State Office, Bureau of Land Management, Room 700,

Colorado State Bank Building, 1600 Broadway, Denver, CO 80202

and

James A. Larson, President, Energy Fuels Corporation, Three Park Central, Suite 900, 1515 Arapahoe Street, Denver, CO 80202

Such written notice must be received by both of the above indicated persons at the addresses shown not later than December 14, 1979.

The proposed exploration program is more fully described in and will be conducted pursuant to an exploration plan, as such is approved by the U.S. Geological Survey and the Bureau of Land Management, agencies of the Department of the Interior. A copy of the exploration plan, as submitted by Energy Fuels Corporation, is available for public review during normal business hours in the following office (under Serial No. C–28943): Bureau of Land Management, Room 701, Colorado State Bank Building, 1600 Broadway, Denver, Colorado.

The foregoing notice is published in the Federal Register pursuant to 43 Code of Federal Regulations, Section 3410.2–1(d)(1), 43 FR 42584 at 42614 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–35059 Filed 11–13–79; 8:45 am]

BILLING CODE 4310–84–M

Qualified Joint Bidders; Outer Continental Shelf (OCS)

As a convenience to the public, and pursuant to his authority under 43 CFR 3316, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a sworn statement of production in accordance with 43 CFR 3816.3–2(a). These statements have qualified the filers to bid jointly at OCS oil and gas lease sales during the bidding period of November 1, 1979, through April 30, 1980. This publication is not required by law or regulations. It includes the names of all possible bidders whose statements have been received in this office by the date this notice was prepared.

The following persons or companies have filed sworn statements of production as required by 43 CFR 3316.3–2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products during the production period of January 1, 1979, through June 30, 1979.

A. G. Hill
AGT Exploration Corp.
Al-Aquitaine Exploration, Ltd.
Alaskco U.S.A., Ltd.
Allied Chemical Corporation
ALMINEX U.S.A., Inc.
Amax Petroleum Corporation
Amerada Hess Corporation
American Independent Oil Company
American Natural Gas Production Company
American Petrofina Company of Texas
American Petrofina Exploration Company
American Ultramar Limited
Aminoil Development, Inc.
Aminoil USA, Inc.
Anadarko Production Company
Anschutz Corporation (The)
Apache Corporation
Arrowhead Propane Corporation
Artic Slope Regional Corporation
Atlantic Distributors Exploration Co.
Atlantic Richfield Company

Belco Petroleum Corporation
Bethlehem Steel Corporation
Brooklyn Union Gas Company

C & K Marine Production Company
C & K Offshore Company
C & K Petroleum, Inc.
Cabot Corporation
Canadian Occidental of California, Inc.
CANADIAN SUPERIOR OIL (U.S.) LTD.
Caroline Hunt Schoellkopf
Caroline Hunt Trust Estate
Case-Pomeroy Oil Corporation
Centex Oil & Gas, Inc.
Challenger Minerals, Inc.
Champlin Petroleum Company
Cities Service Company
CL & E Corporation
Clark Oil Producing Co.
CNG Producing Company
Columbia Gas Development Corporation
Columbia Gas of New York, Inc.
Conex, Inc.
Conoco, Inc.
Consolidated Edison Company of New York, Inc.
Continental Group, Inc. (The)
Corpus Christie Oil and Gas Company
Cotton Petroleum Corporation
CRA Oil Exploration Company
Crown Central Petroleum Corporation

DEPCO, Inc.
Diamond Shamrock Corporation
Dow Chemical Company

Eason Oil Company
Ecee, Inc.
Elf Aquitaine, Inc.
Elizabethtown Gas Company
El Paso Natural Gas Company
Emmet C. Wilson
Energy Development Corporation
Energy Reserves Group, Inc.
Energy Resources Corporation
Energy Ventures, Inc.
Enserch Exploration, Inc.
Entex Petroleum, Inc.
Exchange Oil and Gas Corporation
Exeter Exploration Company

Felmont Oil Corporation
Finadel, Incorporated
Florida Exploration Company
Florida Gas Exploration Company
Fluor Oil and Gas Corporation
Forest Oil Corporation
Four M Properties, Ltd.
Freeport Oil Company
Freeport Petroleum Company
Fuel Resources Inc.
Furth Oil Co.

Gas Producing Enterprises, Inc.
General American Oil Company of Texas
Getty Oil Company
Golden Eagle Refining Company, Inc.
Greenbrier Operating Co.

Hamilton Brothers Oil Company
Haroldson L. Hunt, Jr. Trust Estate
Hassie Hunt Exploration Company
Hassie Hunt, Incorporated
Hassie Hunt Trust
H.C. Price Co.
Hematite Petroleum (U.S.A.), Inc.
Highland Resources, Inc.
Houston Oil & Minerals Corporation
Hudbay Exploration, Inc.
Hunt Energy Corporation
Hunt Industries
Hunt Investment Corporation
Hunt Oil Company
Hunt Petroleum Corporation
Husky Oil Company
H.W. Bass & Sons, Inc.

ICI Delaware Inc.
Idemitsu Alaska Oil Development Corporation
Idemitsu Oil Denver Corp.
Impkemix Inc.
Isco, Inc.

Jenney Oil Company

Kerr-McGee Corporation
Knob Hill Oil & Gas Company, Inc.
Koch Industries, Inc.

Ladd Petroleum Corporation
Lamar Hunt
Lamar Hunt Trust Estate
Laurence A. McNeil
Long Island Lighting Company
Louisiana Land and Exploration Company (The)
Louisiana Land Offshore Exploration Company, Inc.

Marathon Oil Company
Margaret Hunt Trust Estate
Maruzen Oil of Alaska, Inc.
McMoRan Offshore Exploration Co.
Merrimack Valley Exploration Corporation
Mesa Petroleum Co.
Mitchell Energy Corporation
Mitchell Energy Offshore Corporation
Mono Power Company
Monsanto Company
Murphy Oil Corporation

N.B. Hunt
Narmco, Inc. (Del.)
National Exploration Company
National Fuel Gas Distribution Corporation
Natomas Offshore Exploration, Inc.
NATRESCO INCORPORATED
National Gas Corporation of California
Nelson Bunker Hunt Trust Estate
New England Energy Incorporated
Newmont Oil Company
Niagara Mohawk Power Corporation
NICOR Exploration Company
North Oil Inc.
Northern Michigan Exploration Company
Northern Natural Gas Company
Northwesterern Mutual Life Insurance Company

Ocean Oil & Company
Ocean Production Company

OCFOGO, Inc.
Orange and Rockland Utilities, Inc.
OXOCO Inc.
OKC Corp.
Oxy Petroleum, Inc.

P.R. Rutherford as Independent Executor of the Estate of Betty T. Rutherford, Deceased
Pacific Petroleums Ltd.
PanCandian Petroleum Company
Pan Eastern Exploration Company
PAN ENERGY Resources, Inc.
Paragon Petroleum, Inc.
Paul R. Haas
Pelto Oil Company
Pennzoil Company
Pennzoil Louisiana and Texas Offshore, Inc.
Pennzoil Oil & Gas, Inc.
Pennzoil Producing Company
Phillips Petroleum Company
Pinto, Inc.
Pioneer Production Corporation
Placid Oil Company
Pogo Producing Company
Prairie Producing Company
Propel Energy Company
Prosper Energy Corporation
Primary Fuels, Inc.
Pursue Energy Corporation
Pursue Offshore, Inc.

Quintana Offshore, Inc.

Reading & Bates Petroleum Co.
Reserve Oil, Inc.
Resource Production, Inc.
Rhode Island Development and Exploration Company
Rio Bravo Oil Co., Inc.
Rochester Gas and Electric Corporation
Rosewood Corporation, (The)
Rowan Petroleum, Inc.
Rutherford Oil Corporation
Rutherford Partnership (The)

Sabine Production Company
Salomon Brothers International, Inc.
Samedan Oil Corporation
Santa Fe Energy Company
Santa Fe Minerals, Inc.
Seneca Resources Corporation
So-He Drilling, Inc.
SONAT Exploration Company
South Coast Corporation (The)
Southern Natural Gas Company
Southland Royalty Company
St. Joe Petroleum (U.S.) Corporation
St. Lawrence Gas Company, Inc.
Sun Oil Company (Delaware)
SUPERIOR OIL COMPANY (The)
Syracuse Suburban Gas Company, Inc.
Supron Energy Corporation

Tenneco Exploration, Ltd.
Tenneco Exploration, II, Ltd.
Tenneco OCS Company, Inc.
Tenneco OCS Limited Partnership
Tenneco Offshore Company, Inc.
Tenneco Oil Company
Terra Resources, Inc.
Tesoro Petroleum Corporation
Texas Eastern Exploration Co.
Texas Gas Exploration Corporation
Texasgulf, Inc.
Texas Pacific Oil Company, Inc.
Texas Production Company
Texoma Production Company
Total Petroleum, Inc.
Transco Exploration Company
TransOcean Oil, Inc.

Unidel Oil Corporation
Union Oil Company of California
United States Steel Corporation

Vsea, Inc.

W.H. Hunt
Wainoco Oil & Gas Company
Weeks Petroleum Corporation
William Herbert Hunt Trust Estate
Williams Exploration Company

Zapata Exploration Company

In addition, statements of production have been received from eleven companies which produced a daily average of 1.6 million barrels or more of crude oil, natural gas and liquified petroleum products during the previous mentioned production period, and therefore are restricted from bidding jointly with each other during the bidding period of November 1, 1979, through April 30, 1980. This list appeared in the **Federal Register** of Friday, October 19, 1979, at 44 FR 60416, as corrected on Wednesday, October 24, at 44 FR 61263.

Ed Hastey,

Associate Director, Bureau of Land Management.

November 6, 1979.

[FR Doc. 79-35081 Filed 11-13-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on the Proposed Action To Eliminate or Significantly Reduce Conflicts Between Wildlife and Nonnative Animals on the Kofa National Wildlife Refute

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for eliminating or significantly reducing conflicts between wildlife and nonnative animals on the Kofa National Wildlife Refuge, Yuma County, Arizona. A public meeting regarding this proposal and preparation of the EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR, 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by December 14, 1979. A public meeting will be held in Yuma, Arizona on December 7, 1979 at 10:00 a.m.

ADDRESSED: Comments should be addressed to: W. O. Nelson, Jr., Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

The public meeting on December 7, 1979 will be held at the Yuma City-County Library, 350 South 3rd Avenue.

FOR FURTHER INFORMATION CONTACT: Milton Haderlie, Refuge Manager, Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, Arizona 85364, (602) 783-7861.

Individuals planning to attend the public meeting should notify the individual identified above.

SUPPLEMENTAL INFORMATION: Milton Haderlie is the primary author of this document. The Fish and Wildlife Service (FWS), Department of the Interior, proposes to eliminate or significantly reduce conflicts for food, water and space between wildlife species and non-native animals on the Kofa National Wildlife Refuge. The purpose of this active is to protect and enhance the wildlife and vegetative resources of the refuge to promote a maximum diversity and abundance of native plant and animal species.

Alternatives Being Considered

(1) Eliminate cattle grazing and reduce wild burro numbers. (Fish and Wildlife Service preferred alternative).

(2) Reduce cattle grazing and reduce wild burro numbers.

(3) No action.

Major Impacts Expected

(1) Significant improvement of soil and vegetative conditions.

(2) Increase in wildlife abundance and diversity.

(3) Possible adverse economic impact on present cattle grazing permittee.

The purpose of this scoping and planning process is to determine the public's attitude or concern towards the grazing of non-native animals (i.e., cattle and burros) on the Kofa National Wildlife Refuge.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the DEIS will be made available to the public by March 1, 1980.

W. O. Nelson, Jr.,

Regional Director.

November 5, 1979.

[FR Doc. 79-35062 Filed 11-13-79; 8:45 am]

BILLING CODE 4310-55-M

Office of the Assistant Secretary Land and Water Resources

Oil Shale Environmental Advisory Panel; Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on December 4, 1979, at the Tri-Arc Travel Lodge, 161 West Sixth South, Salt Lake City, Utah. The meeting will begin at 8:30 a.m. on Tuesday, December 4, and conclude at 4:30 p.m. that day.

The Panel was established to assist the Department of the Interior in the performance of its function in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The purpose of this meeting is to review a document titled, Federal Oil Shale Leasing: Leasing Options; Legal and Policy Constraints, receive reports from Interior officials and from various workgroups of the Panel, and to consider any other matters which have come before the Panel.

The meeting will be open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the Panel or submit written statements. Requests should be made to the Panel Chairman, Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 820-A, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtain from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Guy R. Martin,

Assistant Secretary of the Interior.

November 7, 1979.

[FR Doc. 79-35063 Filed 11-13-79; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

[TA-131(b)-3]

List of Articles Which May Be Considered for International Trade Negotiations; Notice of Investigation and Hearing

The Special Representative for Trade Negotiations (STR), acting pursuant to the authority delegated to him by the President (E.O. 11846, as amended by E.O. 11947) and in conformity with section 131 of the Trade Act of 1974 (19 U.S.C. 2151), gave notice on October 26, 1979 (44 FR 61715) of articles that may be considered in international trade negotiations for modification or continuance of U.S. duties, or for additional duties.

The STR has requested the Commission to furnish its advice pursuant to section 131 of the Trade Act as to the probable economic effect of increases in existing rates of duty for the articles on the list on industries producing like or directly competitive articles and on consumers.

The list, annotated with the current rates of duty for each listed article and the maximum rates of duty which may be imposed on such articles under authority of section 101(c) of the Trade Act, is published as an annex to this notice. The current rates of duty shown in rate columns numbered 1 and 2 are the same as the rates in effect as of January 1, 1975.

Investigations

In accordance with the request of the STR and the provisions of sections 101 and 131(b) of the Trade Act, the Commission, on November 6, 1979, instituted investigation TA-131(b)-3 for the purposes of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Trade Act for use in connection with the preparation of the advice requested by the STR.

Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. on Monday, November 19, 1979. All interested persons will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the public hearing should be addressed to the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and should be received not later than noon of the fifth calendar day preceding the hearing.

Written Submissions

In lieu of or in addition to appearing at the public hearing, interested persons may submit written statements. Any business information which a submitter desires the Commission to treat as confidential shall be submitted on separate sheets, each clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than November 21, 1979. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Report

At the completion of this investigation, the Commission will transmit its report to the STR. The Commission expects to transmit to the STR by December 19, 1979. The report will not be made public by the Commission.

By order of the Commission.

Issued: November 7, 1979.

Kenneth R. Mason,

Secretary.

BILLING CODE 7020-02-M

Annex

GSP	TSUS item No. 1/	Articles	Rates of Duty-- Col. 1	Col. 2	Maximum Increase Permissible 2/
		Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):			
A* 3/	135.90	Cucumbers, if entered during the period from December 1 in any year to the last day of the following February, inclusive---	2.2¢ per lb.	3¢ per lb.	4.5¢ per lb., or 2.2¢ per lb. + 20% ad val., whichever is higher
	136.20	Eggplant, if entered during the period from April 1 to November 30, inclusive, in any year------	1.5¢ per lb.	1.5¢ per lb.	2.25¢ per lb., or 1.5¢ per lb. + 20% ad val., whichever is higher
	137.10	Peppers----------	2.5¢ per lb.	2.5¢ per lb.	3.75¢ per lb., or 2.5¢ per lb. + 20% ad val., whichever is higher
	137.50	Squash----------	1.1¢ per lb.	2¢ per lb.	3¢ per lb., or 1.1¢ per lb. + 20% ad val., whichever is higher
		Tomatoes:			
	137.60	If entered during the period from March 1 to July 14, inclusive, or the period from September 1 to November 14, inclusive, in any year--------	2.1¢ per lb.	3¢ per lb.	4.5¢ per lb. or 2.1¢ per lb. + 20% ad val., whichever is higher
	137.63	If entered during the period from November 15, in any year, to the last day of the following February, inclusive----------	1.5¢ per lb.	3¢ per lb.	4.5¢ per lb. or 1.5¢ per lb. + 20% ad val., whichever is higher

1/ Tariff Schedules of the United States. The Tariff Schedules of the United States Annotated (1978) is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402; it is also available for inspection without charge at any field office of the U.S. Customs Service or the Department of Commerce and at depository libraries.

2/ Sec. 101(c) provides as follows: (c) No proclamation shall be made pursuant to subsection (a)(2) increasing any rate of duty to, or imposing a rate above, the higher of the following: (1) the rate which is 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States as in effect on January 1, 1975, or (2) the rate which is 20 percent ad valorem above the rate existing on January 1, 1975.

Current rates of duty are shown in rate columns numbered 1 and 2. Such rates are also the same as the rates in effect as of January 1, 1975.

3/ Cucumbers, the product of Mexico, provided for under TSUS item 135.90, are not entitled to duty-free treatment to developing countries under The Generalized System of Preferences.

[FR Doc. 79-34986 Filed 11-13-79; 8:45 am]
BILLING CODE 7020-02-C

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of Quarterly Meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), LEAA.

The National Minority Advisory Council will hold a quarterly meeting on December 7 and 8, 1979. The meeting will be held at the Federal Building located at 450 Golden Gate Avenue, San Francisco, California, in room 13029. The meetings are scheduled to run from 9:00 a.m. to 5:00 p.m. on both days. The metings will focus on the results of the recent public hearing on collective violence and the minority community, the Council's final report and national results conference, and future program activities. The meetings are open to the public.

Anyone wishing additional information should contact Mr. Peggy Triplett, Project Monitor, 633 Indiana Avenue, NW., Washington, D.C. 20531. Telephone number (202) 724–5933.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 79–35064 Filed 11–13–79; 8:45 am]

BILLING CODE 4410–18–M

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) and its Subcommittees will meet Thursday, Friday, and Saturday, November 29, and 30, 1979 and December 1, 1979, at the Biloxi Hilton Hotel, Biloxi, Mississippi. The meeting will be open to the public.

On Wednesday, November 28, preceding the full Committee meeting, the Executive Committee will meet at 6:00 p.m. The meeting of the full Committee is scheduled to convene at 9:00 a.m. on Thursday, November 29. The session will begin with reports from the Executive Committee and the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). At 9:45 a.m. there will be a panel discussion on diversion. At 11:15 a.m., following a brief recess, the four subcommittees: Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; Advisory Committee to the Administrator on Standards for Juvenile Justice; Advisory Committee to the Administrator of the Office, and Advisory Committee on Concentration of Federal Effort, will meet. Following a 12:30 p.m.–2:00 p.m. luncheon, the Subcommittees will reconvene in individual sessions for the remainder of the day.

On Friday, November 30 at 10:00 a.m., the full Committee will reconvene to review recommendations arising from the previous day's meetings of the Subcommittees. Following a 12:00 p.m.–1:30 p.m. luncheon, the Subcommittee on Standards and the Subcommittee on the Institute will present a joint report. This will be followed by the Subcommittee on Standards report on the workplan and reconsideration of the NAC position on sentencing. The Committee will review and discuss recommendations concerning diversion. Following a break from 3:00 p.m.–3:15 p.m., the Committee will review and make recommendations regarding reauthorization of the JJDP Act. The remainder of the afternoon will be devoted to public commentary.

The full Committee will reconvene on Saturday, December 1 at 9:00 a.m. to continue the report of the Executive Committee. This will be followed by a report on the National State Advisory Group Conference. Following a break from 11:15 a.m.–11:30 a.m., the NAC position on the Runaway Youth Act will be reconsidered. This will be followed by a review of plans for the February meeting.

For further information, contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.

David D. West,

Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79–35065 Filed 11–13–79; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (AFI); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Media Arts Panel (AFI) to the National Council for the Arts will be held December 3, 1979, from 9:00 a.m.–5:30 p.m. and December 4, 1979, from 9:00 a.m.–5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79–35066 Filed 11–13–79; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on November 29–30, 1979 at the Sandia Laboratories, Albuquerque, NM to discuss NRC-sponsored research on the safety of advanced reactors at the Sandia and Los Alamos Laboratories. Notice of this meeting was published October 18, 1979 (44 FR 60178).

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday and Friday, November 29–30, 1979. 8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to

explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants, pertinent to the above topics.

In addition, it may be necessary to hold one or more closed sessions as the Subcommittee will be considering portions of the budget and program of the Office of Nuclear Regulatory Research. Since the NRC budget proposals are now a part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular No. A–10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of its review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close one or more sessions at this meeting to prevent frustration of this aspect of the ACRS' statutory responsibilities, in accordance with Exemption (9)(B) to the Government in the Sunshine Act (552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard Savio (telephone 202/634/3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 7, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35074 Filed 11-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Issuance of Amendment To Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Provisional Operating License No. DPR–20, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to provide for an improved physics testing program and to delete portions of the Technical Specifications which are no longer applicable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 7, 1979, (2) Amendment No. 54 to License No. DPR–20, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection as the Commission's Public Document Room, 1717 H Street, N. W., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A copy of items (2) and (3) may be obtained upon requested addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of October, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-35071 Filed 11-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment incorporates in the Technical Specifications a safety limit on reactor vessel low water level and restrictions requiring that a minimum of one reactor recirculating loop shall be used during all reactor power operations to reduce the likelihood of uncoverning the reactor core during certain plant conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1979, (2) Amendment No. 30 to License No. DPR–6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of October, 1979.

For the Nuclear Regulatory Commission.

Richard D. Silver,

Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-35072 Filed 11-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-24 and Amendment No. 45 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowac County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments require a secondary water chemistry monitoring program to inhibit steam generator tube degradation. The acceptability of these new secondary water chemistry monitoring requirements is contained in our letter to Wisconsin Electric Power Company of August 1, 1979, which constitutes our Safety Evaluation of this matter.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 8, 1979, (2) Amendment Nos. 40 and 45 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related letters dated August 1, 1979 and October 30, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Document Department, University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of October, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-35073 Filed 11-13-79; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC76-5]

Basic Mail Classification Reform Schedule, 1976

November 7, 1979.

Notice is hereby given that pursuant to the "Presiding Officer's Notice Rescheduling Hearing" dated November 7, 1979, the Conference previously scheduled for November 14, 1979, in Docket No. MC76-5, is rescheduled to November 28, 1979, at 9:30 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, NW., Suite 500, Washington, D.C.

A copy of the "Presiding Officer's Notice Rescheduling Hearing" is available to all interested parties in the Commission's Docket Room at the above-listed address or by calling the Docket Room, at Area Code 202-254-3800.

David F. Harris,

Secretary.

[FR Doc. 79-35005 Filed 11-13-79; 8:45 am]

BILLING CODE 7715-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing—Miami, Fla.

The Select Commission on Immigration and Refugee Policy will hold the third of 12 regional hearings on:

Date: December 4, 1979.
Place: Bay Front Park Auditorium, 499 Biscayne Boulevard, Miami.
Time: 9-5 p.m.; 7-9 p.m.

The Miami hearing will be chaired by Secretary of Labor, F. Ray Marshall.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to admission and settlement of refugees and asylees in the United States and consideration of labor supply.

There will also be an "Open Mike" in the evening from 7-9 p.m. available to anyone wishing to address any immigration issue before the Commission. Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to assure that a wide range of views are heard and considered by the Commission. Other hearings will be held in Chicago, Denver, Los Angeles, New Orleans, New York, Phoenix, San Antonio, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the Miami hearing or about testifying at the evening session should contact: Elaine Daniels, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, NW., Washington, D.C. 20506, Telephone: (202) 395-5615.

Lawrence H. Fuchs,

Executive Director.

[FR Doc. 79-35015 Filed 11-13-79; 8:45 am]

BILLING CODE 6820-AR-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 14-A; Revision 1, Amdt. 2]

Administrative and Financial Activities; Redelegation

Correction

In the Federal Register for Tuesday, November 6, 1979, on page 64146, in the third column, in the Small Business Administration document dealing with the redelegation of administrative and financial activities, make the following corrections:

(1) Paragraph "A. *Administratives*" should read "A. *Administrative Services*".

(2) In paragraph "a.", in the third line, "FPMR 101-304-2", should read "FPMR 101-41.304-2".

(3) In the bracketed file line immediately below the signatures, "FR Doc. 79-34827" should read "FR Doc. 79-34287".

BILLING CODE 1505-01-M

[Proposed License No. 09/09-5253]

Business Venture Capital, Inc.; Notice of Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Business Venture Capital, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Samuel Gregory P. Buford, president, director, 774 Via Palo Alto, Aptos, CA 95003, 5% stockholder.
Bill James Angelos, Jr., vice pres., gen. mgr. 1416 Dalpin, Aptos, CA 95003, 5% stockholder.
Jayant S. Karmarkar, vice pres., 105 Via Trinita, Aptos, CA 95003, 5% stockholder.
Jack Wong, secretary, 9491 Olumpia Fields Dr., San Ramon, CA 94583, 85% stockholder.

The applicant, a Nevada corporation, will maintain an office at 3233 Valencia Avenue, Suite A–2, Aptos, California 95003 and will begin operations with $525,000 of paid-in capital and paid-in surplus derived from the sale of 52,500 shares of common stock to the applicant's officers and directors.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before November 29, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Aptos, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 2, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-35078 Filed 11-13-79; 8:45 am]

BILLING CODE 8025-01-M

[SBLC No. 0007]

Commercial Credit Financial Corp.; Application To Become Eligible as a Small Business Lending Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 120.4(b) of the Regulations governing small business lending companies (SBLC's) [13 CFR, 120.4(b) (1979)] under the name of Commercial Credit Financial Corporation (CCFC), 301 N. Charles St., 10th Floor, Baltimore, Maryland 21202, to become eligible to operate as an SBLC under the provisions of the Small Business Act (the Act) as amended (15 U.S.C. 634 and 636). All captial stock of Commercial Credit Financial Corporation is owned by Commercial Credit Company (CCC), an "Associate" of CCFC as defined in SBA's Rules and Regulations. Commercial Credit Company is a subsidiary of Control Data Corporation (CDC), the parent company, which has other subsidiaries in computer based education, manufacturing, and data services. Control Data Corporation, as of their 1978 Annual Report, had a net earnings of $89.5 million. Earnings distributed to stockholders were $5.8 million for the same period.

Officers of Commercial Credit Financial Corporation are as follows: Eugene Shaffer Sirbaugh, President, 1000 Saxon Hill Drive, Corkeyville, MD 21030.

Mr. Sirbaugh is President of Commercial Credit Services Corporation, Baltimore, Maryland. Jack Arthur Hedlund, Vice-President, 411 Georgia Court, Towson, Maryland 21204.

Mr. Hedlund is the Sales and Marketing Director for Commercial Credit Services Corporation, Baltimore, Maryland, and Thomas Gerome McCausland, Secretary, Round Top, Monkton, Maryland 21111.

Mr. McCausland has been counsel to Commercial Credit Company since 1956.

Commercial Credit Financial Corporation will begin operation with $500,000 initial capitalization. CCFC will initially open its office in Baltimore, Maryland. CCFC anticipates opening twelve offices each year from 1980 to 1984. Not all locations have been identified, but, it is anticipated that they will coincide with cities in which SBA offices are located. In 1980, office openings are anticipated as follows:

Baltimore, MD
Los Angeles, CA
Atlanta, GA
Denver, CO
Miami, FA
Minneapolis, MN
Dallas, TX
Chicago, IL
Cleveland, OH
San Francisco, CA
Houston, TX
Charlotte, NC

Lending will be made to any qualified small business. CCFC will *not* require borrowers to purchase, as a condition of their lending, any other services marketed by CCDC, Commercial Credit Company, Control DATA Corporation and/or any subsidiaries or affiliates of these so named concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of mangement and the probability of successful operation of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and the Regulations.

Notice is hereby given that any interested person may, not later than November 29, 1979, submit to SBA in writing, relevant comments on this company and/or its management. Communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, Attn: Danny J. Gibb, Special Assistant (202) 653–6418.

A copy of this notice shall be published in a newspaper of general circulation in Baltimore, Maryland, and all three regional editions of the *Wall Street Journal.*

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-35076 Filed 11-13-79; 8:45 am]

BILLING CODE 8025-01

[License No. 01/02-0029]

Connecticut Capital Corp.; Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1979)) for the transfer of control of Connecticut Capital Corporation (Connecticut), a Connecticut corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), with its office presently located at 419 Whalley Avenue, New Haven, Connecticut 06511.

Pursuant to an agreement entered into between the owners of all of the issued and outstanding shares of the Capital Stock of Connecticut (Sellers) and Ralph Smith, Meadowmere Road, Stratford, Connecticut, 06947, (Buyer), the Sellers have agreed to sell, and the Buyer has agreed to purchase from the Sellers, all of their Capital Stock in Connecticut. Following this transaction, all of the present shares of Capital Stock of Connecticut purchased by the Buyer are to be retired and new shares of Capital Stock of Asset Capital and Management Corporation (new name of Connecticut) will be sold to the following nine (9) parties:

Name, Address and Proposed Relationship

Ralph Smith, Meadowmere Rd., Stratford, CT, President and Director
Shelley A. Marcus, 215 Pawson Rd., Branford, CT, Secretary, Treasurer and Director
Henry I. Bushkin, 907 Whittier Dr., Beverly Hills, CA, Director
Robert R. Eisner, 180 Colony Rd., New Haven, CT, Director
Mortimer B. Marcus, 4816 Santa Ana Canyon Rd., Anaheim, CA, Director
Robert W. Scott, 68 N. Racebrook Rd., Woodbridge, CT, Director
Robert L. Sykes, Deer Run Road, Woodbridge, CT, Director
Trumbull Development, Inc., 38 Trumbull St., New Haven, CT, Stockholder
Verde Financial, Inc., 830 S. Euclid St., Fullerton, CA, Stockholder

Mr. Ralph Smith, President & Director, will be the owner of 44 percent of the new shares of Capital Stock to be issued by Asset Capital and Management Corporation; none of the other eight investors will own as much as 10 percent of its Capital Stock.

Upon completion of the foregoing transaction, Asset Capital and Management Corporation's paid-in Capital Stock and Surplus will aggregate $654,650, which amount is $405,000 greater than the present paid-in Capital Stock and Surplus of Connecticut.

The principal office of Asset Capital and Management Corporation will be located at 608 Ferry Boulevard, Stratford, Connecticut 06497 and its Manager will be Robert N. Nolting, who resides at 121 D Smoke Valley, Stratford, Connecticut.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed new Officers and Directors, and the probability of a successful operation of Asset Capital and Management Corporation under their control in accordance with the Act and Regulations promulgated thereunder.

Notice is hereby given that any person may, not later than November 29, 1979, submit written comments on this Application to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Asset Capital and Management Corporation in a newspaper of general circulation in New Haven and Stratford, Connecticut.

(Catalog of Federal Domestic Program No. 59,011, Small Business Investment Companies).

Dated: November 6, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-35077 Filed 11-13-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Tapered Roller Bearings and Certain Components Thereof from Japan; Antidumping: Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative Modification of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that the NTN Toyo Bearing Company, Ltd. of Osaka, Japan (NTN Toyo) and its subsidiary, NTN Bearing Corporation of America (NBCA) are no longer selling tapered roller bearings and certain components thereof in the United States at less than fair value. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less then the price of such or similar merchandise sold in the home market or to third countries. NTN Toyo has given assurances that in the future there will be no sales of tapered roller bearings in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*). If this action is made final, entries of this merchandise from NTN Toyo and NBCA, on or after the effective date of this notice, will no longer be liable for antidumping duties under the Act. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Al Jemmott, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; (202) 566-5492.

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to tapered roller bearings and certain components thereof, from Japan was published in the **Federal Register** on August 18, 1976 (41 FR 34974). After due investigation, it has been determined that tapered roller bearings and certain components thereof, produced and sold by NTN Toyo and NBCA, are not being, nor are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination Is Based

On June 29, 1979, a request was filed with the Commissioner of Customs on behalf of NTN Toyo and NBCA that the finding of dumping with respect to the subject merchandise from NTN Toyo and NBCA be revoked or modified without prior notice, pursuant to § 153.44(e), Customs Regulations (19 CFR 153.44(e)). That section permits immediate revocation or modification based on "unusual circumstances".

In the instant case, the circumstances cited by NTN Toyo and NBCA as unusual were:

(1) The duration of the proceeding;

(2) Financial expenses and loss of good will;

(3) The absence of any assessment of dumping duties over a 4-year period with respect to bearings manufactured by NTN Toyo and imported by NBCA.

The cited section has apparently never been cited as a basis for a modification or revocation. The provision was incorporated into the Customs Regulations following a dumping investigation conducted with regard to *Hat Bodies of Fur from Czechoslovakia.* In that case, after a "Notice of Withholding of Appraisement" was published, but prior

to the final determination, the sole U.S. producer of hat bodies ceased business and the producers of hats were forced to rely on imports to remain in business. At the petitioner's request, the investigation was "discontinued" (37 FR 11595 (1972)).

The facts in the instant case do not constitute "unusual circumstances" similar to those which occurred in the Czechoslovak Hat Bodies investigation. On the contrary, they appear to be the natural consequence of an investigation which results in a finding of dumping.

NTN Toyo alternatively requested that a Notice of Tentative Determination to Modify or Revoke a Dumping Finding be published in the **Federal Register** pursuant to § 153.44(a), Customs Regulations (19 CFR 153.44(a)).

Factors enumerated in support of this request are:

(1) Information supplied to the Customs Service which establishes that there have been no sales at less than fair value between April 1, 1974, and March 31, 1978; and

(2) NTN Toyo has provided assurances that there will be no future sales at less than fair value within the meaning of the Antidumping Act of 1921, as amended, (19 U.S.C. 160 *et seq.).*

The investigation confirmed that NTN Toyo and NBCA have not sold tapered roller bearings or components thereof in the United States at less than fair value for a period of more than 2 years since the finding of dumping.

Accordingly, notice is hereby given that the Department of Treasury intends to modify the finding of dumping with respect to tapered roller bearings and certain components thereof from Japan to exclude those manufactured by NTN Toyo and sold in the United States by NTN Toyo and its subsidiary NBCA.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than November 29, 1979. Requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than December 14, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material, and they are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential material.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

Robert H. Mundheim,

General Counsel of the Treasury.

November 6, 1979.

[FR Doc. 79-35068 Filed 11-13-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 145]

Assignment of Hearings

November 7, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB-111 (Sub-1F), Detroit, Toledo and Ironton Railroad Company Abandonment Near Napoleon and Wauseon in Henry and Fulton Counties, OH, now assigned for hearing on December 17, 1979 (5 days) at Wauseon, OH in a hearing room to be later designated.

MC 119741 (Sub-131F), Green Field Transport Co, Inc, now assigned for hearing on December 3, 1979 is canceled and reassigned to December 3, 1979 (3 days) at Detroit, MI will be held at the Radisson Cadillac Hotel, Shelby Room, 1114 Washington Boulevard.

MC 142715 (Sub-23F), Lenertz, Inc., now assigned for hearing on November 28, 1979 (3 days) at Milwaukee, WI in a hearing room to be later designated.

MC 145736 (Sub-1F), Edmund Joseph Rainville, now assigned for hearing on December 5, 1979 (3 days) at Buffalo, NY is advanced to December 3, 1979 (3 days) at Buffalo, NY in a hearing room to be later designated.

MC 145526 F, CTC Transportation, Inc., now assigned for hearing on November 28, 1979, at New Orleans, LA, will be held at the Landmark Motor Hotel, 2601 Severn Avenue, (Metairie, LA), New Orleans, LA.

MC 144678 (Sub-4F), American Freight System, Inc., a Delaware Corporation, now assigned for hearing on November 27, 1979, at Memphis, TN, will be held at the Federal Building, Room 437, 167 North Main, Memphis, TN.

MC 87103 (Sub-32F), Miller Transfer and Rigging Company, now being assigned for hearing on February 4, 1980, (1 Week) at Chicago, IL, in a hearing room to be designated later.

MC 145738 (Sub-3F), East-West Motor Freight, Inc., now being assigned for hearing on January 22, 1980 (1 Day), at Los Angeles, CA, in a hearing room to be designated later.

MC 144957 (Sub-4F), Petercliffe, Ltd., now being assigned for hearing on January 23, 1980 (3 Days), at Los Angeles, CA, in a hearing room to be designated later.

MC 48958 (Sub-166F), Illinois California Express, Inc., now being assigned for hearing on January 28, 1980 (2 Days), at Phoenix, AZ, in a hearing room to be designated.

MC 144217 (Sub-1F), Robert Hargis d.b.a. Bodee Truck Lines, Inc., now being assigned for hearing on January 30, 1980 (3 Days), at Phoenix, AZ, in a hearing room to be designated later.

MC 111548 (Sub-13F), Sharpe Motor lines, Inc, tranferred to Modified Procedure.

AB-43 (Sub-45F), Illinois Central Gulf Railroad Company Abandonment at Rio, Louisiana and Lexie Mississippi in Washington Parish, Louisiana, and Walthal County, Mississippi, now assigned on November 7, 1979 at Chicago, IL will be held in Room 3619, Kluczyski Building, 230 South Dearborn Street, instead of in Room 3619, Everett McKinley Dirksen Building, 230 South Dearborn Street.

MC 107012 (Sub-341F), Northern American Van Lines, Inc., now assigned for hearing on November 26, 1979 (1 week) at New York, NY will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 110325 (Sub-93F), Transcon Lines, a Corporation, now assigned for Prehearing Conference on December 10, 1979 at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 113963 (Sub-M1F), Heavy & Specialized Haulers, Inc., now assigned for Prehearing Conference on December 17, 1979 at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 87103 (Sub-27F), Miller Transfer and Rigging Co., now assigned for hearing on November 28, 1979 (1 day) at Columbus, OH will be held in Room No. 601 Federal Building, 200 North High Street.

MC 110988 (Sub-376F), Schneider Tank Lines, Inc., now assigned for hearing on November 29, 1979 at Columbus, OH will be held in Room No. 601 Federal Building, 200 North High Street.

MC 37165, Southern Pacific Transportation Company Rates and Classification of Iron Ore within Dallas, TX assigned for hearing November 27, 1979 at Dallas, TX is postponed to January 28, 1979 at Dallas, TX, hearing room by subsequent notice.

MC 119741 (Sub-143F), Green Field Transport Co., Inc., transferred to Modified Procedure.

MC 21060 (Sub-18F), Iowa Parcel Service, Inc., now assigned for hearing on November 26, 1979 (2 weeks) at Des Moines, IA will be held in Room No. 707, Federal Building, 210 Walnut St.

MC 141641 (Sub-9F), Wilson Certified Express, Inc., transferred to Modified Procedure.
MC 8973 (Sub-54F), Metropolitan Trucking, Inc., transferred to Modified Procedure.
MC 112304 (Sub-169F), Ace Doran Hauling & Rigging Co., now assigned for hearing on November 27, 1979 (1 day) at Kansas City, MO will be held in Room 609, Federal Office Building, 911 Walnut St.
MC 117815 (Sub-289F), Pulley Freight Lines, Inc., now assigned for hearing on November 28, 1979 (3 days) at Kansas City, MO will be held in Room No. 609, Federal Office Building, 911 Walnut St.
MC 146038 (Sub-1F), Quick Silver, Inc., now assigned for hearing on December 3, 1979 (1 week) at Kansas City, MO will be held in Room No. 609, Federal Office Building, 911 Walnut St.
MC 76993 (Sub-28F), Express Freight Lines, Inc., now assigned for hearing on November 15, 1979 (2 Days), at Milwaukee, WI is postponed to January 15, 1980 (2 Days) at Milwaukee, WI will be held in Court Room 254, Federal Building and Courthouse, 517 East Wisconsin Avenue.
MC 115331 (Sub-477F), Truck Transport Incorporated, a Delaware Corporation, transferred to Modified Procedure.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-34988 Filed 11-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 2170F]

Golden Triangle Railroad; Construction and Operation of a Line of Railroad in Mississippi

Golden Triangle Railroad (GTR), represented by Robert A. Dowdy, Attorney, Golden Triangle Railroad, c/o Weyerhaeuser Company, Tacoma, WA 98477 and John Guandolo, Macdonald & McInerny, Suite 502, Solar Building, 1000–16th Street NW, Washington, DC 20036, hereby gives notice that on the 5th day of November, 1979, if filed with the Interstate Commerce Commission at Washington, DC, and application pursuant to 49 U.S.C. 10901 for authority to construct and operate a line of railroad consisting of approximately 8.8 miles of new construction and 7.5 miles of trackage rights, together with approximately 5.5 miles of mill lead and marshalling yard tracks incidental thereto, in Lowndes County, MS. New construction will begin at the South boundary line of the Northwest ¼ of Section 7, T17N, R18E and end at a point on centerline of the Illinois Central Gulf Railroad in the North ½ of the Southwest ¼ of Section 35, T19N, R17E, Lowndes County, MS. From the point on centerline of Illinois Central Gulf mentioned above the Golden Triangle Railroad will operate over Illinois Central Gulf Railroad trackage for a distance of 5.25 miles to a connection with the St. Louis-San Francisco Railway. A new connection track will be constructed between the Illinois Central Gulf Railroad and St. Louis-San Francisco Railway. New construction will commence at Illinois Central Gulf Mile Post 15.03 and end at the St. Louis-San Francisco Railway Mile Post R–648.55. The Golden Triangle Railroad will then operate over St. Louis-San Francisco trackage for a distance of approximately 2.25 miles to a proposed interchange facility for both the St. Louis-San Francisco Railway and Southern Railway System. The Columbus and Greenville Railway may participate in this proposed interchange yard as well.

Applicant proposes to construct a new line of railroad to serve a proposed Weyerhaeuser Company pulp and paper mill complex, and any other industries that may choose to locate on the new line.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of an effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. *See Implementation—Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-34989 Filed 11-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 203]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of protest must be served on the applicant, or its authorized representative, if any, and the protestant must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type or equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 108589 (Sub-21TA), filed July 5, 1979. Applicant: EAGLE EXPRESS COMPANY, Post Office Box 12047, Lexington, Kentucky 40580. Representative: Michael Spurlock, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, Ohio 43215. Temporary Authority sought to operate as a *common carrier,* over regular routes, transporting: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lexington, KY and TN-KY state line, serving all intermediate points between Corbin, KY (including Corbin) and the TN-KY state line. From Lexington, KY over Interstate Hwy. 75 to Corbin, KY, then over U.S. Hwy. 25W to

TN-KY state line, and return over the same route. (2) Between Corbin, KY and Middlesboro, KY, serving all intermediate points. From Corbin, KY over U.S. Hwy. 25E to Middlesboro, KY and return, serving all intermediate points. (3) Serving all points in the following KY counties: Bell, Knox and Whitley, as off route points in connection with the above route authority and applicant's presently authorized service routes. (4) Alternate routes for operating convenience only: (a) Between Stanford, KY and Mount Vernon, KY, serving no intermediate points, and serving the termini for purposes of joinder only. From Stanford, KY over U.S. Hwy. 150 to Mount Vernon, KY, and return over the same route. (b) Between Somerset, KY and the junction of KY Hwy. 80 and Interstate Hwy. 75, serving no intermediate points, and serving the junction of KY Hwy. 80 and Interstate Hwy. 75 for the purpose of joinder only. From Somerset, KY over KY Hwy. 80 to junction of KY Hwy. 80 and Interstate Hwy. I–75 and return over the same route. (c) Between the junction of KY Hwy. 92 and U.S. Hwy. 25 and the junction of KY Hwy. 92 and U.S. Hwy. 27, serving no intermediate points and serving the termini for purposes of joinder only. From the junction of KY Hwy. 92 and U.S. Hwy. 25 over KY Hwy. 92 to junction U.S. Hwy. 27, and return over the same route. (d) Between Corbin, KY and the junction of U.S. Hwy. 25W and Interstate Hwy. 75 near Williamsburg, KY, serving no intermediate points, and serving the termini for purposes of joinder only. From Corbin, KY over Interstate Hwy. 75 to the junction of U.S. Hwy. 25 and Interstate Hwy. 75, near Williamsburg, KY, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Approximately 32 supporting shippers. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 P.O. Bldg., Louisville, KY 40202.

MC 108589 (Sub-22TA), filed July 5, 1979. Applicant: EAGLE EXPRESS COMPANY, Post Office Box 12047, Lexington, Kentucky 40580. Representative: Michael Spurlock, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Lexington, Kentucky and Mount Vernon, Kentucky, from Lexington, Kentucky over U.S. Interstate Hwy. I–75 to junction U.S. Hwy. 25 at or near Richmond, Kentucky, thence, over U.S. Hwy. 25 to Mount Vernon, Kentucky, and return over the same route. (2) Serving all points in Madison County as off-route points with the above route authority and applicant's presently authorized service routes. (3) Alternate route for operating convenience only: (a) Between Somerset, Kentucky and Mount Vernon, Kentucky, serving no intermediate points. From Somerset, Kentucky over Kentucky Hwy. 80 to junction Kentucky Hwy. 461, thence over Kentucky Hwy. 461, to junction U.S. Hwy. 150, thence over U.S. Hwy. 150 to Mount Vernon, and return over the same route. (b) Between Stanford, Kentucky and Mount Vernon, Kentucky, serving no intermediate points and serving Stanford, Kentucky for the purpose of joinder only. From Stanford, Kentucky, over U.S. Hwy. 150 to Mount Vernon, Kentucky, and return over the same route. (c) Between Mount Vernon, Kentucky and London, Kentucky, serving no intermediate points, and serving London, Kentucky for the purpose of joinder only. From Mount Vernon, Kentucky over Interstate Highway I–75 to London, Kentucky and return over the same route. Supporting Shipper(s): There are 12 supporting shippers to application. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 P.O. Bldg., Louisville, KY 40202.

MC 108859 (Sub-69TA), filed May 16, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., No., Escanaba, MI 49829. Representative: Elmer J. Wery, 2666 Gross Ave., P.O. Box 3548, Green Bay, WI. On October 5, 1979, the Motor Carrier Board granted the application as requested, including the right of applicant to tack with its existing authority at Green Bay, WI. The **Federal Register** notice of June 26, 1979, omitted applicant's intention to tack. Petitions for reconsideration may be filed within 20 days from the date this notice is published. Send petitions to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

MC 113678 (Sub-833TA), filed August 16, 1979, and published in the **Federal Register** issue of October 11, 1979, and republished as corrected this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). Common, over irregular routes, Meats, meat products, meat by-products, articles distributed by meat packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Section A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except skins, hides, and pieces thereof, and commodities in bulk in tank or hopper vehicles, (1) between the facilities of Lauridsen Foods, Inc., located at or near Britt, IA, on the one hand, and, on the other, points in the United States (except AK, HI, and IA); (2) from Mason City, IA to points in the United States (except AK, CT, DE, HI, IL, IN, IA, KY, ME, MD, MA, MI, NE, NJ, NY, PA, and DC) and Chicago, IL and points in its commercial zone in IN, and IL; and (3) from points in the United States (except AK, HI, and IA) to Mason City, IA, restricted to the transportation of traffic originating at, and destined to, the points named in parts (1), (2), and (3) above. Supporting shipper(s): Armour & Company, Greyhound Towers, Phoenix, AZ 85077. Send protests to: H. C. Ruoff, 492 U.S. Customs House, Denver, CO 80202. The purpose of this republication is to show the correct type of authority as COMMON in lieu of GENERAL COMMODITIES as previously published.

MC 135598 (Sub-29 TA), filed July 17, published in the **Federal Register** August 29, 1979, and republished this issue. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl Steiner, 39 S. LaSalle St., Chicago, IL 60603. By decision entered October 19, 1979, the Motor Carrier Board granted applicant, 60 day temporary authority commencing November 15, 1979 to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the facilities of Bethlehem Steel Corp., at Burns Harbor, IN, and the facilities of United States Steel Corp., at Garry, IN to points in Illinois on and south of U.S. Hwy 136, and points in Iowa on and south of U.S. Hwy 30 and east of Interstate Hwy 35. Supporting shipper: United States Steel Corp. 1000 E. 80th Place, Merrillville, TN. Any interested party may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. Purpose of this republication is to show U.S. Hwy 136 in IL instead of U.S. Hwy 30, and points in Iowa instead of points in Illinois, inadvertantly shown in **Federal Register** publication.

MC 143059 (Sub-81 TA), filed May 16, 1979, and published in the **Federal Register** issue of June 21, 1979, and

republished as corrected this issue. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, Attorney, 1600 Citizens Plaza, Louisville, KY 40202. Iron and Steel Pipe, (1) From Houston and Rosenberg, TX, to points in FL, KY, LA, MS, OK, and PA (except from or to the facilities of Edison Pipe and Tubing, Inc.) ; and (2) from Wheeling, WV, to points in LA, TX, and OK (except from or to facilities of Edison Pipe and Tubing, Inc.) An underlying ETA seeks 90 days authority. Supporting shipper(s): Karl Kimler, Salesman, Edison Pipe & Tubing, Inc., 721 Olive St., Chemical Bldg., St. Louis, MO 63101. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, KY. 40202. The purpose of this republication is to show Oklahoma as a destination point as previously omitted.

MC 146578 (Sub-12 TA), filed June 15, 1979. Applicant: PALMETTO MOTOR LINES, INC., P.O. Box 6445, Spartanburg, SC 29304. Representative: Nina G. Shults, P.O. box 6445, Spartanburg, SC 29304. Can ends or tops, flat or nested; containers, sheets, iron or steel, S.U.; plate, tin, iron and steel, plain from Spartanburg County on the one hand, and, on the other, points in Louisana and Florida. Supporting shipper(s): Crown Cork & Seal Company, Inc., 9300 Ashton Road, Philadelphia, PA 19136. Send protests to: E. E. Strotheid, D/S IXX, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

By The Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-34987 Filed 11-13-79; 8:45 am]

BILLING CODE 7035-01-M

Republications of Grants of Operating Rights; Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Federal Register Notice

MC 119968 (Sub-6) (3rd republication), filed October 2, 1972, previously noticed in the **Federal Register** issues of November 9, 1972, November 23, 1972, July 24, 1979, and republished this issue. The republication in the issue of July 24, 1979, is revoked and superseded in its entirety by this republication. Applicant: A. J. WIEGAND, INC., 1046 North Tuscarawas Ave., Dover, OH 44822. Representative: Terrence D. Jones, 2033 K St., N.W., Suite 300, Washington, D.C. 20036. In accordance with the June 22, 1979, decision of the Commission, served June 25, 1979, as modified by our decision, served September 1979, this proceeding is reopened for further consideration. On August 28, 1979, the United States Court of Appeals for the District of Columbia Circuit, in *Chemical Leaman Tank Lines, Inc., et al.* v. *Interstate Commerce Commission, et al.*, No. 78–2055, granted the Commission's request to remand the record therein so that the Commission could reconsider its decision served November 3, 1978 in Docket No. MC 119968 (Sub-6) with instructions that any interested member of the public shall have the right to file protest and seek participation in the remanded proceedings pursuant to the Commission's normal rules of practice. On September 1979, we modified our June 22, 1979 decision reopening the case to permit all interested members of the public to participate in accordance with the Court's instructions. The authority sought by A. J. Weigand, Inc. in Commission Docket MC 119968 Sub-6 is republished below. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from Dover, OH to points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI; and (2) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI, to Dover, OH.

Note.—(1) The purpose of this republication is to give notice of Applicant's intention to tack the sought authority with its existing authorities as follows: (A) Applicant states that it intends to tack at Dover, OH, the authority sought in (1) and (2) above; (B) Applicant also states that the requested authority duplicates that authority it holds in certificate No. 119968, authorizing transportation of: (1) *such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank vehicles), between the same above-named destinations and origins; and (2) *machinery, equipment, materials, and supplies* used by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the lower peninsula of MI, to Dover, OH; (C) Applicant intends to tack the authority it seeks in Docket MC 119988 Sub 6 with its existing authorities in (B) above; (2) Any interested member of the public shall have the right to file a protest and seek participation in the remanded proceedings pursuant to the Commission's normal rules of practice. An original and one copy of a petition to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Parctice (49 CFR 1100.247) including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding. A copy of the pleading shall be served concurrently upon the applicant's representative. (3) All material previously submitted by the parties to this proceeding will remain a part of the record and will be considered by the Commission.

MC 12990 (Republication), filed April 5, 1966, previously noticed in the FR issue of April 28, 1966. Applicant: CATHERINE HOWLETT SCOTT, d.b.a. KIT SCOTT TOURS, 5819 Vicksburg St., New Orleans, LA 70124. Representative: Robert J. Fineran, 755 Carondelet Street, New Orleans, LA 70130. A Decision of the Commission, Division 2, decided June 11, 1979, and served June 15, 1979, and corrected by decision October 30, 1979, finds that the authority of MC 12990 be reinstated to authorize applicant to engage in operations as a *broker* at New Orleans, LA in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in special and charter operations, in round trip tours, beginning and ending at New Orleans, LA, and extending to points in the United States (except points in AK and HI). The purpose of this republication is to indicate the reinstatement of applicant's authority.

MC 144980F (Republication), filed June 20, 1978, previously noticed in the FR issue of September 7, 1978. Applicant: LEWIS PERRY, d.b.a. LEWIS PERRY WRECKER SERVICE, 101 South Main Street, Ashland City, TN 37015. Representative: Jimmy P. Lockert, 105 Sycamore Street, Ashland, City, TN 37015. A Decision of the Commission, Review Board Number 1, decided May

18, 1979, and served May 23, 1979, finds that operation by applicant, as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *disabled motor vehicles* from points in the United States (except AK, HI, and TN) to Ashland City, TN, and (2) *replacement vehicles for disabled motor vehicles*, in the reverse direction, by use of wrecker equipment only, under continuing contracts with State Industries, Inc., Saunders Leasing Equipment, Inc., and Shearon Trucking Co., all of Ashland City, TN will be consistent with the public interest and national transporation policy. Applicant is fit, willing, able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to indicate the addition of part (2), and to also show the contracting shipper as Saunders Leasing Equipment, Inc. in Lieu of Leasing Equipment, Inc.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-34990 Filed 11-13-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 221
Wednesday, November 14, 1979

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

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[M-254, Amdt. 5; Nov. 8, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the November 7, 1979, meeting agenda.

TIME AND DATE: 2:30 p.m., November 7, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 11a. Dockets 37010 and 37012 Altair Airlines request for unused nonstop route authority between New Bern, North Carolina, and the following cities: Raleigh/Durham, Richmond, and Washington, and for an exemption from the provisions of section 401(d)(5)(A) with respect to one market (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 11a was added to the November 7, 1979 agenda because this matter could not be brought to the Board in time to give the usual seven days' notice. The application was filed October 31; action is required by November 7. A carrier has objected to the request and the staff has asked that we discuss it in an open Board meeting rather than act by notation. Therefore agency business requires the addition of Item 11a to the agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2218-79 Filed 11-9-79; 3:26 pm]

BILLING CODE 6320-01-M

2

[M-255, Nov. 8, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., November 15, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Docket 36138, Application of Alia—The Royal Jordanian Airlines Corporation and Syrian Arab Airlines for blind sector authority, on their Amman/Damascus-U.S. flights, between Amman/Damascus and Amsterdam/Vienna. (Memo No. 9260, BIA, OGC, BALJ)

3. Dockets 34266 and 34274; Applications of Lelco, Inc., d/b/a Air Berlin USA for Ft. Lauderdale/Tampa/Orlando-Brussels-Berlin exemption authority and Aeroamerica, Inc. for Munich/Frankfurt-Berlin exemption authority. (Memo. 9272, BIA, OGC)

4. Docket 35499; Application of EF Institute for Cultural Exchange, Inc. for exemption authority pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended. (Memo No. 9273, BIA, OGC, BALJ)

5. Docket 36062, Application of Walsten Air Service Limited for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (Memo No. 9529, BIA, OGC, BALJ)

6. Docket 35568, Final rule to deregulate foreign air freight forwarders. (BIA, OGC, BDA, BALJ, BCP)

7. Docket 35937, Petition by Glenda B. Gordon and the Aviation Consumer Action Project for a rule that would require air carriers to explain how they depreciate a passenger's claim for compensaton for lost, damaged or delayed baggage. (Memo No. 9271, OGC)

8. Docket 36439, *Rich International Airways, Inc. Show-Cause Proceeding.* (Memo No. 9044-B, OGC)

9. Dockets 28848 and 29968; *Improved Authority to Wichita Case,* and *Louisville Service Case. (Memo No. 9274, OGC)*

10. Docket 31571, *Northwest Alaska Service Investigation,* Petitions for Reconsideration of Order 79-8-132. (OGC)

11. Docket 36275, *Dallas/Fort Worth-Tulsa Show Cause Proceeding.* (Memo No. 8906-B, BDA)

12. Dockets 36187, 36323, 36335, and 36349; *Atlanta-Nashville Show-Cause Proceeding;* Applications of Continental, Piedmont and Western for Atlanta-Nashville Authority. (Memo No. 8612-B, BDA)

13. Dockets 35933, 36158, 36161, 36167, 36250, 36163, and 36168; TWA's application for Certificate Authority under Subpart Q for Miami-Columbus, Ohio/Kansas City authority; Conforming Subpart Q applications of Western, Ozark, USAir and Air Florida, respectively; Continental's application for Miami-Kansas City authority; United's application and motion to modify scope for Kansas City-Miami/Fort Lauderdale/West Palm Beach/Orlando/Sarasota-Bradenton/Fort Myers/Tampa-St. Petersburg-Clearwater authority; USAir's amended Subpart Q application in Docket 36167. (Memo No. 9143-A, BDA)

14. Dockets 30382, 31146, 31170, 32188, 35651, and 36829; Applications of Eastern, Evergreen Mackey, Transamerica (formerly TIA), and TWA for certificates of public convenience and necessity for service between points in the United States and Bermuda. (Memo No. 9267, BIA, OGC, BALJ)

15. Dockets 33789, 33808, 33868, and 34594; Certificates of Air Florida and Southwest Airlines issued pursuant to section 105(c) of the Act. (Memo No. 8931-A, OGC)

16. Docket 34774, Petitions for reconsideration of Order 79-8-53 filed by the Texas Aeronautics Commission, the Chamber of Commerce of Lamar County, Texas, and the City of Paris, Texas, and the appeal to this order filed by Ponca City, Oklahoma. (Memo No. 8060-G, BDA, OCCR)

17. Docket 32797—*Application of Corporacion Aeronautica de Carga, S.A.,* for Miami/Houston-Panama cargo foreign permit—Order on ALJ decision denying the permit. (Memo No. 9268, OGC)

18. Docket 33634, Aeroamerica, Inc., Exemption to operate scheduled air transportation between Seattle/Portland and Honolulu. (Memo No. 8248-H, BDA)

19. Dockets 36971 and 36811; Sixty Day Notice of Air New England for suspension of nonstop or single plane service in eight markets; application or Air New England for an exemption form the notice requirement. (BDA)

20. Docket 28068, *Service to Harlingen Case.* (OGC)

21. Docket 36750, Continental Air Lines' notice of intent to terminate service at Hilo, Hawaii under section 410(j) of the Act. (BDA, OCCR)

22. Docket 36894, 30-day notice of Polar Airlines of intent to terminate service at Tok Junction, Tanacross, Gulkana, Northway and Delta junction, Alaska. (BDA)

23. Docket 36463, Ozark's notice under section 401(j)(1) to terminate its certificate obligation at Owensboro, Kentucky. (BDA, OCCR)

24. Docket 36464, Ozark's notice under section 401(j)(1) to terminate its certificate obligation at Clinton, Iowa. (BDA, OCCR)

25. Docket 36600, Braniff's ninety day notice of suspension of all service at Little Rock, Arkansas. (BDA, OCCR)

26. Docket 36800, Braniff Airways' ninety day notice of suspension of all service at St. Louis, Missouri. (BDA, OCCR)

27. Dockets 36754, 36924, and 36855; Applications of Altair, Mississippi Valley, and Ransome, commuter air carriers, for exemption to permit them to suspend service

at certain points on less than the 90-days' notice required in connection with joint fares. (BDA)

28. Dockets 34203 and 34666; USAir's and Ransome's Notices to Suspend Service at Catskill/Sullivan County, New York. (BDA)

29. Docket 34793, Essential Air Transportation at Bisalia, CA. (BDA)

30. Docket 32484,The first review of Class Rate IX. (BDA)

31. Proposed Rule to Incorporate the Passenger Origin-Destination Survey into the Reporting Requirements of Part 241, Uniform System of Accounts and Reports for Certificate Carriers. (OEA, OC, BCAA, BDA, BIA, OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S-2219-79 Filed 11-9-79; 3:26 pm]

BILLING CODE 6320-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 1 p.m., November 15, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677).

MATTERS TO BE CONSIDERED:

Application for Holding Company Acquisition: Far West Financial Corp., Newport Beach, California—State Mutual Savings and Loan Association, Newport Beach, California Acquisition and Merger into Bell Savings and Loan Association, San Mateo, California

Application for Holding Company Acquisition and Merger: MCA, Inc., Universal City, California to acquire Pioneer Savings and Loan Association, Montrose, Colorado and merger into Columbia Savings and Loan Association, Englewood, Colorado

Announcement is being made at the earliest practicable time.

No. 290, November 9, 1979.

[S-2217-79 Filed 11-9-79; 2:42 pm]

BILLING CODE 6720-01-M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, November 16, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 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 agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: November 8, 1979.

Griffin L. Garwood,

Deputy Secretary of the Board.

[S-2213-79 Filed 11-9-79; 11:03 am]

BILLING CODE 6210-01-M

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Monday, November 19, 1979.

PLACE: Hearing Room "A", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Rock Island Directed Service.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone (202) 275–7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2214-79 Filed 11-9-79; 12:20 pm]

BILLING CODE 7035-01-M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–2211–79, to be published November 13, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, November 15, 1979, 2 p.m. [NM–79–40].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires canceling this meeting.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 9, 1979.

[S-2215-79 Filed 11-9-79; 2:42 pm]

BILLING CODE 4910-58-M

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: Wednesday, November 21, 1979, [NM–79–41].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the fourth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report*—Multiple Vehicle Median Barrier Crossover and Collision, Grand Central Parkway, New York City, N.Y., June 8, 1979, and *Recommendations* to the New York State Department of Transportation; the New York City Department of Transportation; the Commissioner, New York City Police Department; the Governor of the State of New York; and the National Highway Traffic Safety Administration.

2. *Marine Accident Report*—Sinking of M/B SIDS in the Atlantic Ocean near Absecon Inlet, Atlantic City, N.J., January 18, 1978, and *Recommendations* to the United States Coast Guard.

3. *Marine Summary Reports* and *Recommendation* to the U.S. Army Corps of Engineers.

4. *Order*—Petition of Flaten, Dkt. SM–2214; disposition of Administrator's Petition for Reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 9, 1979.

[S-2216-79 Filed 11-9-79; 2:42 pm]

BILLING CODE 4910-58-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: November 8 and 15, 1979.

PLACE Commissioners' Conference Room, 1717 H St., NW, Washington, D.C.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Thursday, November 8, 3 p.m.

Discussion of Response to White House Request for NRC Views on Recommendations of Presidential Commission on TMI–2 (approximately 2 hours, closed—Ex. 2).

Thursday, November 15, 9:30 a.m.

Time reserved for possible Discussion of Shorter Pilings in Bailly (if not affirmed 11/14) (approximately 1 hours, closed—Ex. 10).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-2220-79 Filed 11-9-79; 3:26 pm]

BILLING CODE 7590-01-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: November 13 and 14, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Tuesday, November 13, 9:30 a.m.

1. Discussion of Personnel Matter (approximately 2 hours), closed—exemption 6) (continued from 11/6/79).

Wednesday, November 14, 1:30 p.m.

1. Discussion of Proposed Amendments to 10 CFR Part 50, Sections 50.33, 50.54 & Appendix E; Plans for Coping with Emergencies at Production & Utilization Facilities (Approximately 2 hours, public meeting).
2. Discussion of Review of Delegations of Authority Within NRC (Approximately 1 hour, public meeting).
3. Affirmative Session (Approximately 5 minutes, public meeting) (items are tentative).
   a. Kranish FOIA Appeal (79–A–6C) rescheduled from 11/7/79
   b. Review of Uncontested Matters
   c. Shorter Pilings in Bailly

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–2221–79 Filed 11–9–79; 3:26 pm]

BILLING CODE 7590–01–M

10

POSTAL SERVICE: (Board of Governors).

Notice of Vote to Close Meeting

On November 6, 1979, the Board of Governors of the United States Postal Service voted to close to public observation a potion of its meetng currently scheduled for December 4, 1979. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, Robertson, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies concerning future postal ratemaking.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management or ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempt from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and §§ 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–2212–79 Filed 11–8–79; 4:10 pm]

BILLING CODE 7710–12–M

federal register

Wednesday
November 14, 1979

Part II

Department of Energy

Office of Conservation and Solar Energy

Procedures for Preliminary Energy Audits and Guidelines for Buildings Plans, Final Rule

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 436

Federal Energy Management and Planning Programs; Procedures for Preliminary Energy Audits and Guidelines for Buildings Plans

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The Department of Energy (DOE) is issuing final rules to establish procedures for the conduct of, and reporting on, preliminary energy audits of Federal buildings in order to develop data regarding their energy consumption characteristics. These final rules also contain guidelines for preparation of 10-year Buildings Plans by each affected Federal agency to reduce consumption of non-renewable energy resources in Federal buildings principally for heating, ventilation, cooling, domestic hot water, and lighting.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT:

William H. Rhodes, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Avenue, NW, Washington, D.C. 20585, 202–376–4017.

Neal J. Strauss, Office of the General Counsel, Department of Energy, 20 Massachusetts Avenue, NW, Washington, D.C. 20585, 202–376–9472.

Mark Friedrichs, Office of Policy and Evaluation, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20461, 202–252–4455.

SUPPLEMENTARY INFORMATION:

A. Introduction

On April 26,1979, DOE published proposed rules (44 FR 24800) to establish procedures for the conduct of preliminary energy audits of Federal buildings and guidelines for preparation of 10-year Buildings Plans to reduce consumption of non-renewable energy sources in Federal buildings.

DOE received 17 written comments and one person testified at a hearing held in Washington, D.C. on May 24, 1979. Many suggestions were made, a number of which resulted in changes to the final rules.

These final rules will be promulgated as subparts B and C of Part 436 of Title 10 Code of Federal Regulations (10 CFR Part 436) which is entitled "Federal Energy Management and Planning Programs."

Part 436 comprises the DOE rules for conservation and solar programs for Federal energy use under Section 381 of the Energy Policy and Conservation Act, as amended, (EPCA), Executive Order 11912, as amended (Executive Order), and Title V of the National Energy Conservation Policy Act (NEPCA). The subparts which are expected to be included are:

- Subpart A—Methodology and Procedures for Life Cycle Cost Analyses for Federal Buildings;
- Subpart B—Procedures for Preliminary Energy Audits;
- Subpart C—Guidelines for Buildings Plans;
- Subpart D—Solar in Federal Buildings Demonstration Program Rules;
- Subpart E—Federal Photovoltaic Utilization Program Rules; and
- Subpart F—Guidelines for Energy Management in General Operations of the Federal Government.

Section 381 of the EPCA requires the President to develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by the Executive agencies as defined in 5 U.S.C. 105 and the United States Postal Service (Federal agencies). The 10-year plan is to include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards. Section 381 further requires reporting, by the President to the Congress, on the steps taken each year in the development and implementation of the 10-year plan.

Under the Executive Order and by operation of Section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, the Secretary of the DOE (Secretary) is responsible for developing the 10-year plan, with the concurrence of the Director of the Office of Management and Budget (OMB) and in consultation with the heads of certain other Federal agencies.[1]

The Executive Order sets out a framework for the development and implementation of the 10-year plan which includes:

- 20 percent and 45 percent goals, measured on a Btu per gross square foot (g.s.f.) basis, for reduced energy use from 1975 to 1985 for Federally-owned existing and new buildings, respectively;
- A limitation on Federal leasing of new buildings to those which will likely meet or exceed the 45 percent goal for new Federal buildings;
- 10-year buildings plans by each of the affected Federal agencies (Buildings Plans), to be submitted to DOE, and designed to the maximum extent practicable to meet the 20 percent and 45 percent goals by cost-effective improvements in existing Federal buildings and by cost-effective designs for new Federal buildings, respectively;
- DOE guidelines, issued with the concurrence of the Director of the OMB and after consultation with the heads of certain other Federal agencies, establishing requirements and procedures for the Buildings Plans to be submitted to DOE;
- The conduct of, and reporting on, preliminary energy audits of important energy consumption characteristics of Federal buildings;
- Systematic life cycle costing procedures for adoption and use by Federal agencies;
- Budgeting for implementation of the Buildings Plans; and
- Federal agency reporting to the President, through DOE, on the progress made each year under the Buildings Plans.

The Executive Order also requires that each Executive agency submit to the DOE an overall energy management plan for conserving fuel and energy in all its operations. The overall plan is intended to be in addition to and include the agency's Buildings Plan. Reporting on the progress of the non-buildings aspects of overall plans would be handled in conjunction with reporting on Buildings Plans, discussed above.

Title V, Part 3, of the NECPA builds upon the approach of the Executive Order for developing and implementing the 10-year plan under the EPCA for energy conservation with respect to Federal buildings. The NECPA requires the Secretary, in consultation with the heads of other agencies, to establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings and to develop and prescribe the procedures to be followed in applying these methods and in conducting preliminary energy audits. All new Federal buildings are to be cost effective as determined by DOE-established life cycle costing methods, with life cycle cost rather than initial cost being the basis for cost evaluation of new building designs. Federal agencies are required to conduct preliminary energy audits of their existing buildings, with some exceptions, and to report the results to the Secretary. The Secretary is required to provide reports based upon this information to the Congress.

The NECPA further requires each Federal agency by 1990 to have retrofitted all of its buildings for which preliminary energy audits have been

[1] While the Executive Order speaks of "Executive agencies," the effect of section 501 of the NECPA, 92 Stat. 3275, is to make many of the Executive Order provisions regarding the 10-year plan applicable to Executive agencies as defined by 5 U.S.C. 105 and the United States Postal Service. These agencies are referred to in this notice as "Federal agencies."

performed so as to minimize life cycle costs to the extent consistent with basic requirements for the occupation and use of the buildings. Actions or arrangements for at least one percent of this work must be undertaken in FY 1980, with at least two and three percent increases in FY 1981 and FY 1982.

The NECPA also has requirements for:

- The development of Federal building energy performance targets, a target being a rate of energy consumption which is the minimum practically achievable, taking into account life-cycle cost, by adjusting maintenance and operating procedures, or by modifying a Federal building's equipment or structure, or both;
- A preference in Federal agency leasing for buildings which use solar heating and cooling equipment or other renewable resources or which otherwise minimize life cycle costs;
- Identification of funds requested in the President's Budget for retrofit measures undertaken under Title V, Part III, of the NECPA and for the portion of any other funds requested which represent to the maximum extent practicable the initial costs of equipment for energy conservation or the utilization of solar energy and other renewable energy sources in new buildings; and
- Periodic information from the Federal agencies to the Secretary on their progress under Title V, Part III, of the NECPA, with the Secretary submitting to the Congress an annual report based upon this information.

B. Summary of Comments on the Proposed Rule and DOE Responses

1. Department of Energy Role in Federal Energy Management

Several commentors suggested that DOE had exceeded its role in the management of Federal energy activities by proposing rules which, it was argued, were too detailed, inappropriate and unworkable. It was suggested that DOE issue broad and "simplistic" guidelines, leaving their application and implementation to the discretion of each Federal agency.

Both the President and the Congress intend that the DOE play a leadership role in promoting progress in energy conservation by Federal agencies. The DOE was specifically given guideline-setting authority for the purpose of exercising leadership in establishing generally applicable policies and a detailed framework for improved planning by Federal agencies to conserve building energy use on a life cycle cost effective basis. To issue a set of broad, "simplistic" guidelines, without any requirements or procedures to insure meaningful planning to achieve building energy conservation goals, would be inconsistent with Presidential and Congressional mandates and would frustrate the very purpose the guidelines are supposed to serve. While DOE has solicited Federal agency comments on specific provisions of the proposed guidelines and has made modifications where provisions were shown to be unworkable or unduly burdensome, DOE has rejected suggestions for changes which would reduce the guidelines to a set of broad generalities about planning. DOE believes that the final guidelines strike a satisfactory balance in terms of the level of detail and are fully consistent with the letter and the spirit of the EPCA, the Executive Order and the NECPA.

2. Building Access Management

Two comments were received concerning transportation energy conservation. The commentors found the proposed rule lacking in that it did not mention such energy-saving practices as encouraging the use of mass transit, full-cost parking charges, and the practicality of non-automobile access. The subject of transportation energy conservation is currently being considered in developing guidance for agency planning to conserve energy in "general operations". This guidance is to be published as Subpart F of 10 CFR Part 436. It is, however, beyond the scope of the guidelines for Buildings Plans which concern energy used primarily for space heating and cooling, lighting and domestic hot water.

3. Application of Guidelines to Leased Federal Buildings

In the preamble to the proposed rulemaking, DOE invited comments with respect to the application of the guidelines to leased new and existing Federal buildings. Comments were received from three agencies.

The problems raised in the comments were principally concerned with existing buildings, covered by ongoing lease agreements, rather than with new buildings, where energy conservation concerns can be more easily negotiated as part of the lease agreement. Questions were raised about the feasibility of applying energy reduction goals, and energy conserving operation and maintenance and retrofit measures, to leased existing buildings. However, none of the commentors advanced suggestions for modifying the guidelines by adding or deleting specific language.

While it will undoubtedly be more difficult to deal with leased buildings, DOE believes that the guidelines provide sufficient flexibility for agencies to minimize those difficulties. For instance the guidelines only require "practicable" efforts to achieve energy conservation goals, and while agencies are expected to pursue those goals to the "maximum extent" practicable, there is no requirement to make investments in leased buildings which are contrary to other law, existing lease agreements or not cost-effective to the Government. Thus, if the lessor is unwilling to negotiate modifications of leasing agreements, there is little to be done other than to consider whether to relocate once the lease expires. Furthermore, the guidelines require agencies to plan on investing only in "life cycle cost effective" energy conservation measures. Agencies will not have to make such investments where the energy cost savings will not accrue to the United States or where the effective remaining term of the lease is so short that an investment would not be cost effective or would be a low priority, marginally cost effective investment. Finally, with respect to existing leased buildings, agencies have considerably more flexibility than they will have regarding owned buildings since they will have the discretion to set their own goals in light of the peculiar characteristics of their inventory of leased buildings.

One commentor suggested that guidelines for leased buildings be completely separated from those for owned buildings and made more flexible. DOE does not perceive any advantage to be derived from separate publication of parts of the guidelines affecting leased buildings, and there has been no demonstration that specific changes are required in the guidelines to make them more flexible with regard to these buildings.

4. § 436.32 Conduct of Preliminary Energy Audits

Several comments were received concerning the proposed requirements for the conduct of preliminary energy audits.

In making reference to the exemption in § 436.32(a) for "identical" buildings, one commentor stated that there is no such thing as an "identical" building. While DOE agrees with this statement, the intent of the proposed exemption is to avoid burdening agencies with a requirement to audit each individual building in a facility if the results of an audit of one such building would be substantially the same for other similar buildings. The final guidelines include the exemption but the word "substantially" has been added to clarify the intent that the buildings do not have to be absolutely "identical" to qualify for the exemption.

One commentor questioned whether the phrase "to the maximum extent

practicable" contained in § 436.32(a) would permit the agency to audit the "facility" only and not the individual buildings as well. This interpretation is not intended. The phrase was included to provide for special circumstances such as national security or inaccessability as set forth in § 436.32(b).

One commentor suggested that the wording of the third sentence of § 436.32(a) be changed to provide that an agency is not required to conduct a preliminary energy audit of a building if it has already collected "a substantial portion" of the data specified. The DOE has not adopted this suggestion since the data specified is the minimum required to comply with legislative provisions and satisfy the purposes of the audits.

One commentor suggested that § 436.32(c)(5), requiring the collection of data on "major energy using systems by energy source", be deleted. The DOE has not adopted this suggestion since data on major energy using systems is a requirement of both the Executive Order and the NECPA.

One commentor requested clarification of the requirement to identify "the number of heating and cooling degree days, or the climate zone in which the Federal buildings is located." This requirement is included in the NECPA. A map delineating climate zones and the number of heating and cooling degree days has been provided to agencies with the forms for reporting audit results.

One commentor suggested that § 436.32(d) be rewritten since the present wording would result in energy consumption data being collected for buildings of less than 1,000 g.s.f. if such buildings are located in a facility with one or more buildings of 1,000 or more g.s.f. This suggestion has not been adopted. DOE believes the burden of adjusting data for the smaller buildings is not justified since this adjustment would have a negligible effect on the overall results.

One commentor suggested that much more detailed data should be gathered during the preliminary energy audits and computerized so as to eliminate the need to conduct a technical survey later. This suggestion has not been adopted since it is not in keeping with the "preliminary" nature of preliminary energy audits and would not be feasible within the time established by law for completion of the audits.

Comments were received from 10 respondents concerning the requirement of § 436.32(e) to collect data indicative of the potential of buildings for application of solar energy systems. The purpose of this requirement was to collect and report to the Congress information on the potential of Federal buildings for the use of solar energy. This information could be of significant assistance to the Executive Branch and the Congress in formulating national policy, promoting the use of solar energy, and determining the potential magnitude of programs to encourage the use of solar energy systems in Federal buildings.

Several commentors stated that collection of the data required by § 436.32(e) would be too costly and would serve no useful purpose since the data could not be used to determine whether solar energy systems were appropriate for a particular building. Other commentors pointed out that the information would not be useful since it would be required for only a small number of Federal buildings—those with total floor space of 1,000 to 30,000 gross square feet which have not already been audited. Other commentors stated that the requirements exceed the scope and purpose of preliminary energy audits, are not included in the authorities requiring the audits, and will delay accomplishment of the audits. Several commentors suggested that collection of this data should more properly be a requirement during the technical survey of a building or as part of a separate study. Almost all of the commentors suggested that § 436.32(e) be deleted from the final rule.

On the other hand, two commentors urged that the final rules be revised to apply the requirements of § 436.32(e) to all Federal buildings regardless of their size or whether they have previously been audited.

The DOE included the requirements of § 436.32(e) in the proposed rules in an attempt to develop information which could be used to reach some preliminary conclusions about the potential for the use of solar energy systems in Federal buildings. Buildings over 30,000 g.s.f. were exempted from the requirement because the 1979 deadline for submission of audit reports precludes their inclusion. Buildings with 1,000 to 30,000 g.s.f. which have already been audited on the effective date of this rule were also exempted from the § 436.32(e) requirement since DOE does not wish to require agencies to make an on-site inspection of buildings for which the basic audit data has already been collected.

After considering all the comments submitted, DOE has decided to revise the proposed rules. The final rules should make the collection of data indicative of solar potential less burdensome on Federal agencies, while at the same time providing for collection of information needed by the Executive Branch and the Congress to formulate national policy and encourage the use of solar energy systems in Federal buildings.

The final rules require Federal agencies to collect the specified data for only a statistically valid sample of their buildings. This sample must be large enough to permit a statistically valid conclusion for each building category.

DOE has revised § 436.33 to require agencies to aggregate and report to DOE, on a form to be provided by DOE, their conclusions (based on the sample results) as to the number of their buildings by category which are likely to be candidates for retrofitting with solar energy systems. The report form will require that agencies indicate the extent of solar energy potential—hot water heating, (passive or active) heating and cooling—for the buildings which are candidates for solar systems.

The required report is due by no later than May 15, 1980, so that the results can be provided to the Congress in the preliminary energy audit report due to Congress by August 15, 1980.

5. § 436.41 Definitions

Seven commentors submitted suggestions for revisions of, additions to or deletions from the definitions in the proposed guidelines. One commentor stated that the examples of "energy conservation measures" provided in the definition should be deleted. DOE has not adopted this suggestion since it was felt the examples may be helpful to agencies.

It was suggested that the "energy source" definition be revised to exclude energy produced as a byproduct of another process such as steam cogenerated in the production of electricity. This change is unnecessary because it is unlikely that cogenerated steam would be viewed as an "energy source."

Three commentors suggested changes to the definitions of "existing Federal building" and "new Federal building". The proposed rule defined an "existing Federal building" to mean a building completed by November 9, 1978, or one completed after that date but for which the design cannot be feasibly modified after the effective date of these guidelines. A "new Federal building" was defined as a building not completed by November 9, 1978 and the design of which can be feasibly modified after the effective date of these guidelines.

The suggested changes illustrate the difficulty in selecting an appropriate cut-off date for determining when a building is to be treated as a "new" building or

as an "existing" building. The three commentors suggested cut-off dates all different from the date of November 9, the date in the proposed rule. The DOE has not changed this date in the final rule and believes the basis for it, the date of enactment of the NECPA, is valid. Agencies retain the flexibility to determine that a building which was not completed by November 9, 1978 is an "existing building", because the design of the building could not be feasibly modified after the effective date of these guidelines.

Two commentors felt the definition of "jurisdiction or control" was too ambiguous to be helpful in determining which buildings an agency is to include in its inventory for planning and reporting purposes. In drafting the proposed guidelines, different terms for this concept were considered, but none could be found that was specific enough to provide guidance yet general enough to apply to the many unique circumstances or procedures of individual agencies. Usually, it will be clear which agency would ordinarily be responsible for capital improvements or the operation and maintenance procedures of a building. In cases of ambiguity where the agencies involved are uncertain and unable to clarify the matter among themselves, they can consult DOE.

One commentor suggested that definitions of passive and active solar energy systems be included. The DOE has adopted this suggestion and the definitions are included in the final rule.

6. § 436.44 Goals for the Buildings Plan

Several comments were received concerning the requirement that agencies establish a goal for the use of renewable energy sources, and to plan to achieve the goal of a 30 percent reduction by 1985 in the use of petroleum-based fuels.

Two commentors stated that current renewable energy technology was not adequately advanced to permit establishment of a practical goal for use of renewable energy sources. It was also stated by two commentors that further guidance should be provided on this subject. Finally, two commentors doubted that sufficient life-cycle cost-effective renewable energy projects exist to achieve a goal once established.

Although DOE has not included in the final guidelines a specific goal for the use of renewable energy sources, it is believed that life-cycle cost-effective renewable energy systems currently exist to permit the achievement of at least modest renewable energy goals, appropriate to each agency's mission. The importance of current efforts in Federal use of renewables is underscored by Title V, Part 3, of the NECPA which states, "the Federal Government * * * should be in the forefront in * * * promoting the use of solar heating and cooling and other renewable energy sources." The NECPA also states that, "It is the policy of the United States that the Federal Government has the opportunity and responsibility * * * to further develop, demonstrate, and promote the use of * * * solar heating and cooling, and other renewable energy sources in Federal buildings.

Seven commentors argued against the 30 percent reduction goal for use of petroleum-based fuels. A variety of reasons were offered, including:

- Lack of resources (retrofit dollars) to achieve the goal;
- Impracticability of achieving the goal by the end of fiscal year 1985; and
- Inconsistency with cost-effectiveness criteria.

Both the Executive Order and the NECPA were intended to promote the use of energy from renewable sources and reduce dependence on nonrenewable energy resources. Issuance of a guideline calling for agencies to plan toward a 30% reduction in use of petroleum-based fuels by FY 1985 on a life-cycle cost-effective basis is a practical measure fully consistent with that policy, insofar as it seeks to reduce dependence on scarce fossil fuels and to provide an incentive for continuing vigorous development and use of renewable energy or other more plentiful energy sources. The guidelines clearly provide that this goal is subordinate to the life-cycle costing policy, and agencies are not required to plan on uneconomic investments to achieve it. DOE recognizes that the availability of manpower and resources (retrofit dollars) required to comply with the proposed goal by FY 1985 is contingent upon Congressional approval of future Federal Budgets. In planning their annual budget requirements, agencies can and should seek appropriate funding levels to comply with these guidelines and achieve the goals in their plans.

7. § 436.34, 436.45, and Appendix C Measurement of Energy

Six commentors criticized the conversion factors provided in Appendix C to the proposed rule. The criticism was primarily concerned with the use of 11,600 Btu per kilowatt hour of electricity, which DOE used as the number of Btu's required at the point of generation to provide one kilowatt hour of electricity at the point of use. DOE used this conversion factor because it appeared to be the most accurate measure of actual energy resources consumed in delivering one kilowatt hour of electricity to a user. It reflects line transmission as well as generation losses.

The intent of the conversion table was to set a uniform basis for "Energy Management", both to calculate energy consumption and energy savings on a national basis and to calculate the comparative values of alternative energy sources at site-specific locations.

The comments received said that the factor used was inconsistent with private practice and engineering handbooks which use a factor of 3,412 as the Btu content of one kilowatt hour of electricity at the point of use, that it unfairly and unexplainably discriminates against electricity since the conversion values for other energy sources (except steam) do not include transmission losses, and that it is inconsistent with national policy in that the use of the factor would result in penalizing the use of electricity generated from coal, nuclear and hydro while providing an advantage to the use of oil and gas.

The problem of which conversion value to use for electricity—11,600 Btu's per kilowatt hour at the point of generation or 3,412 Btu's per kilowatt hour at the point of use—arises because of the mistaken assumption that investment decisions will be made using the point of generation conversion value. That is not true. It has always been assumed that, in conducting a life cycle cost analysis, agencies would use retail energy prices which are based on consumption figures measured at the point of delivery at the building boundary. When using tables which indicate the retail cost of energy in terms of dollars per million Btu, agencies will use the 3,412 Btu conversion value. The conversion table, which is now a part of § 437.34 and § 436.45, has been revised to include that figure.

DOE has decided not to delete the 11,600 Btu conversion value, because it is useful for the purpose of reporting how many Btu's have actually been saved as a result of an energy conservation measure and it is the figure which has been used since the inception of reporting on energy savings by Federal agencies. However, the guidelines have been modified to require that energy use figures be given showing point of use and point of generation consumption, and further, that only point of use figures be considered in conducting a life cycle cost analysis on a particular energy conservation measure for a building.

One of the commentors raised questions about the measurement of Btu's attributable to cogenerated steam. This comment prompted reconsideration of § 436.34 and § 436.45 which govern the use of Btu conversion values in the program. As proposed the rules did not explicitly provide for the measurement of cogenerated energy. To clarify the program policy governing this kind of measurement, the final version of §§ 436.34 and 436.45 calls for each Federal agency to utilize a conversion factor which reflects the actual efficiency of the cogenerating process. The value will vary depending on the particular characteristics of the cogenerating process, and the rules accordingly do not prescribe a standard conversion value. It is expected that each Federal agency will determine the appropriate conversion.

8. § 436.46 Incorporating On-Going Plans

Two commentors requested changes to the requirement that agencies include in their 10-year buildings plans information on energy-saving actions in existing buildings occurring between October 1, 1975 and September 30, 1980. One commentor stated that the requirement was too costly and should be deleted in its entirety. Another commentor asked for clarification as to the amount of detail to be included.

The purpose of including this requirement was to simplify preparation of those parts of the 10-year plan covering past fiscal years or fiscal years which cannot feasibly be modified because of required budget and planning lead-time. It is DOE's intention that the information to be included be summary information and that energy and cost savings be totals for a fiscal year rather than for a particular building or action.

9. § 436.48 Technical Surveys

Eight commentors submitted suggestions concerning the technical survey requirements of the proposed rule.

One of the major issues raised in the comments was the accelerated schedule for completion of the technical surveys. The comments criticized the requirement that the surveys be completed by the end of FY 1982 on the basis that resource limitations preclude compliance. Also, in reference to the NECPA requirement that buildings be retrofitted with energy saving measures by no later than 1990, one commentor stated that completion of the surveys by the end of FY 1982 would mean the survey for a building may precede by six to eight years the retrofit of that building, which is inappropriate.

DOE believes that completion of a technical survey of a building is a necessary first step to implementing an effective retrofit program. Because of the lead times involved in completing the technical survey, obtaining funds for retrofit projects, procuring equipment and services, completing the projects, and realizing the resulting energy savings, the DOE included in the proposed rule an end of FY 1982 completion date for technical surveys.

It has been brought to DOE's attention that, because of differences in funding mechanisms existing among the agencies, a later completion date would still permit retrofit projects to be completed by the end of FY 1985. Therefore, the final rule has been changed to provide completion dates for technical surveys as follows:

- For all buildings to be retrofitted that require specific and separate justification of the need for and cost of building retrofit measures before appropriations can be received for that purpose, the technical surveys must be completed by December 31, 1982.
- For all other buildings to be retrofitted, such as those for which the retrofitting is financed by use of a revolving fund for operation and maintenance and are not subject to the lengthy period of time necessary for the appropriation process, the technical surveys must be completed in most cases by not later than December 31, 1983, but in no case any later than June 30, 1984.

These deadlines are necessary to provide sufficient leadtime for planning, funding, completing procurements and accomplishing retrofit measures required to achieve the 20 percent reduction goal by FY 1985.

It was not DOE's intent in the proposed rule to require that agencies survey *all* of its buildings by the end of FY 1982. Rather, it was intended that agencies complete surveys of a sufficient number of their buildings to permit them to select the most life-cycle cost effective energy saving measures to achieve the 20 percent reduction goal. Changes have been made in the final rule which should clarify this point. DOE anticipates that agencies will have to plan to complete some form of technical survey of most of their buildings in order to fulfill this requirement.

Several commentors said the technical survey requirements are too detailed and should be rewritten as guidance only with agency discretion as to which buildings to survey and the extent of detail to be included in the survey. The DOE disagrees with these suggestions. As noted earlier, the Executive Order directs DOE to issue guidelines containing "requirements and procedures" to insure that agencies plan to achieve the President's goals. It is DOE's position that the requirements in the proposed rule are the minimum necessary to identify, select, plan and implement the most life-cycle cost-effective energy conservation measures. Therefore, the final rule has not been revised to delete the detailed provisions.

Comments were received suggesting the language in the proposed rule be changed to eleiminate the need for a detailed architectural and engineering analysis as part of a technical survey. As set forth in the preamble to the proposed rule, DOE agrees that a detailed study by a professional architect or engineer may not be appropriate depending on the type of building to be surveyed. The final rule has been rewritten to eliminate any inferences that such a detailed study is required.

One commentor suggested deletion of the requirement that a sample of technical survey data be gathered and used in developing a Buildings Plan. DOE has not adopted this suggestion since it is believed that sampling is essential in order to plan for retrofitting parts of the building inventory and to estimate energy and cost savings, as well as the costs of achieving those savings.

10. § 436.50 Retrofit Program for Existing Federal Buildings

Six commentors submitted suggested changes. The primary issue raised in the comments concerns the provisions of § 436.50(e), requiring that retrofit projects be ranked based on their relative savings-to-investment ratios calcuated under the life-cycle costing methodology set forth in subpart A. It was suggested that these provisions emphasize the saving of money rather than energy and were, therefore, inappropriate. It was recommended that the provisions be changed to require that priority in ranking projects be based on energy savings per dollar invested.

The Executive Order specifically requires that, in selecting retrofit measures, highest priority be given to the most "cost-effective" projects. The proposed rules reflected that requirement, but did contain a provision allowing the use of energy savings per dollar invested for further ranking of measures which are equally cost effective. DOE does expect projects given high priority as retrofits to have energy savings as the primary, and not secondary, objective. With this understanding, DOE believes that any greater emphasis on energy savings per dollar invested would be inappropriate.

One commentor said that the requirements of § 436.50 are too detailed and costly. The DOE disagrees with this statement and believes the requirements are the minimum necessary to comply with the Executive Order and provide for the development of retrofit plans which are consistent across agencies and which contain the essential elements of a plan.

One commentor noted that the requirement to include in a buildings plan the gross square footage of buildings to be retrofitted by fiscal year may be misleading since the same building may be retrofitted in different ways over several fiscal years. DOE will work with the Federal agencies to identify the extent this could create problems and ways to deal with any problems identified.

11. § 436.51 Design Program for New Federal Buildings

Five commentors suggested changes to the requirements for the design of new buildings. The most troublesome issue raised in the comments involves the requirement in § 436.51(a)(3) for analysis of at least two alternative building designs. The commentors questioned the need for two designs in some cases, questioned the meaning of "alternative building designs", and stated that the DOE should use the performance standards approach rather than a component design approach. One commentor urged that DOE require more than two alternative designs.

The purpose of requiring analysis of more than one design is to promote a minimum level of exploration of design alternatives. Section 436.51 should be interpreted broadly. There should at least be a comparison of two or more component designs within a common approach. For more complex designs, DOE encourages, but will not mandate, a comparison of two completely different overall designs which could also have component design variations. Each agency should analyze reasonable alternatives since each agency has the ultimate responsibility in achieving the most "cost-effective" design consistent with the energy reduction goal of 45 percent.

One commenter requested that DOE establish standards for new buildings. DOE is developing performance standards for new buildings under the Energy Conservation in New Building Act of 1976 (Pub. L. 94–385). When those standards are final, they will apply to Federal buildings, and the guidelines so provide.

One commentor questioned whether the 45 percent goal applied to 1985 designs or to all buildings built from 1975–1985. The intended goal is a 45 percent reduction in the average energy use by new buildings, compared to average energy used in similar buildings in 1975.

12. § 436.53 Submitting and Revising a Building Plan

Two commentors suggested elimination of the requirement to submit annual revisions to the Buildings Plan because the requirement is unrealistic and unduly burdensome.

It was not DOE's intention to compel revisions when not appropriate to do so. The phrase, "if appropriate" has been inserted in the rule to clarify this point. However, DOE does not believe that annual revisions are unrealistic and burdensome. Such revisions are an important part of the planning process. Therefore, the final guidelines retain this requirement.

A single commentor suggested a change to the requirement that agencies prepare and submit Buildings Plans by no later than six months after the effective date of the guidelines. A longer time period was requested. DOE has not adopted this suggestion. As many agencies have pointed out, the requirement to develop and implement energy conservation plans has existed for several years. DOE believes six months is an adequate period of time.

13. § 436.55 Review of Buildings Plans

One commentor stated that a time period of six months should be given to revise a deficient plan. DOE agrees that a period of time should be specified but believes 90 days would be more appropriate. The final rule has been changed to include the 90-day period.

14. § 436.56 Annual Report

Three commentors suggested changes to the annual reporting requirements. One commentor questioned the usefulness of including information on energy costs. DOE believes energy cost information can be very useful in presenting the national implications of the Federal energy management program as well as evaluating the fiscal impact on the Federal sector of National policies concerning sources of energy.

15. Miscellaneous

There were a number of comments of a technical, editorial or minor nature which have been considered but not specifically discussed. Some of the suggestions contained in these comments have been adopted while others were considered inappropriate.

This rulemaking was determined to be "significant" but not "major" under Executive Order 12044, 43 FR 12661. It was also determined that the promulgation of these rules would not constitute a major Federal action significantly affecting the human environment under the National Environmental Policy Act, as amended, 42 U.S.C. 4321, *et seq.*

In consideration of the foregoing, the DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subparts B and C of Part 436 as set forth below.

Issued in Washington, D.C., November 6, 1979.

Maxine Savitz,

Acting Assistant Secretary, Conservation and Solar Energy, Department of Energy.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Subpart A—[Reserved]

Subpart B—Procedures for Preliminary Energy Audits

Sec.

Subpart C—Guidelines for Buildings Plans

Authority: Energy Policy and Conservation Act, as amended, 42 U.S.C. 6361; Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, 42 U.S.C. 7254.

Subpart A—[Reserved]

Subpart B—Procedures for Preliminary Energy Audits

§ 436.30 Purpose.

Subpart B of this Part provides the procedures for conducting and reporting on preliminary energy audits of Federal buildings as required by Title V, Part 3, of the National Energy Conservation Policy Act, 92 Stat. 3275 (1978), and section 10 of Executive Order 11912, as amended, 41 FR 37523 (July 20, 1977).

§ 436.31 Definitions.

As used in this subpart—

"Category" means a grouping of Federal buildings by the primary function performed in or by the building, such as office buildings, hospitals, schools, prison facilities, multi-family dwellings, storage facilities, and research and development, institutional, industrial and service buildings.

"Cooling degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

"DOE" means the Department of Energy.

"Energy source" means non-renewable resources such as fuel oil, natural gas, liquefied petroleum gas, coal, and purchased steam or electricity generated from such non-renewable resources.

"Facility" means any group of closely located buildings none of which is individually metered for all energy sources and for which the actual rate of energy consumption of all energy sources can be determined.

"Federal agency" means any Executive agency under 5 U.S.C. 105 (1970) and the United States Postal Service.

"Federal building" means any building, structure, or facility which is constructed, renovated, leased or purchased in whole or in significant part for use by the United States, and which includes a heating system, a cooling system, or both.

"Gross square feet" means the sum of all heated or cooled floor area enclosed in a building calculated from the outside dimensions, or from the centerline of common walls.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Jurisdiction or control" means power or authority to direct, administer or control the use or operation of a Federal building.

"Major energy using system" means any set of devices which, relative to all energy consuming devices in a Federal building, consumes a major portion of energy used in the Federal building.

"Meter" means to measure actual energy use by type over a given period of time.

"Owned" means title to the Federal building is held in fee simple.

"Preliminary energy audit" means a determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building and the climate characterizing the region where such building is located.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other renewable sources of energy.

§ 436.32 Conduct of preliminary energy audits.

(a) This section contains the procedures for conducting preliminary energy audits of energy consumption characteristics of Federal buildings to the maximum extent practicable. With respect to a particular Federal building, the Federal agency responsible for conducting preliminary energy audits is the Federal agency having jurisdiction or control over that Federal building. A Federal agency is not required to conduct a preliminary energy audit with respect to a Federal building if it has already collected the data specified by paragraph (c) or paragraph (d) of this section. Nor is a Federal agency required to conduct a preliminary energy audit of additional individual buildings in a facility which are substantially identical to a building already audited in that facility.

(b) With respect to particular Federal buildings, special circumstances such as national security or inaccessibility may make the conduct of a preliminary energy audit impracticable. If the special circumstance is national security, the Federal agency shall provide a notice of special circumstances to the DOE in accordance with § 436.33(d)(1). Any other claims of impracticability due to special circumstances shall be submitted to and be subject to approval by DOE under § 436.33(d)(2).

(c) Except as provided by paragraph (a) of this section, with respect to an individual Federal building, the following data shall be collected.

(1) Location;

(2) Category;

(3) Size in gross square feet;

(4) Rate of energy consumption as expressed in Btu's for the previous fiscal year by energy source as calculated in accordance with § 436.34;

(5) Major energy using systems by energy source;

(6) The number of heating and cooling degree days, or the climate zone in which the Federal building is located; and

(7) Whether the Federal building is owned or leased.

(d) Except as provided by paragraph (a) of this section, with respect to Federal buildings constituting a facility, the following data shall be collected—

(1) Location;

(2) The number of buildings in the facility;

(3) The category for each building;

(4) The size of each building in gross square feet;

(5) The major energy using systems by energy source for each building and for the facility;

(6) The rate of energy consumption as expressed in Btu's for the previous fiscal year by energy source for all buildings in the facility as calculated in accordance with § 436.34;

(7) The number of heating and cooling degree days or the climate zone in which the facility is located; and

(8) Whether the facility is owned or leased.

(e) Each Federal agency shall audit all or a statistically valid sample of individual Federal buildings in each category of such buildings under its jurisdiction or control to determine information regarding site, building, and heat and hot water systems related to solar energy or other renewable energy source potential including—

(1) An indication of whether open land, such as fields, yards and parking areas, is available within the immediate vicinity of the building which is not heavily shaded by tall buildings, trees or other obstructions;

(2) A statement of whether the building is located generally within an urban, suburban or rural area;

(3) An approximation of whether more than half the building's roof area or southern oriented wall surface is heavily shaded by shrubs, trees, buildings or other obstructions for more than about four hours per day;

(4) The number of stories;

(5) A general description of the building's shape, such as square, rectangular, E-shaped, H-shaped or L-shaped;

(6) An indication of whether the roof is flat or pitched, and if pitched whether it has a southern orientation;

(7) Whether there are existing roof-top obstructions, such as chimneys, space conditioning equipment, water towers, mechanical rooms, stairwells or other permanent structures;

(8) An indication of the exterior material of the southern facing wall, such as masonry, wood, aluminum;

(9) An approximation of the proportion of glass area of the southern facing wall, such as less than 25 percent, 25–75 percent, more than 75 percent; and

(10) Location of primary space heating and water heating systems—

(i) Whether outside of or within the building;

(ii) If within the building, whether on the ground floor, or on the roof, and

(iii) If within the building, whether centrally located, in multiple units, or a combination thereof.

§ 436.33 Reporting of audits results.

(a) The data listed under § 436.32(c) and (d) shall be aggregated and reported on a form provided by the DOE.

(b) The schedule for submitting a report of results is as follows—

(1) For individual Federal building with 30,000 gross square feet or more and for facilities with at least one building of that size, as soon as possible but in no event later than 30 days after the effective date of these rules; and

(2) For individual Federal buildings with less than 30,000 but with 1,000 or more gross square feet, and for facilities with all buildings in the same range, as soon as possible but in no event later than May 15, 1980.

(c) The data required under § 436.32(e) shall be aggregated and reported by no later than May 15, 1980 on a form provided by the DOE.

(d) If with respect to particular Federal buildings, the deadlines for submission of reports under this section are infeasible, the Federal agency shall submit by the applicable deadline under paragraph (b) of this section a written application for a delay which is signed by the head of the agency, states the reasons for granting the delay, and specifies a date for reporting to the DOE. DOE shall promptly review the application and make a determination thereon.

(e) On or before 30 days after the effective date of these rules, if it is impracticable to conduct a preliminary energy audit of a Federal building under § 436.32(b), the Federal agency shall—

(1) In a case of national security special circumstances, submit a notice of special circumstances by the applicable deadline stating the aggregate number of Federal buildings and gross square footage involved; and

(2) In any other case, submit a written application for a waiver which is signed by the head of the agency and states the reasons for seeking the waiver. DOE shall promptly review the application and make a determination thereon.

(f) Each agency shall retain, through FY 1985, records of the data upon which reports under this section are based.

§ 436.34 Measurement of energy.

Energy use shall be calculated using the following Btu conversion table, except that a Federal agency may use the conversion factors of a standard engineering reference manual or other reliable reference for energy sources which are not listed. For electricity and purchased steam, figures for energy use required by these rules shall reflect both of the given values in the conversion table; however, in calculating energy costs for life cycle costing purposes, only the conversion values of 3,412 Btu's per kilowatt hour of electricity and 1,000 Btu's per pound of steam shall be used.

Energy Source Btu Conversion Table

Electricity: 11,600 and 3,412 Btu per kilowatt hour.[3] Fuel oil (distillate): 5,825,400 Btu per barrel. Residual Fuel: 6,287,000 Btu per barrel. Natural Gas: 1,030,000 Btu per thousand cubic feet. Liquefied Petroleum Gas (including propane and butane): 4,011,000 Btu per barrel. Coal: 24,500,000 Btu per short ton. Purchased Steam: 1,390 and 1,000 Btu per pound.[3]

§ 436.35–436.39 [Reserved]

Subpart C—Guidelines for Buildings Plans

§ 436.40 Purpose.

Subpart C of this part provides the guidelines for the formulation and updating of Buildings Plans by Federal agencies to achieve goals for reduction of building energy use pursuant to section 10 of Executive Order 11912, as amended, 41 FR 37523 (July 20, 1977), section 381 of the Energy Policy and Conservation Act, as amended, 41 U.S.C. 6361 (1970) and the National Energy Conservation Policy Act, 92 Stat. 3275 (1978).

§ 436.41 Definitions.

As used in this subpart—

"Active solar energy system" means a solar heating or a solar heating and cooling system in which thermal energy from the sun is collected and transferred by pumps or fans that move heat transfer fluids or air throughout the system.

"Alternative building system" means an energy conservation measure, including a renewable energy system, for an existing Federal building, or a primarily energy-saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building.

"Btu" means British thermal unit.

"Building energy use" means any energy use related to a Federal building principally for heating, ventilation, cooling, domestic hot water, or lighting.

"Building system" means any part of the structure of a Federal building significantly affecting building energy use, or any energy using system contributing to building energy use.

"Category" means a grouping of Federal buildings by the primary function performed in or by the building, such as office buildings, hospitals, schools, prison facilities, multi-family dwellings, storage facilities, and research and development, institutional, industrial and service buildings.

"Construction" means the erection of a new structure, or the alteration, renovation or enlargement of an existing structure, which substantially increases the gross square feet of floor space available, significantly changes its use from that existing immediately prior to the structural changes, or substantially prolongs its useful life.

"DOE" means the Department of Energy.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a renewable energy source, including, but not limited to—

(a) Insulation of the building structure and systems within the building;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution sytem modifications including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(2) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(3) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(4) Utility plant system conversion measures including conversion of

[3] The conversion values of 11,600 Btu per kilowatt hour of electricity and 1,390 Btu per pound of steam reflect transmission and generation losses.

existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings.

"Energy-saving actions" means a change in operation and maintenance practices, retrofit of an alternative building system to an existing Federal building, or selection of an energy-saving alternative building design for a new Federal building.

"Energy source" means non-renewable resources such as fuel oil, natural gas, liquified petroleum gas, and coal, and purchased steam or electricity generated from such nonrenewable resources.

"Existing Federal building" means a Federal building the construction of which was complete by November 9, 1978, or the design for which cannot be feasibly modified after the effective date of these guidelines.

"Facility" means any group of closely located buildings none of which is individually metered for all energy sources and for which the actual rate of use of all energy sources can be determined.

"Federal agency" means any Executive agency under 5 U.S.C. 105 (1970) and the United States Postal Service.

"Federal building" means any building structure, or facility which is constructed, renovated or leased or purchased in whole or in significant part for use by the United States, and which includes a heating system, a cooling system, or both.

"Fiscal year of FY" means for a given year, October 1 of the prior year through September 30 of the given year regardless of whether the Federal fiscal year actually began and ended on those dates in the given year.

"Gross square feet" means the sum of all heated or cooled floor areas enclosed in a building calculated from the outside dimensions, or from the centerline of common walls.

"Jurisdiction or control" means power or authority to direct, administer or control the use or operation of a Federal building.

"Major energy-using system" means any set of devices which, relative to all energy consuming devices in a Federal building, consumes a major portion of energy used in the Federal building.

"Maintenance" means activities undertaken in a Federal building to assure that equipment and energy-using systems operate effectively and efficiently.

"Meter" means to measure actual energy use by type over a given period of time.

"New Federal building" means any Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified after the effective date of these Guidelines.

"Operation" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Owned" means to hold title to the Federal building in fee simple.

"Passive Solar Energy System" means a solar energy system characterized by reliance on natural convection, conduction and radiation, and by heat collection and storage devices that are structurally integrated with the occupied space, such as storage walls, storage roof, greenhouse, atrium or sunspace, thermosyphone hot water system, reflector assemblies, shading devices or reflective surfaces or glazings.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other renewable sources of energy.

"Renewable energy system" means a building system which is specifically designed to use renewable energy sources to meet all or part of building energy use.

"Retrofit" means to install an alternative building system in an existing Federal building.

"Technical survey" means an energy survey, as defined by section 545 of the National Energy Conservation Policy Act, including a technical analysis to identify appropriate alternative building systems.

§ 436.42 Scope of buildings plans.

(a) The Buildings Plans prepared by Federal agencies under these guidelines are 10-year plans for the reduction of building energy use in Federal buildings under their jurisdiction or control Buildings Plans are to be prepared as part of the Overall Energy Management Plan required of each Federal agency under Executive Order 11912, as amended. The other part of each Overall Energy Management Plan is a General Operations Plan which covers energy conservation for all other energy use by a Federal agency including energy use in Federal buildings excluded from the Buildings Plan pursuant to § 436.42(b).

(b) Federal buildings in which a substantial amount of energy is consumed for purposes other than building energy use and is not separately metered may be excluded from the Buildings Plan. Energy use and energy-saving actions for Federal buildings excluded from the Buildings Plans under this section should be included in the General Operations Plan.

(c) Information from the Buildings Plans prepared under these guidelines will be incorporated into the President's 10-year plan for energy conservation with respect to buildings owned or leased by Federal agencies under section 381(a)(2) of the Energy Policy and Conservation Act, as amended.

(d) The Buildings Plans and these guidelines provide for actions which are expected to contribute to fulfilling the requirements of Title V, Part 3, of the National Energy Conservation Policy Act.

§ 436.43 General information in a buildings plan.

The following general information shall be included in a Buildings Plan—

(a) The name and title of a senior policymaking official such as an Assistant Secretary or an Assistant Administrator who is responsible for supervising preparation, updating, and execution of the Buildings Plan;

(b) A statement describing the Federal agency's overall energy program and management objectives, as well as how they have been integrated with management objectives designed to achieve the primary mission of the Federal agency;

(c) A description of procedures to ensure effective implementation of the Buildings Plan; and

(d) A statement describing the specific actions taken to ensure compliance with the National Environmental Policy Act, as amended, and Executive Order 12088.

§ 436.44 Goals in the buildings plan.

(a) The goals calculated under this section shall be stated in the Buildings Plan and are established pursuant to Executive Order 11912, as amended. Consistent with applicable requirements for life cycle cost analyses under Subpart A of this part, each Federal agency shall aim to achieve the goals to the maximum extent practicable unless a waiver is granted under § 436.54.

(b) The overall goal of a Federal agency for owned existing Federal buildings shall be a 20 percent reduction in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot

of floor area of the Federal agency in FY 1975 as calculated under §§ 436.44(d) and 436.45.

(c) The overall goal of a Federal agency for owned and leased new Federal buildings shall be a 45 percent reduction in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot of floor area of the Federal agency in FY 1975 as calculated under §§ 436.44(d) and 436.45.

(d) The average energy use per gross square foot of floor space in FY 1975 is the total building energy use, as expressed in Btu's, measured in accordance with § 436.45, divided by the total gross square footage for owned Federal buildings in service on June 30, 1975, except for those excluded under § 436.42(b).

(e) Each Federal agency shall separately state a goal for reducing building energy use for leased existing Federal buildings and the basis therefor.

(f) For the purpose of promoting reduced dependence on scarce fossil fuels in planning to achieve overall building goals under this section in a manner consistent with subpart A of this Part, each Federal agency shall provide in its Buildings Plan goals—

(1) For installing renewable energy systems in existing and new Federal buildings; and

(2) For a reduction of 30 percent in use of petroleum-based fuels by FY 1985 compared to FY 1975.

§ 436.45 Measurement of energy.

Energy use or energy savings shall be calculated using the following Btu conversion table, except that a Federal agency may use the conversion factors of a standard engineering reference manual or other reliable reference for energy sources which are not listed. For electricity and purchased steam, figures for energy use required by these guidelines shall reflect both of the given values in the conversion table; however, in calculating energy costs for life cycle costing purposes, only the conversion values of 3,412 Btu's per kilowatt hour of electricity and 1,000 Btu's per pound of steam shall be used.

Energy Source Btu Conversion Table

Electricity: 11,600 and 3,412 Btu per kilowatt hour.[2]
Fuel oil (distillate): 5,825,400 Btu per barrel.
Residual Fuel: 6,287,000 Btu per barrel.
Natural Gas: 1,030,000 Btu per thousand cubic feet.
Liquified Petroleum Gas (including propane and butane): 4,011,000 Btu per barrel.
Coal: 24,500,000 Btu per short ton.
Purchased Steam: 1,390 and 1,000 Btu per pound.[2]

[2] The conversion values of 11,600 Btu per kilowatt hour of electricity and 1,390 Btu per pound of steam reflect transmission and generation losses.

§ 436.46 Incorporating ongoing plans.

(a) The Building Plans shall include information on existing Federal buildings which, as a result of energy-saving actions such as changes in operation and maintenance practices or installation of alternative building systems occurring between October 1, 1975, and September 30, 1980, have made progress toward the 20 percent goal set forth in § 436.44.

(b) The information on existing Federal buildings under § 436.46(a) shall include by fiscal year and category—

(1) The number and gross square footage of Federal buildings in which energy-saving actions occurred or are already budgeted to occur;

(2) A description of the energy-saving actions, particularly those involving renewable energy systems, which were taken or are budgeted to occur;

(3) Total energy savings as expressed in Btu's calculated in accordance with § 436.45;

(4) Energy savings in average energy use, as expressed in Btu's per gross square foot of floor area calculated in accordance with § 436.45;

(5) Energy cost savings; and

(6) Costs of achieving the savings.

§ 436.47 Programs to be planned.

Each Buildings Plan to achieve the goals under § 436.44 shall be based on—

(a) The conduct of technical surveys, under § 436.48;

(b) The initiation of changes in operation and maintenance practices under § 436.49;

(c) The retrofitting of existing Federal buildings with alternative building systems under § 436.50;

(d) The evaluation of alternative building designs for new Federal buildings under § 436.51; and

(e) The maximum use of renewable energy systems consistent with these guidelines.

§ 436.48 Technical surveys.

(a) This section sets forth the requirements for the conduct of technical surveys and the use of the results of such surveys in the development and execution of a Buildings Plan under this subpart.

(b) A technical survey of any Federal building shall include—

(1) A description of major changes in functional use or mode of operation, if any, planned in the next five years, such as demolition, sale, reconstruction, or conversion from office to warehouse;

(2) For a building in excess of 200,000 gross square feet, if available—

(i) Peak electric demand for both daily and annual cycles; and

(ii) Annual energy use by fuel type of major mechanical or electrical system if the information is available or can be reasonably estimated;

(3) Terminal heating or cooling, or both, such as radiators, unit ventilators, fancoil units, or double-duct reheat systems;

(4) Information regarding site, building, and heating and hot water systems related to solar energy or other renewable source potential including—

(i) An indication of whether open land, such as fields, yards and parking areas, is available within the immediate vicinity of the building which is not heavily shaded by tall buildings, trees or other obstructions;

(ii) A statement of whether the building is located generally within an urban, suburban or rural area;

(iii) An approximation of whether more than half the building's roof area or southern oriented wall surface is heavily shaded by shrubs, trees, buildings or other obstructions for more than about four hours per day;

(iv) The number of stories;

(v) A general description of the building's shape, such as square, rectangular, E-shaped, H-shaped or L-shaped;

(vi) An indication of whether the roof is flat or pitched, and if pitched whether it has a southern orientation;

(vii) Whether there are existing roof-top obstructions, such as chimneys, space conditioning equipment, water towers, mechanical rooms, stairwells or other permanent structures;

(viii) An indication of the exterior material of the southern facing wall, such as masonry, wood, aluminum;

(ix) An approximation of the proportion of glass area of the southern facing wall, such as less than 25 percent, 25–75 percent, more than 75 percent;

(x) Location of primary space heating and water heating systems—

(A) Whether outside of or within the building;

(B) If within the building, whether on the ground floor, or on the roof, and

(C) If within the building whether centrally located, in multiple units, or a combination thereof;

(5) A description of general building conditions;

(c) A technical survey shall include an analysis of a building to identify the energy and cost savings likely to be realized as a result of implementing all energy conservation maintenance and operating procedures appropriate for the type of building, including—

(1) Effective operation of ventilation systems and control of infiltration conditions, including—

(i) Repair of caulking or weatherstripping around windows and doors;

(ii) Reduction of outside air intake, shutting down ventilation systems in unoccupied areas, and shutting down ventilation systems when the building is not occupied; and

(iii) Assuring central or unitary ventilation controls, or both, are operating properly;

(2) Changes in the operation of heating or cooling systems through—

(i) Lowering or raising indoor temperatures;

(ii) Locking thermostats;

(iii) Adjusting supply or heat transfer medium temperatures; and

(iv) Reducing or eliminating heating or cooling at night or at times when a building or complex is unoccupied;

(3) Changes in the operation of lighting systems through—

(i) Reducing illumination levels;

(ii) Maximizing use of daylight;

(iii) Using higher efficiency lamps; and

(iv) Reducing or eliminating evening cleaning of buildings;

(4) Changes in the operation of water systems through—

(i) Repairing leaks;

(ii) Reducing the quantity of water used, e.g., flow restrictors;

(iii) Lowering settings for hot water temperatures;

(iv) Raising settings for chilled water temperatures; and

(5) Changes in the maintenance and operating procedures of the utility plant and distribution system through—

(i) Cleaning equipment;

(ii) Adjusting air/fuel ratio;

(iii) Monitoring combustion;

(iv) Adjusting fan, motor, or belt drive systems;

(v) Maintaining steam traps; and

(vi) Repairing distribution pipe insulation; and

(6) Such other action as each Federal agency may determine useful or necessary.

(d) A technical survey shall also include an analysis of a building to identify and evaluate, one or more appropriate energy conservation measures, including measures for conversion to renewable energy sources. Such analysis shall include—

(1) The estimated energy consumption of the building at peak efficiency (assuming implementation of all appropriate operations and maintenance procedures);

(2) The building's potential for solar conversion, particularly for water heating systems;

(3) All recommendations for acquisition and installation of energy conservation measures (including the potential for conversion to renewable energy sources) setting forth—

(i) A description of each recommended energy conservation measure;

(ii) An estimate of the cost of each such energy conservation measure;

(iii) An estimate of the energy and energy cost savings expected from acquisition and installation of each energy conservation measure; and

(iv) A life cycle cost analysis of each energy conservation measure in accordance with Subpart A of this part; and

(4) Any additional analyses considered appropriate by each Federal agency.

(e) In developing a Buildings Plan, each Federal agency shall plan a retrofit program under § 436.50(a) on the basis of the results of technical surveys of a representative sample of its Federal buildings. The sample may include previously conducted studies substantially complying with the content of a technical survey under these guidelines.

(f) Technical surveys are required for all Federal buildings to be retrofitted in order to meet the 20 percent energy use reduction goal, except that such a building that is substantially identical to another building that has already been surveyed need not have a separate survey. For all buildings to be retrofitted that require specific and separate justification of the need for and cost of retrofit before appropriations can be received for that purpose, Federal agencies shall schedule the technical surveys for completion not later than December 31, 1982. For all other buildings to be retrofitted, such as those for which retrofitting may be funded from a revolving fund for operation and maintenance without the need for individual and specific justification before appropriations may be received, Federal agencies shall schedule technical surveys for completion in most cases by December 31, 1983, but in no case any later than June 30, 1984.

(g) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan should estimate, by fiscal year through FY 1985, the number and gross square footage of existing Federal buildings to be surveyed and the cost of such surveys to the Federal agency.

(h) Provisions of the Buildings Plan applicable to the technical surveys, particularly those estimating the number and gross square footage of buildings to be surveyed through FY 1985 and the cost of such surveys, shall be updated under § 436.53.

§ 436.49 Operation and maintenance program.

(a) Each Federal agency shall provide in its Buildings Plan for appropriate improvements in operation and maintenance practices.

(b) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan shall identify by fiscal year through FY 1985—

(1) The types of operation and maintenance practices to be initiated;

(2) Program goals under this section;

(3) The number of existing Federal buildings to be affected by planned changes;

(4) The gross square footage affected by changes;

(5) Estimated or actual energy savings, as measured in accordance with § 435.45;

(6) Estimated or actual cost savings; and

(7) Estimated or actual costs of achieving the energy savings and cost savings.

(c) Each Federal agency shall provide in its Buildings Plan for progress toward achievement of the goals for existing Federal buildings under § 436.44 by the maximum practicable changes in operation and maintenance practices.

(d) Provisions of the Buildings Plan applicable to the Operation and Maintenance Program, particularly those estimates of the cost of actions taken, and the energy and cost savings of such actions, through FY 1985, shall be updated under § 436.53.

§ 436.50 Retrofit program for existing Federal buildings.

(a) Consistent with § 436.48 and § 436.49(c) and on the basis of preliminary energy audit data and technical surveys, each Federal agency shall provide in its Buildings Plan for progress toward achievement of the goals for existing Federal buildings under § 436.44 by retrofitting its existing Federal buildings with alternative building systems which are life cycle cost effective to the Federal agency as measured by a savings to investment ratio calculated under Subpart A of this Part and are selected in accordance with this section.

(b) In planning for the retrofit of existing Federal buildings with life cycle cost-effective alternative building systems, each Federal agency shall provide in its Buildings Plan to assign highest priority to those existing Federal buildings in which installation of alternative building systems is likely to be most life-cycle cost-effective.

(c) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan should, for each fiscal year—

(1) Indicate the number and gross square footage of Federal buildings to be retrofitted with alternative building systems;

(2) Describe the types of alternative building systems expected to be used;

(3) State the estimated or actual energy savings as measured in accordance with § 436.45;

(4) State the estimated or actual cost savings; and

(5) State the estimated or actual costs of achieving estimated energy savings and cost savings.

(d) With respect to alternative building systems which use renewable energy sources, the Buildings Plan shall—

(1) State the number and gross square footage of Federal buildings to be retrofitted;

(2) Describe the types of renewable energy systems to be used;

(3) State the estimated or actual cost savings; and

(4) State the estimated or actual cost of achieving estimated energy savings and cost savings.

(e) With respect to existing Federal buildings planned for retrofit in FY 1981 and each fiscal year thereafter, each Federal agency should provide in its Buildings Plan for determining the cost effectiveness of alternative building systems in accordance with Subpart A of this part. Except as otherwise provided in this paragraph, each Federal agency shall further provide for programing proposed alternative building systems on the basis of relative savings-to-investment ratios calculated under Subpart A of this part, giving priority to higher ratios. Further ranking of alternative building systems which are equally cost-effective, may be based on the ratio of annual millions of Btu's saved per thousand dollars of investment costs. If investment costs for an alternative building system are insignificant, the Federal agency shall program the installation of the system at any time based on a presumption of cost-effectiveness as provided in § 436.13.

(f) For the purpose of emphasizing reduction of scarce fossil fuels in planning to reduce building energy use, each Federal agency shall plan to achieve the goals under § 436.44(f).

(g) After approval by the President of budget estimates for the retrofit program for FY 1981 and for each fiscal year thereafter, the provisions of the Buildings Plan required by this section, particularly those estimates of the number and gross square footage of buildings to be retrofitted and the cost, and energy and cost savings of such retrofit actions, shall be updated under § 436.53.

§ 436.51 Design program for new Federal buildings.

(a) Each Federal agency shall provide in its Buildings Plan—

(1) For the metering of building energy use in new Federal buildings;

(2) For the achievement of its goal for new Federal buildings as calculated under § 435.44(c) by aiming, with respect to each new Federal building, to achieve a design goal for the category of that Federal building calculated in accordance with § 436.51(b);

(3) For analysis of at least two alternative building designs under Subpart A of this part, at least one of which includes a renewable energy system and both of which are consistent with budget limitations and basic requirements for heating, ventilation, cooling, lighting, domestic hot water, and functional purposes; and

(4) For selection of the building design which minimizes total life cycle costs as measured in accordance with Subpart A of this part;

(b) The design goal for a new Federal building shall be set by category at the rate of energy consumption equivalent to a reduction of 45 percent in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot of floor area of a representative Federal building of that category in FY 1975 as calculated in accordance with § 436.44(d). The design goal may be adjusted in light of the number of heating and cooling degree days.

(c) Each Federal agency shall plan to install one or more active or passive solar or other renewable energy systems to provide energy for building energy use unless the Federal agency states in the annual report under § 436.56 that such a system would not minimize total life cycle costs as calculated under Subpart A of this part.

(d) Distinguishing between owned and leased new Federal buildings to be designed, the Buildings Plan shall provide by fiscal year, to and including FY 1985—

(1) Estimated amounts of construction, by number of buildings and gross square feet, for each category of new Federal buildings;

(2) Estimated average annual energy use per gross square foot for each category of new Federal buildings; and

(3) The percentage reduction in estimated average annual energy use per gross square foot from the average annual energy use in FY 1975 as calculated under § 436.44.

(4) Estimated additional construction costs attributable to the alternative building systems incorporated in the designs of new Federal buildings in order to achieve the 45 percent reduction goal, and estimates of related cost savings.

(e) The provisions of the Buildings Plan set forth in this section, particularly those estimates of the number and gross square footage and new Federal buildings, for each category, to be constructed through FY 1985, shall be updated in the next annual report submitted under § 436.56.

§ 436.52 Standards and other conditions of operation.

(a) The Buildings Plan shall provide for compliance with 10 CFR Part 490, and with the minimum requirements for lighting, heating, and cooling set forth in 41 CFR 101–20.116 that are not inconsistent with 10 CFR Part 490.

(b) Each Federal agency shall provide in its Buildings Plan for the automatic adoption of such procedures as may be necessary to assure that the construction of new Federal buildings meets or exceeds applicable final energy performance standards under the Energy Conservation Standards for New Buildings Act of 1976 (Pub. L. 94–385) as originally enacted or thereafter amended.

(c) Each Federal agency shall discuss in its Buildings Plan its policies and practices with respect to its use of lighting efficiency standards, thermal efficiency standards, insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation.

§ 436.53 Submitting and revising a buildings plan.

Each Federal agency shall have six months from the effective date of these guidelines to submit a Buildings Plan. In each annual report under § 436.56, each Federal agency shall, if appropriate, submit a revised Buildings Plan, together with a statement describing the revisions to the Federal Agency's preceding Buildings Plan and explaining the reasons for such revisions.

§ 436.54 Waivers.

(a) The head of any Federal agency may submit a written request for a waiver from the procedures and requirements of these guidelines. The request must identify the specific requirements and procedures from which a waiver is sought and provide appropriate documentation in support of a request.

(b) In order to assure timely consideration, a request for waiver under this section shall be submitted to the DOE at least 60 days prior to the due date for submission of the Buildings Plan.

(c) DOE shall review each application under this section promptly and make a determination thereon.

§ 436.55 Review of buildings plans.

(a) The initial and each revised Buildings Plan shall be reviewed by the DOE, and if determined to be deficient under paragraph (b) of this section, will be returned to the head of the Federal agency with an explanation of deficiencies.

(b) A Building Plan under these guidelines is deficient if it—

(1) Lacks adequate information or program content required to be included by this subpart;

(2) Provides for a Retrofit Program based on insufficient technical surveys under § 436.48.

(3) Does not provide a reasonable basis for concluding that the Federal agency is likely to achieve the goals for owned Federal buildings under § 436.44;

(4) Shows insufficient attention to use of solar and other renewable energy sources; or

(5) Otherwise fails to comply with the requirements of this subpart.

(c) An agency shall have 90 days after notification that its plan is deficient to submit a revised plan to DOE.

(d) The head of a Federal agency may appeal adverse determinations by the DOE to the Director of the Office of Management and Budget.

§ 436.56 Annual report.

(a) Each Federal agency shall have until July 1 of each year to submit an annual report with respect to its approved Buildings Plan.

(b) Distinguishing between owned and leased Federal buildings, between existing and new buildings, and between operation and maintenance and retrofit actions, a report under these guidelines should include quantitative measures and accomplishments for the most recent completed fiscal year and for the first six months of the current fiscal year, with respect to—

(1) Energy used by energy source and its cost;

(2) Energy-saving actions and the costs of such action;

(3) Energy saved;

(4) Costs saved;

(5) Progress toward goals under § 436.44; and

(6) Any other benefits.

(c) For technical surveys, the report should include quantitative measures and accomplishments with respect to the number and gross square feet of buildings surveyed, and the cost of such surveys.

(d) With respect to new Federal buildings to be constructed without a renewable energy system, each Federal agency shall provide in writing the demonstration required by § 436.51(c).

(e) Credit may be taken for energy savings related to projects authorized under any Federal statute to substitute renewable energy sources for fossil fuels in building energy use in Federal buildings. Any such credit taken shall be separately identified together with the number and gross square footage of the Federal buildings involved.

(f) No credit may be taken for reductions of building energy use in Federal buildings excluded from the Buildings Plan pursuant to § 436.42.

§§ 436.57–436.69 [Reserved]

[FR Doc. 79-35018 Filed 11-13-79; 8:45 am]

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federal register

Wednesday
November 14, 1979

Part III

Department of Agriculture

Science and Education Administration

Special Research Grants Program for Fiscal Year 1980; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Special Research Grants Program for Fiscal Year 1980; Solicitation of Applications

Notice is hereby given that pursuant to the authority of section 2(c)1 of the Act of August 4, 1965, Pub. L. 89–106, as amended by section 1414 of Pub. L. 95–113 (7 U.S.C. 450i), the Science and Education Administration (SEA) of the U.S. Department of Agriculture will award project grants for research in the following areas which are further described in Appendix I:

Soybean research	$485,000
Energy research	1,843,000
Animal health research	6,790,000

In addition, notice is hereby given that pursuant to the authority of section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113 (7 U.S.C. 3154), SEA will award project grants for research in the following area:

Alcohols and industrial hydrocarbons	$485,000

Proposals submitted in response to this notice will be evaluated in competition with proposals with proposals from other institutions. Grants will be awarded for research proposals selected by SEA utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1980 (October 1, 1979, to September 30, 1980) subject to the enactment of the Fiscal Year 1980 Appropriation Act for the Department of Agriculture. Projects may be up to 5 years' duration unless a shorter duration is specified.

Application Procedures

1. Eligible Institutions

Grants under section 2(c)1 of Pub. L. 89–106, as amended, may be made to Land-Grant Colleges and Universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research. Research foundations are not eligible to receive special research grants under section 2(c)1 of Pub. L. 89–106 unless they independently meet the definitions of eligible institutions as setout in section 1404 of Pub. L. 95–113.

Grants under section 1419 of Pub. L. 95–113 may be made to any college or university. Research foundations are not eligible to receive research grants under section 1419 of Pub. L. 95–113 unless they independently meet the definitions of eligible institutions as setout in section 1404 of Pub. L. 95–113.

2. Proposal Submission

Submit nine copies of each proposal to:

Grants Administrative Management Office, Attention: Special Research Grants Program, Science and Education Administration, U.S. Department of Agriculture, Room 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

A. To be considered for award, proposals must be prepared in the format prescribed in appendix II and must be received in the SEA Grants Administrative Management Office by the close of business on the date specified for each program area as listed below:

Soybean Research, pursuant to section 2(c)1 of Pub. L. 89–106, as amended—deadline is Close of Business January 21, 1980.

Energy Research, pursuant to section 2(c)1 of Pub. L. 89–106 as amended—deadline is Close of Business January 28, 1980.

Alcohol Research, pursuant to section 1419 of Pub. L. 95–113—deadline is Close of Business January 28, 1980.

Animal Health Research, pursuant to section 2(c)1 of Pub. L. 89–106, as amended—deadline is February 4, 1980.

Proposals should not exceed 10 pages (single spaced) excluding the title page, budget, literature review and vitae appendices.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the title page, budget, literature review, and vitae appendices, will be evaluated.

B. Title Page. Appendix III is the format for the title page. Copies of Appendix III must be used. An original title page with all relevant signatures must be included with the original proposal. All copies of the proposal should also have a Title Page.

C. Proposal Source Document. Appendix IV is the format for the Proposal Source Document. Only one copy of this document is required to be submitted. The Proposal Source Document is an essential part of the proposal. It provides the SEA Grants Administrative Management Office staff with data for compiling information requested by Government agencies, the Congress, and the grantee community. The items are self-explanatory for the most part.

Please note the following: (a) the Performing Organization is the Organization of the Principal Investigator where the work will be done, and it may be the same or different from the organization which receives the grant; and (b) the Authorized Organizational Representative should be the same as the one given on the Title Page.

D. Special Consideration, Assurance, Certification, and acceptance (Appendices V and V–A).

Research Involving Special Consideration. Appendix V summarizes a number of research situations which require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the Proposal Source Document should so indicate. Since some types of research targeted for SEA support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions). A memorandum of Understanding and Agreement and Approval by the local Biohazards Safety Committee must be provided before a grant can be awarded.

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by SEA grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR part 46).

If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health, Education and Welfare (DHEW) policies, as amended, regarding the use of human subjects.

E. If your institution has not previously submitted a proposal to the SEA Grants Administrative Management Office, you must furnish the Organizational Information and Assurances contained in Appendices VI and VI–A with your proposal. This information should be appended to your proposal.

3. Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientist for each area of specific inquiry will evaluate the proposals utilizing selection criteria listed in Appendices VII and VII–A. The peer panel, when

appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, SEA will select the proposals to be funded within the amount available for each area of specific inquiry.

B. When the peer panel recomends that the amount of aware be reduced below the amount proposed for a proposal or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the list of proposals to be funded for a specific area of inquiry and another proposal selected from those recommended by the peer panel will be funded.

After the grants are awarded, one copy of unfunded proposals will be retained on file for 5 years, the remaining copies will be destroyed. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

4. Points of Contact

For information concerning Administrative guidelines for the awarding of grants, contact SEA Grants Management Officer, Arlington, Virginia, telephone number (703) 235–2640.

For information concerning Program guidelines for special areas of inquiry contact Edward C. Miller, Assistant Deputy Director, Cooperative Research, Science and Education Administration, Washington, D.C., telephone number (202) 447–6050.

5. Budget and Reporting Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Appendix VIII).

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 5 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objective and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to SEA within 90 days after the termination date of the grant.

E. Cost sharing for Alcohol grants (section 1419 of Pub. L. 89–106) will be established in accordance with the guidelines of FMC 73–3 and administered in accordance with OMB Circular A–110, Attachment E.

Soybean Research Energy Research, and Animal Health Research, Public Law 89–106, grants do not require matching or cost sharing.

6. Terms and Conditions

The General Provisions for Grants and Cooperative Agreements (SEA Form 638, May 1979) apply to these grants. A copy is available upon request from the SEA Grants Management Officer.

An approved final Impact Analysis Statement is available from the:

Grants Administrative Management Office, Science and Education Administration, U.S. Department of Agriculture; Room 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

This Notice has not been determined significant under USDA criteria implementing Executive Order 12044.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1980, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with E.O. 12044, that it is not possible to publish this Notice in proposed form and allow 60 days for public comment.

Done at Washington, D.C., this day 6th of November 1979.

Anson R. Bertrand,

Director, Science and Education.

Appendix I—Subject Matter Guidelines for Fiscal Year 1980, Grants Under Section 2(c)1 of Public Law 89–106, As Amended

Specific Areas of Inquiry

1.0 Soybean Research. It is anticipated that $485,000 will be available from FY 1980 funds. Grant awards will be limited to a maximum of $100,000 per grant for research in the following specific areas of inquiry:

1.1 Soybean production research to increase yields, enhance production efficiency, and conserve natural resources. Preference will be given to strategies with broad or national implication.

1.2 Research on soybean genetic mechanisms that contribute to yield or tolerance to biotic and abiotic stress.

Specific Areas of Inquiry

2.0 Energy. It is anticipated that a total of $1,843,000 will be available from FY 1980 funds. The overall objective of this research program is to obtain the scientific knowledge and technical information required to reduce the petrochemical energy used in agricultural and forestry production, and other rural activities. Grant awards will be made in four specific areas of inquiry with maximum grant amounts as indicated below:

2.1 Fermentation (Alcohols other than Ethanol, and Hydrocarbons). Grant awards will be limited to a maximum of $100,000 per grant of 2 or 3 years' duration.

Research on hyrolysis, fermentation, anaerobic digestion; extraction, product separation, and purification; and blending, marketing and utilization of the products. Research on ethanol conversion will be supported under Section 1419 of Public Law 95–113 as described under the specific area of inquiry for Section 1419, Public Law 95–113, in this document.

2.2 Combustion and Pyrolysis. Grant awards will be limited to a maximum of $125,000 per grant of 2 or 3 years' duration.

Research on direct burning, extraction of petrochemical substitutes, gasification, pyrolysis, transformation, and use of abundant domestic carbonaceous sources for agriculture.

2.3 Energy Conservation and Development of Solar and Wind Energy Sources. Grant awards will be limited to $80,000 per grant of 2 or 3 years duration.

Energy conservation in crop and animal production systems. Development of technology to permit economic substitution of energy from solar and wind for crop drying; heating livestock shelters and greenhouses; irrigation pumping; and other rural home and agricultural uses.

Development of technology to permit the economic substitution of energy from solar, and wind for crop drying; heating livestock shelters and greenhouses; irrigation pumping; processing; and other rural home and agricultural uses.

2.4 Biomass Screening and Utilization. Grants awards will be limited to a maximum of $80,000 per grant of 2 or 3 years' duration.

Research on the comparison and choice of species and varieties for energy value. Also on the production, assemby and storage of promising categories of biomass for energy use.

Specific Areas of Inquiry

3.0 Animal Health. It is anticipated that $6,790,000 will be available from FY 1980 funds. Grant awards will be limited to a maximum of $150,000 per grant. The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasites of livestock, poultry, and major aquaculture species. Research will be directed toward (1) clarification of infectious and noninfectious diseases and parasites or their interactive effects on animal health and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. In scoring these proposals, additional points will be added based on the priority assigned to areas of research under each commodity. See Appendix VII–A for details. Categories in which projects will be funded are as follows:

3.1 Infectious Diseases.

This area will include research proposals aimed at developing control of infectious diseases of livestock, poultry, or major

species in aquaculture. Research may include clarification of complex or unknown etiologies, development or improvement of diagnostic methodology, clarification of disease pathogenesis and methods of transmission, studies of resistance mechanisms and resistance enhancing factors, and development of disease prevention, control, or eradication technology.

Priority in selection of infectious disease proposals to be funded within commodities will be in the order of priority listed below and only proposals dealing with the following areas will be selected for funding.

Beef cattle	*Dairy cattle*
1. Respiratory diseases	1. Mastitis
2. Reproductive diseases	2. Reproductive diseases
3. Enteric diseases	3. Respiratory diseases
4. Blue tongue	4. Digestive diseases
Swine	*Sheep and goats*
1. Enteric diseases	1. Respiratory diseases
2. Mastitis-metritis-agalactia	2. Enteric diseases
3. Respiratory diseases	3. Abscesses
4. Pseudorabies	
Poultry	*Horses*
1. Respiratory diseases particularly mycoplasmosis, Newcastle, bronchitis, influenza, and colibacillosis	1. Respiratory diseases
2. Enteric diseases	2. Enteric diseases
3. Systemic diseases, particularly pasteurellosis and adenovirus infections	3. Reproductive diseases
	Aquaculture
	1. Infectious diseases

3.2 Internal and External Parasites.

A. Internal Parasites. Research on nonchemical methods or on integrated chemical and biological systems for the control of internal parasites of beef cattle, sheep, major aquaculture species, or coccidiosis of poultry.

Highest priority will be given to proposals aimed at the prevention or control of internal parasitism through clarification of host-parasite relationships, novel management methods minimizing exposure to infectious parasitic stages, immunological or other biological, nonchemical control methods, and integrated chemical-biological control systems for internal parasite prevention and control.

Only proposals dealing with internal parasites of beef cattle, sheep, major aquaculture species, or coccidiosis of poultry will be funded.

B. External Parasites. Research to develop injury thresholds including research on appropriate sampling methodology for external parasites of cattle and major aquaculture species, particularly under various stress conditions.

Priority will be given to proposals that develop integrated methods of prevention or suppression of external parasites. The proposals should include research on a key pest or a complex of pests with integrated control strategies that minimize chemical usage. In addition, the research should lead to an implementable management system for use by producers.

Only proposals dealing with external parasites of cattle or major aquaculture species will be funded.

3.3 Noninfectious Diseases and Predator Losses.

Proposals will be considered for funding which deal with:

1. Prevention of Predator Losses in Sheep and Goats
2. Anestrus of Dairy Cattle
3. Mycotoxicosis of Poultry
4. Musculoskeletal Diseases of Horses

Subject-Matter Guidelines for Fiscal Year 1980 Grants Under Section 1419 of Public Law 95–113

Specific Areas of Inquiry

4.0 Alcohols Research. It is anticipated that $485,000 will be available from fiscal year 1980 funds. Grant awards will be limited to a maximum of $100,000 per grant of 2 or 3 years' duration for research in the following specific areas of inquiry:

4.1 Ethyl Alcohol Conversion.

Research on the evaluation, production, handling, treatment, and conversion of biomass resources for manufacture of ethyl alcohol. (Research on other alcohols will be supported under Energy Special Grants 2.1 Fermentation.)

Appendix II.—Format for Research Proposal

1. Title Page (See Appendix III).

A. Title. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used. Other items of the title page are self-explanatory.

B. Approval Signatures of Appropriate Officials. All proposals from a University, College, or Institution must be signed by an authorized official.

2. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

3. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as: The sampling plan, experimental design, and analyses anticipated.

4. Justification. This should describe (1) the importance of the problem to the needs of the Department of Agriculture and to the States or region, being sure to include estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

5. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete. Literature citations should be appended to the proposal and are not included in the 10-page limit.

6. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions.

7. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 3, Procedures, but the combination must clearly show needed and available facilities and equipment.

8. Research Timetable. Show all important research phases as a function of time.

9. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include (1) an estimate of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae can also be provided as an appendix and will not be included in the 10-page limit.

10. Budget. A detailed budget form is required for each year of the proposed project plus a cumulative budget covering the entire period of the proposal. Copies of appendix VIII must be used. Cost sharing for Alcohol grants, Section 1419 of P.L. 89—106, will be established in accordance with FMC 73–3 and administered in accordance with OMB Circular A–110, Attachment E. Instructions follow for the items to be inserted in the format illustrated in Appendix VIII. use a separate page for each year. Remarks and justification should be included on separate pages following the budget. The budget can also be aprovided as an appendix and will not be included in the 10-page limit.

A. Salaries and Wages. Salaries of the principal investigator and other personnel associated directly with the research should constitute appropriate direct costs in proportion to their effort devoted to the research. Charges by academic institutions for work performed by faculty members during the summer months or other periods outside the base salary period are to be at a monthly rate not in excess of that which would be applicable under the base salary and to other provisions of section J.6 to the cost principles for educational institutions (OMB Circular A–21).

Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for consulting or other time in addition to a regular full-time salary covering the same general period of employment.

The submitting organization may request that senior personnel salary data not be released to persons outside the Government. In this case, the item for senior personnel salaries in the formal proposal may be expressed as a single figure and the work-months represented by that amount omitted. If this option is exercised, however, senior personnel salaries and work-months must be itemized in a separate statement, two copies of which should accompany the proposal. This statement must include all of the information requested in Appendix VIII for

each person involved. The detailed information will not be forwarded to reviewers and will be held privileged to the extent permitted by law.

For research associates and other professional personnel, each position must be listed, with the number of full-time equivalent work-months and rate of pay (hourly, monthly, or annually) indicated. For other personnel (graduate students, technical, clerical, etc.), only the total number of persons and total amount of salaries per year in each category are required. Salaries requested must be consistent with the regular practices of the institution.

B. Fringe Benefits. If the usual accounting practices of the performing organization provide that the organizational contributions to employee "benefits" (social security, retirement, etc.) be treated as direct costs, grant funds may be requested to defray such expenses as a direct cost.

C. Total Salaries and Benefits.

D. Nonexpendable Equipment. Nonexpendable equipment is defined as an item of property which has an acquisition cost of $500 or more per unit. an expected service life of 2 years or more, and does not lose its identity when jointed or made a part of another piece of equipment. Organizations performing research with the support of a SEA grant are expected to have appropriate facilities, suitably furnished and equipped. Only under very unusual circumstances may grant funds be requested for office equipment and furnishings, air-conditioning, automatic data processing equipment (ADPE), or other "general purpose" equipment which is usable for other than research purposes. This type of equipment requires special justification and arrangement with the SEA Grants Administrative Management Office.

Items of needed scientific equipment or instrumentation should be individually listed by description and estimated cost and adequately justified. Allowable items ordinarily will be limited to scientific equipment and apparatus which are not already available to conduct the work.

If purchases or lease of expensive, special-purpose equipment having a unit acquisition cost exceeding $10,000 is planned, the proposal must contain a certification that the equipment (a) is essential and not reasonably available or accessible to the proposed project and (b) will be subject to reasonable inventory controls, maintenance procedures, and organizational policies designed to enhance multiple or shared use on other projects if such use will not interfere with the project for which the equipment is being acquired. Title to any nonexpendable equipment authorized to be procured under a grant will be held by the grantee.

E. Materials and Supplies. The types of expendable materials and supplies required should be indicated in general terms with estimated costs. Where substantial funds are requested, there should be a more detailed breakdown.

F. Travel. The type and extent of travel and its relationship to the research should be briefly specified. Funds may be requested for field work or for travel to scientific meetings.

Travel in Canada, Puerto Rico, or the United States or its possessions is considered domestic travel. All other travel is considered foreign. If foreign travel is planned in connection with the research, the proposal should include relevant information (including countries to be visited) and justification. Travel and subsistence should be in accordance with organization policy.

Irrespective of the organization policy, allowances for airfare will not normally exceed round trip jet economy air accommodations. Persons traveling under Federal grants must travel by U.S. flag air carriers, if available, unless:

1. The traveler, while enroute, has to wait 6 hours or more and no U.S. air carrier is available during this period, and

2. The flight by a U.S. air carrier takes 12 or more hours longer than a foreign air carrier.

Air freight must also be under U.S. flag air carriers.

G. Publication Costs. Costs of preparing and publishing the results of research conducted under the grants, including cost of reports, reprints, page charges or other journal costs, and necessary illustrations, may be included.

H. Computer (ADGE) Costs. The cost of computer services, including computer based retrieval of scientific and technical information may be requested. A justification based on the established computer service rates at the proposing institution should be provided. Reasonable costs of leasing automatic data processing equipment may be requested, if justified.

I. All Other Direct Costs. Other anticipated direct costs not included above should be itemized. Examples are space rental at research establishments away from the performing organization, minor alterations, and service charges. Reference books and periodicals may be charged to the grant only if they are related specifically to the research project. Proposed subawards should be disclosed in the proposal so that the grant instrument may contain prior approval, if appropriate. None of the research effort under a SEA grant may be contracted or transferred to another organization without prior SEA Grants Administrative Management Office approval.

Consultant services should be included in this section. Grantees normally are expected to utilize the service of their own staff to the maximum extent in managing and performing the activities supported by grants. Where it is necessary for a grantee to contract for the services of persons who are not its officials or employees, payment shall not exceed the daily equivalent of the current maximum rate paid to a GS–18 (exclusive of indirect cost, travel, per diem, clinical services, vacation, fringe benefits, and supplies).

If the need for consultant services is anticipated, the proposal narrative should provide appropriate rationale and the proposal budget should estimate the amount of funds which may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate.

J. Total Direct Costs.

K. Indirect Costs. The indirect cost rate(s) negotiated by the grantee orgainzation with the cognizant Federal negotiating agency cannot be exceeded in computing indirect costs for a research proposal. Determination of the appropriate indirect cost rate(s) is dependent upon a combination of factors including but not limited to the physical location of the work. The proposal official responsible for Federal business relations should review this part of the proposal to see that it properly describes any particular factors which may have a bearing upon the indirect cost rate(s) applicable to the project. Normally, the rate in effect on the date the proposal is recommended for award by the SEA Cooperative Research Program Manager will be used.

If an organization has no established indirect cost rate and wished to take indirect costs, it should consult the Grants Management Officer, Grants Administrative Management Office, who will establish liaison with the cognizant Federal negotiations agency for developing an acceptable indirect cost rate for the grantee.

An institution may elect not to take negotiated indirect costs and utilize all grant funds for direct costs. If this option is selected, this should be indicated on the budget form (Appendix VIII).

L. Total Direct and Indirect Costs (J plus K).

M. Cost Sharing.

Appendix III.—Research Proposal Submitted to Grants Administrative Management Office

Science and Education Administration, USDA

For consideration by:
Name of Program; e.g., Animal Health: ———
Title: ———
(80 characters or less including spaces and punctuation, see instruction)
Proposed amount: ———
Proposed effective date:———
Proposed duration (months):———
Principal investigator name:———
Submitting institution: ———
Address of principal investigator:
———
———
———
Name co-principal investigator: ———
Address of Submitting institution:
———
———
———
Name co-principal investigator: ———
If principal or co-principal investigator(s) have participated in previous SEA grants involving similar subject matter, give previous Special Grant No.———
Make grant to:
———
(Legal name of institution or organization to which grant should be made)
Internal Revenue Service No.———
Congressional District No.———

Appendix III

Endorsements:
Principal investigator:
Name:———
Title: ———
Phone No.:———
Date: ———
Signature: ———
Authorization organizational representative:
Name:———
Title: ———
Phone No.:———
Date: ———

Signature: _____
Other, if required by submitting organization:
Name: _____
Title: _____
Phone No.: _____
Date: _____
Signature: _____
Authorized organizational representative:
Name: _____
Title: _____
Phone No.: _____
Date: _____
Signature: _____

Appendix IV.—Proposal Source Document

Principal Investigator(s) (PI):
Name—First, Middle, and Last:
PI #1: _____
PI #2: _____
PI #3: _____
Proposal No. (SEA use): _____
Program (SEA use): _____
PI#1:
City: _____
State 2-letter abbr.: _____
Zip code: _____
Department or street address (35 characters): _____

PI #1:
Phone + area code: _____
Duration of proposal in months: _____
Total requested (direct and indirect): _____
Institute or subdivision of performing organization (35 characters):

PI#1:
Name of performing organization (35 characters):

Authorized Organizational Representative:
SEA use: _____
First name: _____
Middle name: _____
Last name: _____
Phone + area code: _____
Department or organizational unit (35 characters):

City: _____
State (2-letter abbr.): _____
ZIP code: _____
SEA use: _____
Date received (SEA use): _____
Grantee organization (35 characters): _____

Title of Proposal (maximum 80 characters):

Program Code

(Information to be supplied by principal investigator) to the SEA Grants Administrative Management Office:

In which area of the Special Grants Program do you want this proposal considered? Select one program *only*. (Cooperative Research may move it to another area, if appropriate.)

1.0 Soybean Research:
- ☐ 1.1 Production
- ☐ 1.2 Genetic Mechanisms

2.0 Energy Research:
- ☐ 2.1 Fermentation
- ☐ 2.2 Extraction, Combustion Pyrolysis
- ☐ 2.3 Energy Conservation and Development of Solar and Wind Energy Sources
- ☐ 2.4 Biomass Screening and Utilization

3.0 Animal Health:
- ☐ 3.1 Infectious Diseases
- ☐ 3.2 Internal and External Parasites
- ☐ 3.3 Noninfectious Diseases and Predator Losses

4.0 Alcohol:
- ☐ 4.1 Ethanol Alcohol Conversion

Proposals Code

A. Which of the following best describes the performing organization of the first principal investigator? Check one choice *only*.

1. ☐ USDA/SEA Laboratory
2. ☐ Other Federal Research Laboratory
3. ☐ State Agricultural Experiment Station (SAES)
4. ☐ Land Grant University, 1862
5. ☐ Land Grant University, 1890 or Tuskegee Institute
6. ☐ Public University or College (Non-land grant)
7. ☐ Private University or College
8. ☐ Private Profit Making Organization
9. ☐ Private Non-Profit Organization
10. ☐ State or Local Organization

B. Has the first principal investigator completed the most advanced degree within the last 3 years?

1. ☐ Yes 2. ☐ No

C. Will the work in this proposal deal with recombinant DNA or with human subjects?

1. ☐ Neither 2. ☐ DNA 3. ☐ Human Subjects

D. Congressional District of the grantee organization _____

Support Code

Has this proposal been sent to another granting agency? If so, indicate.

1. ☐ None
2. ☐ Other USDA units
3. ☐ NSF
4. ☐ NIH
5. ☐ Others (Describe)

Appendix V.—Considerations in Submitting Proposals

A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. Among these are the following:

1. Research which has an actual and/or potential impact on the environment.
2. Research at a registered historic or cultural property.
3. Research involving the use of *in vitro* generated recombinant DNA.
4. Research involving the use of human subjects, hazardous materials, or laboratory animals.

The proposal should address each relevant item and provide information on the status of any special permissions, clearances, or provisions. Further, before submitting a proposal, the endorsing authorized organizational representative should ensure that:

1. The proposed project is consistent with the policies and goals of the submitting organization.
2. The organization can make available the necessary facilities, general and special purpose equipment, and services for the conduct of the project.
3. The organization can make available the necessary personnel for the amounts of time estimated to be required.
4. The organization has legal authority to accept grants and the requisite policies, procedures, and personnel to meet the standards shown in Appendix VI.
5. The total costs estimated to be required for the conduct of the project are fair and reasonable and there is a plan for meeting such costs either from grant funds or from some other source.
6. The costs which SEA is being asked to support are allowable and the treatment of direct and indirect costs in the proposal budget is consistent with applicable Federal cost principles and with the policies of the submitting organization.

Appendix V-A.—Special Considerations

Check appropriate statements. Supply additional information when necessary.

- ☐ "This project does not involves human subjects."
- ☐ "This project involves human subjects. It was approved by the Institutional Review Board on (date)_____, (is scheduled for review by the Institutional Review Board on (date)_____)." See DHEW regulations regarding the use of human subjects, appearing in Title 45, Code of Federal Regulations, Part 46, Subtitle A.
- ☐ "This project does not involve recombinant DNA research."
- ☐ "This project involves recombinant DNA research. It was approved by the Institutional Committee on (date)_____. (Supply appropriate documents as required by NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions.)

Appendix VI.—Organizational Information and Assurances

A. Prospective Grantee Organizational Information

The following information is to be submitted:

a. Organization Affiliations. Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organization affiliation are anticipated, describe briefly.

b. Statement of Purposes and Powers. Enclose an official or published statement of the major purposes of the organization and certify as required in c below as to the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws):

1. Chief Executive;
2. Authorized Organizational Representative; and
3. Business Officer.

c. Affiliations of Key Officials. If the organization is other than a college or university or a State or local government,

indicate whether or not each official listed in b above is affiliated with any Federal, State, or local agency or with any college or university. If so, describe such affiliation.

d. Whether or not the organization currently is a grantee or contractor of any component of the U.S. Department of Health, Education, and Welfare. (Note: This information will assist in implementing certain interagency procedures for which DHEW is the lead agency.)

e. If other than a college or university or a State or local government, also submit the following:

1. A certified statement of financial conditions (usually by Certified Public Accountant) covering at least the preceding 2 years.
2. Bank or other references.

B. Required Certifications

SEA requires that a prospective grantee organization submit a certification signed by the Chief Executive Officer or authorized organizational representative substantially as follows:

a. I certify that (name of institution or organization) has legal authority to accept grants as evidenced by the attached (describe document), and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management, procurement, and property management, which meet those described in Attachments F, N, and O to OMB Circular A-110. (Note: In the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.)

b. Each proposal to the SEA Grants Administrative Management Office will be consistent with the policies and goals of proposed grantee and will be submitted in accordance with its procedures and pursuant to appropriate authority.

c. In the event that a grant is awarded as a result of any such proposal, I agree that proposed grantee organization will:

1. Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed.
2. Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with all the terms and conditions of the grant.
3. Comply with all applicable laws and regulations.

Appendix VI-A

Not required if previously submitted to the Sea Grants Administrative Management Office.

Assurance of compliance with the Department of Agriculture regulations under Title VI of the Civil Rights Act of 1964 (as amended).

Legal name of proposed grantee

, (hereinafter called the "Applicant") hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964, as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Agriculture, 7 CFR Part 15, Subpart A, issued pursuant thereto, to the end that, in accordance with Title VI of that Act and the regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department of Agriculture; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated _____

Authorized Organizational Representative: _____

(Grantee's Mailing Address): _____

_____

_____

Appendix VII.—*Peer Panel Scoring Form*

Proposal Identification No. _____

Institution and Project Title _____

_____

_____

I. Basic Requirement:

Proposal falls within guidelines?——yes——no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

	Score 1-10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		5		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and related program support		5		

Score _____

Priority Relevance Points _____

Animal Health Grants Only (See Appendix VII-A for Priority Points) _____

Total Score _____

Summary Comments:

Appendix VII-A—Evaluation of Proposals

The peer panel will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria by the peer panel.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criteria utilizing a scale of 1 to 10. A score of one is low for the selection criteria. A score of 10 is high for the selection criteria. A weighting factor is used for each criteria. Research in each commodity area listed in the Animal Health and Disease Areas of the Specific Areas of Inquiry, Appendix I, will be granted in the order of priority. To assure that first consideration is given to this priority research, points will be added to the criteria score total as follows:

1st priority listed—45 points
2nd priority listed—30 points
3rd priority listed—15 points
4th priority listed—0 points

BILLING CODE 3410-22-M

Appendix VIII

U.S. DEPARTMENT OF AGRICULTURE
SCIENCE AND EDUCATION ADMINISTRATION

PROPOSAL BUDGET

FORM APPROVED
OMB NO. 040-R4063

ORGANIZATION AND ADDRESS	DURATION PROPOSED	SEA USE ONLY
	Months: _____	Months: _____
PRINCIPAL INVESTIGATOR(S)/PROJECT DIRECTOR(S)	FUNDS REQUESTED BY PROPOSER	FUNDS APPROVED BY SEA (If different)

	SEA FUNDED WORK MONTHS				
	Calendar	Academic	Summer		
A. Salaries and Wages					
1. No. of Senior Personnel					
a. ___(Co)-PI(s)/PD(s)				$	$
b. ___Senior Associates					
2. No. of Other Personnel (Non-Faculty)					
a. ___Research Associates-Postdoctorate					
b. ___Other Professionals					
c. ___Graduate Students					
d. ___Pre-Baccalaureate Students					
e. ___Secretarial-Clerical					
f. ___Technical, Shop, and Other					
Total Salaries and Wages ►					
B. Fringe Benefits (If charged as Direct Costs)					
C. Total Salaries, Wages, and Fringe Benefits *(A plus B)* ►					
D. Nonexpendable Equipment *(Attach supporting data. List items and dollar amounts for each item.)*					
E. Materials and Supplies					
F. Travel					
1. Domestic *(Including Canada)*					
2. Foreign *(List destination and amount for each trip.)*					
G. Publication Costs/Page Charges					
H. Computer (ADPE) Costs					
I. All Other Direct Costs *(Attach supporting data. List items and dollar amounts. Details of subcontracts, including work statements and budget, should be explained in full in proposal.)*					
J. Total Direct Costs *(C through I)* ►					
K. Indirect Costs *(Specify rate(s) and base(s) for on/off campus activity. Where both are involved, identify itemized costs included in on/off campus bases.)*					
L. Total Direct and Indirect Costs *(J plus K)* ►					
M. Less Residual Funds *(If applicable)* ►				Not Applicable	
N. TOTAL AMOUNT of this REQUEST *(L minus M)* ►				$	$
O. COST SHARING ►	$				

NOTE: Signatures required only for Revised Budget — *This is Revision No.* ►

NAME AND TITLE (type or print)	SIGNATURE	DATE
PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR		
AUTHORIZED ORGANIZATIONAL REPRESENTATIVE		

Form SEA-55 (Oct 79) Previous edition is obsolete. USDA-SEA

[FR Doc. 79-34941 Filed 11-13-79; 8:45 am]
BILLING CODE 3410-22-C

federal register

Wednesday
November 14, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Mandatory Petroleum Price Regulations; Procedural and Interpretative Amendments for Production Incentives for Marginal Properties

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-78-18-A]

Mandatory Petroleum Price Regulations; Production Incentives for Marginal Properties

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Procedural and Interpretative Amendments.

SUMMARY: On April 5, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) adopted amendments to the Mandatory Petroleum Price Regulations designed to provide crude oil producers with a one-time option to update the base production control level (BPCL) or the unit base production control level (unit BPCL) for any domestic property (44 FR 25160, April 27, 1979). The April 5 amendments established August 31, 1979 as the deadline for electing an updated BPCL or unit BPCL. ERA is now adopting a procedural amendment to the price regulations that extends through December 31, 1979, the time in which a producer may make this one-time election. Further, interpretative amendments are being adopted to clarify the manner in which a producer may certify to a first purchaser the amount of lower tier and upper tier crude oil that was produced from a property for which an updated BPCL or unit BPCL was elected.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B-110, Washington, D.C 20461, (202) 634-2170.

William Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C 20461, (202) 254-7200.

Eugene Glass (Office of Fuels Regulations), Department of Energy, 2000 M Street, NW., Room 6128E, Washington, D.C 20461, (202) 254-7183.

Lynette Charboneau (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 1147, Washington, D.C. 20461, (202) 633-8965.

SUPPLEMENTARY INFORMATION:

I. Introduction

On April 5, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) amended the Mandatory Petroleum Price Regulations (10 CFR Part 212) to allow crude oil producers to elect on a one-time basis to update the base production control level or the unit base production control level for any domestic crude oil property (44 FR 25160, April 27, 1979). Effective June 1, 1979, subparagraph (c)(1) of the definition of base production control level (BPCL) set forth in 10 CFR 212.72 permits a producer to calculate a property's BPCL based on the amount of old crude oil produced and sold from the property during the six-month period ending March 31, 1979. Subparagraph (h) of 10 CFR 212.75 permits a unit base production control level (unit BPCL) to be calculated in a like manner. A producer so electing to update the BPCL or unit BPCL for any property must certify the new BPCL or unit BPCL to any first purchaser no later than August 31, 1979, pursuant to the provisions of 10 CFR 212.131.

Since the issuance of the certification provisions, the need has become apparent for a procedural amendment to those provisions, extending the August 31, 1979 deadline for the one-time elections by crude oil producers set forth in § 212.131 (a)(2)(iii) and (a)(3)(iii).

The DOE has also received many inquiries as to the manner in which a producer may comply with the requirement set forth in § 212.131 to certify to a first purchaser the amount of lower tier and upper tier crude oil included in sales of crude oil produced from a property for which an updated BPCL or unit BPCL is elected. Interpretative amendments to clarify this provision are also necessary.

Accordingly, the certification requirements of § 212.131 (a)(2) and (a)(3) are being revised to make the technical changes set forth below.

II. Amendments Adopted

The date specified in amended § 212.131 (a)(2)(iii) and (a)(3)(iii) with respect to compliance with the one-time election requirements provides that such elections must be made on or before August 31, 1979. However, in view of the other amendments to the regulations under which producers were required to make extensive recomputations and certifications no later than August 31, 1979, with respect to crude oil produced and sold from marginal properties or newly discovered crude oil produced and sold in June 1979, it does not appear that sufficient time was allowed for some producers to make the one-time election to update a property's BPCL or unit BPCL.

Accordingly, § 212.131 (a)(2)(iii) and (a)(3)(iii) are hereby amended to permit a producer to elect to update the BPCL or unit BPCL for any property on or before December 31, 1979.

Section 212.131 requires a producer to certify to the first purchaser of any crude oil the amount of such crude oil that is classified as lower tier or upper tier crude oil. Pursuant to § 212.131 (a)(2)(i) and (a)(3)(i), a producer may comply with this requirement by a one-time certification of a property's monthly BPCL or unit BPCL to the purchaser where crude oil from the property is sold to only one first purchaser. At the time amendments were adopted to allow the BPCL or unit BPCL to be updated, conforming amendment to these "blanket" certification provisions were inadvertently omitted.

Accordingly, § 212.131 (a)(2)(i) and (a)(3)(i) are hereby amended to permit a producer to satisfy the certification requirements of § 212.131 with respect to upper and lower tier crude oil by making a "blanket" certification of a property's updated BPCL or unit BPCL to a sole first purchaser.

Additionally, § 212.131(a)(3)(iii) is amended to refer to paragraph (h) of § 212.75 as the provision by which a unit BPCL may be established based on old oil produced from a unitized property during the six-month period ending March 31, 1979. This conforming amendment was inadvertently omitted when paragraph (h) was renumbered as such in 44 FR 25828 (May 2, 1979).

It should be noted that the amendments being made today do not relieve any producer of the general obligation of § 212.131 to provide an appropriate certification with respect to each sale of domestic crude oil. The amendments to § 212.131 being adopted today are effective immediately. In this regard, producers that did not make a one-time election by August 31, 1979, are precluded from certifying any additional quantities of upper tier crude oil to first purchasers for the month of June, 1979, as 10 CFR 212.72 defines "new oil" to exclude any crude oil not certified as such within 2 months of the month in which it was produced and sold, except where such recertification is explicitly required or permitted by DOE order, interpretation or ruling. The amendments that are being adopted today do not constitute such an explicit requirement or permission to recertify any crude oil. Thus, if a producer elects to update the BPCL or unit BPCL for any property in November, 1979, additional volumes of upper tier crude oil may be certified only for the month of September, 1979 or any succeeding month.

III. Procedural Requirement

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Act, we have referred these amendments to the Federal Energy Regulatory Commission (FERC) for a determination whether the amendments would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review these amendments, the FERC has determined that the amendments do not significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of these amendments was sent to the EPA Administrator. The Administrator commented that he does not foresee these amendments having an unfavorable impact on the quality of the environment.

C. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA. This amendment is technical in nature and has no effect on the environment.

D. Section 501 of the DOE Act

Pursuant to section 501(c)(1) of the DOE Act, if we determine that no substantial issue of fact or law exists with respect to a rule and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, we may promulgate the rule in accordance with section 553 of title 5, United States Code, rather than with the additional procedural requirements of the DOE Act.

These amendments to §212.131 are procedural and interpretative in nature and do not raise substantial issues of fact or law. Nor are the amendments likely to have a substantial impact on the Nation's economy since they merely extend the time period in which a producer may elect to update the BPCL for a property. Moreover, the amendments do not change the substance of the existing Mandatory Petroleum Price Regulations. Therefore, the amendments are not likely to have a substantial impact on large numbers of individuals or businesses. It is for this reason that the amendments shall be promulgated only in accordance with section 553 of title 5, United States Code.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*, Pub. L. 89–554) requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest or when the rule is procedural or interpretative. We find that the advance notice and public comment procedures required by section 553(b) would be unnecessary in this case since these amendments to § 212.131 are technical in nature and do not change the substance of the regulations. Moreover, the notice and comment procedures are not required because the amendment to the date by which the certification must be filed is procedural, and the amendments clarifying how a producer may certify to a first purchaser are interpretative.

Subsection (d) of § 553 requires that the publication of a rule be made at least 30 days before the effective date of the rule, unless the rule relieves a restriction or is an interpretative rule. By extending the date by which a producer may elect to update the BPCL or unit BPCL, these amendments relieve a restriction in the price regulations and therefore are exempt from section 553(d). The amendments clarifying how a producer may certify to a first purchaser are interpretative and therefore are exempt from section 553(d).

F. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures explain that regulations are "significant" unless they are not expected to effect important policy concerns or to engage much public interest. The amendments adopted today are technical in nature and do not address important policy concerns. We find, therefore, that these amendments to the price regulations are not "significant" under DOE's implementing procedures and do not invoke the 60 day advance public comment requirement of Executive Order 12044.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., November 7, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Section 212.131 is amended in paragraphs (a)(2) and (a)(3) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

* * * * *

(a) * * *

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline; and

(D) Incremental tertiary crude oil as determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78; and

(F) Newly discovered crude oil as determined pursuant to § 212.79.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(2)(i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972, upon production and sale of old crude oil in 1975, or upon production and sale of old crude oil during the six-month period ending March 31, 1979, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; *Provided, however,* That the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

* * * * *

(iii) The certification required under this paragraph (a)(2) of this section shall be made within the consecutive two-month period immediately following the month of September 1976, or, with respect to any property from which crude oil has not been produced and sold prior to September 30, 1976, the certification required under this paragraph (a)(2) of this section shall be made within the two-month period immediately following the first month in which crude oil is produced and sold. With respect to any property for which a base production control level is determined pursuant to the provisions of paragraph (c)(1) of the definition of "Base production control level," the certification required under this paragraph (a)(2) of this section shall be made on or before December 31, 1979.

* * * * *

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier oil at the time of the sale);

(B) Upper-tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any;

(D) Incremental tertiary crude oil determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78;

(F) Imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(G) Imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b).

With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time written certification to the purchaser of—

(*1*) The monthly unit base production control level, determined pursuant to § 212.75(b) or (h);

* * * * *

(iii) The certification required under this paragraph (a)(3) of this section shall be made within the consecutive two-month period immediately following the month of September 1976, or, with respect to any unitized property for which a unit base production control level has not been established prior to September 30, 1976, the certification required under this paragraph (a)(3) of this section shall be made within the consecutive two-month period immediately following the first month in which such unit base production control level is established. With respect to any unitized property for which a unit base production control level is established pursuant to the provisions of § 212.75(h), the certification required under this paragraph (a)(3) of this section shall be made on or before December 31, 1979.

[FR Doc. 79-35011 Filed 11-13-79; 8:45 am]

BILLING CODE 6450-01-M

federal register

Wednesday
November 14, 1979

Part V

Department of Justice

Immigration and Naturalization Service

False Information, Criminal Activity, and Requirement for Maintenance of Status by Nonimmigrant Students from Iran

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

False Information and Criminal Activity by Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends the Immigration and Naturalization Service regulations to make obedience to United States laws prohibiting violent crimes which carry a potential sentence of more than one year, and the furnishing of complete and accurate information to the Service, conditions of a nonimmigrant alien's admission and continued stay in the United States. These new rules are needed and intended in order to insure that the public is protected from violent criminal acts committed by alien visitors to our country, and in order to insure that the Service is provided with the full and accurate disclosure of information required to perform its statutory function of regulating the admission and continued stay of nonimmigrants in the United States. These rules are being promulgated under authority given the Attorney General in the Immigration and Nationality Act to set conditions for admission for nonimmigrant aliens.

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

Paul W. Schmidt, Deputy General Counsel, Immigration and Naturalization Service. Telephone: (202) 633-3195.

SUPPLEMENTARY INFORMATION:

Reference is made to the Notice of Proposed Rule Making published on August 9, 1979 at 44 FR 46853, relative to proposed rules concerning false information and criminal activity by nonimmigrants. Twenty responses were received, and they have all been carefully considered. The major points raised, and the Service's discussion of them, is set forth below.

Three writers expressed support for the rule regarding criminal activity. One of the supporters would word the regulation in stronger terms by including convictions for all crimes, not just those involving violence, while another writer believed any conviction for a violation of law or ordinance should be a violation of nonimmigrant status. Under the latter interpretation, a nonimmigrant might be deported for a parking violation. Such an extremely restrictive rule is neither necessary nor proper. There must be some rational relationship between the proposed regulation and the responsibility of the Attorney General under the Immigration and Nationality Act. There would appear to be no such rational relationship between a nonimmigrant's stay in the United States and an inadvertent violation of an ordinance prohibiting overnight street parking or some other activity not involving the use of force.

Numerous points of opposition were raised to the rule concerning criminal activity. They can be summarized as follows:

1. The regulation is an unconstitutional attempt to assume legislative power.

2. The regulation is preempted by the statutory provisions of section 241 of the Act.

3. The regulation is unfair in that it rests upon "possible" sentences rather than "actual" sentences to confinement.

In response to the first point of opposition, this regulation is not an attempt to assume legislative power. To the contrary, it is an exercise of authority specifically granted by legislation.

Section 214(a) of the Act states:

> The admission to the United States of any alien as a nonimmigrant shall be for such time and *under such conditions as the Attorney General may by regulations prescribe* . . . (Emphasis added)

Section 241(a)(9) of the Act provides for the deportation of any alien who:

> Was admitted as a nonimmigrant and failed . . . to comply with the conditions of any such status;

It is difficult to imagine clearer legislative authority for the implementation of regulations which establish conditions for the continued status of a nonimmigrant. Congress has given the Attorney General authority to establish conditions which must be complied with by a nonimmigrant. If the nonimmigrant fails to comply with the conditions set by the Attorney General, Congress has given the necessary authority to deport the nonimmigrant alien from the United States.

Regarding the second point of opposition, several writers pointed out that deportation grounds for criminal acts already exist in section 241(a) of the Act. They presented the argument that Congress has provided for the deportation of aliens for certain types of criminal acts. Therefore, the argument goes, the Service is precluded from enacting regulations to expand its authority to remove aliens convicted of crimes.

Proponents of this argument overlook the fact that deportation grounds for criminal conduct which have been specifically enumerated in subsections (4), (11), (12), (13), (14), (15), (16), and (17) of section 241(a) of the Act apply to lawful permanent resident aliens as well as nonimmigrant aliens. But as previously noted, § 241(a)(9) specifically provides for the deportation of nonimmigrants who fail to comply with the conditions of their status. The authority of the Attorney General to set conditions more restrictive for nonimmigrants than lawful permanent residents is found in section 214(a) of the Act. Incorporating the authority of these two provisions as the basis for the proposed rule is logical and lawful.

The third point of opposition would require an actual sentence to confinement for a violation of status. This would negate the expressed intent of the regulation, "to insure that the public is protected from violent criminal acts committed by alien visitors to our country." It is the violent criminal act itself which we wish to protect against. The conviction is necessary to establish the fact that a certain alien committed the violent crime. It should not be necessary to require an actual sentence to confinement. We consider a violent criminal act found by a competent State legislative body to warrant criminal prosecution with a possible punishment of more than one year confinement to be sufficiently harmful to the United States populace to warrant deportation of a nonimmigrant. Nonimmigrant visitors to this country are expected to obey all rules, regulations, laws, and ordinances. While a condition imposing strict compliance may be unduly harsh, we believe imposing a condition of compliance with laws prohibiting crimes of violence for which a sentence of one year or more may be imposed is reasonable and necessary.

Virtually all comments on the proposed rule requiring full and truthful disclosure of information to the Service opposed the phrase "regardless of whether or not the information requested was material." One writer again made the objection that this proposed rule was an unconstitutional attempt to assume legislative power. This argument falls for the reasons set forth above regarding the authority of the Attorney General to establish conditions which must be complied with by nonimmigrant aliens.

Without citing any authority, one writer opposed the rule on the ground that it would be unconstitutional and a violation of the fourth, fifth, sixth, and

ninth amendments. The Service recognizes that nonimmigrant aliens are entitled to due process of law. It is in line with due process that the proposed rule is published, comments invited and considered, and notice given via the publication of possible adverse effect for failure to comply. In view of the statutory authority of the Attorney General to establish conditions for the continued status of nonimmigrants and in the absence of specific authority to the contrary, we see no constitutional prohibition against the regulation. Opponents are reminded that we are dealing with administrative procedures, not criminal proceedings.

In promulgating regulations, the test of legality is whether or not there is a reasonable relationship between the regulation and the Attorney General's responsibility for the administration of the Immigration and Nationality Act. *Mak* v. *INS*, 435 F. 2d 728 (2 Cir. 1970).

The Attorney General is responsible to maintain control of nonimmigrants in the United States, to insure compliance with the Immigration and Nationality Act, and to locate and deport those nonimmigrant aliens who have violated their status. To meet this responsibility it is necessary to have information which possibly may not be considered material in the strict legal connotation of the term. The compilation and recordation of such information is not a violation of the Privacy Act as implied by one writer because nonimmigrants are not included in the class covered by that Act.

Additional comments were directed at existing provisions for providing false information in 18 U.S.C. 1001. It must be noted that this statute provides criminal penalties only. We believe such severe criminal penalties should not necessarily be imposed in all cases. We also do not believe that the criminal statute provides adequate assurance that the Service will be furnished the information necessary to perform its statutory function of regulating the admission and control of nonimmigrants.

Another writer took exception to the proposed rule on the basis of *Navia-Duran* v. *INS*, 568 F.2d 803 (1 Cir., 1977). We find nothing in *Navia* which would prohibit the promulgation of the proposed regulation. To the contrary, the court reversed the Board of Immigration Appeals because a Service office had violated one of our own regulations concerning advice to be given aliens after arrest.

Finally, a writer referred to a Supreme Court decision in which it was held that the Service was limited in compelling disclosure of information under a statute involving criminal sanctions. The case is readily distinguishable in that there was no reasonable relationship between the information sought by the Service and its responsibility under the section of law involved. *United States* v. *Witkovich*, 353 U.S. 194 (1957).

Accordingly, the proposed regulations will be adopted without change.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is amended by adding new paragraphs (f) and (g) to § 214.1 as set forth below.

PART 214—NONIMMIGRANT CLASSES

Section 214.1 is amended by adding new paragraphs (f) and (g) to read as set forth below.

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(f) *False information.* A condition of a nonimmigrant's admission and continued stay in the United States is the full and truthful disclosure of all information requested by the Service. Willful failure by a nonimmigrant to provide full and truthful information requested by the Service (regardless of whether or not the information requested was material) constitutes a failure to maintain nonimmigrant status under Section 241(a)(9) of the Act.

(g) *Criminal activity.* A condition of a nonimmigrant's admission and continued stay in the United States is obedience to all laws of United States jurisdictions which prohibit the commission of crimes of violence and for which a sentence of more than one year imprisonment may be imposed. A nonimmigrant's conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status under Section 241(a)(9) of the Act.

(Sec. 103 and 214(a); (8 U.S.C. 1103 and 1184(a))

Effective date: The amendments contained in this order become effective on December 13, 1979.

Dated: November 13, 1979.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 79-35305 Filed 11-13-79; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 214

[Order No. 861-79]

Requirement for Maintenance of Status for Nonimmigrant Students From Iran

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: On November 10, 1979, the President ordered the Attorney General to identify Iranian students in the United States who are not maintaining status and to take immediate steps to commence deportation proceedings against such persons. The Attorney General directed the Immigration and Naturalization Service to issue regulations requiring all nonimmigrant Iranian students to report their present location and status promptly to the nearest INS office and to take additional actions to identify and locate all Iranian students to determine their immigration status. In compliance with the President's directive, the regulations governing maintenance of status by nonimmigrant students will be amended to require Iranian students in the United States to report within 30 days to the nearest INS office or to an INS representative on campus and to present certain information verifying location and status as a student. Failure to report as required or provision of false information to the INS will subject a student to deportation proceedings for failure to comply with the conditions of nonimmigrant status. Conviction of a crime punishable by imprisonment for more than one year will constitute failure to maintain status. These regulations are issued under the authority vested in the Attorney General by Section 214(a) of the Immigration and Nationality Act, 8 U.S.C. 1184(a).

EFFECTIVE DATE: November 13, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This regulation makes immediately effective as to Iranian students the provisions of the regulation published this date which defines as conditions of status obedience to laws of all jurisdictions of the United States and the provision of truthful information to the INS.

By virtue of the authority vested in me by 8 U.S.C. 1103(a) and 1184(a) and 8 U.S.C. 301, Part 214 of Chapter I of Title 8, Code of Federal Regulations, is amended by adding a new § 214.5 to read as follows.

PART 214—NONIMMIGRANT CLASSES

§ 214.5 Requirements for maintenance of status for nonimmigrant students from Iran.

(a) An alien admitted as an F–1 or J–1 nonimmigrant student to attend a post-secondary school, including a vocational school, who is a native or citizen of Iran must report to the INS District Office or suboffice having jurisdiction over his or her school or to an INS representative on campus before December 14, 1979, and provide information as to residence and maintenance of nonimmigrant status. Each student must have in his or her possession at the time of reporting:

(1) Passport and Form I–94;

(2) Evidence from the school of enrollment and payment of fees or waiver of payment of fees for the current semester;

(3) A letter from school authorities attesting to the course hours in which presently enrolled and the fact that the student is in good standing; and

(4) Evidence of current address in the United States. Students must provide such other information as INS may request in order to verify maintenance of status and residence.

(b) Failure by a nonimmigrant student to comply with the provisions of paragraph (a) of this section or willful provision of false information to the INS will be considered a violation of the conditions of the nonimmigrant's stay in the United States and will subject him or her to deportation proceedings under Section 241(a)(9) of the Act.

(c) A condition of the admission and continued stay in the United States of a nonimmigrant covered by paragraph (a) of this section is obedience to all laws of United States jurisdictions which prohibit the commission of crimes of violence and for which a sentence of more than one year imprisonment may be imposed. A nonimmigrant's conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed, (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status under Section 241(a)(9) of the Act.

The foregoing actions are taken in accordance with the Presidential directive of November 10, 1979, issued in the course of, and in response to, the international crisis created by the unlawful detention of American citizens in the American Embassy in Tehran. Accordingly, the notice and comment and delayed effective date provisions of Section 553 of Title 5 of the United States Code are hereby waived as impracticable and contrary to the public interest.

Effective date. The amendments contained in this order become effective on November 13, 1979.

Dated: November 13, 1979.

Benjamin R. Civiletti,

Attorney General of the United States.

[FR Doc. 79–35307 Filed 11–13–79; 9:50 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

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58720 10–11–79 / Television broadcast stations in Washington, D.C.; Waldorf, Md., Fairfax and Front Royal, Va.; changes in table of assignments

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59232 10–15–79 / Administrative Settlement Costs

59239 10/15/79 / Organization and Delegation of Powers and Duties

Next Week's Deadlines for Comments On Proposed Rules

ACTION

60110 10–18–79 / Environmental policy analysis implementation procedures; comments by 11–19–79

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

64839 11–8–79 / Certain size requirements applicable to fresh shipment of lemons from Calif. and Ariz.; comments by 11–23–79

63547 11–5–79 / Filberts grown in Oregon and Washington; proposed free and restricted percentages for 1979–1980 marketing policy year; comments by 11–21–79

54514 9–20–79 / Grain inspection appeals; comments by 11–19–79

Farmers Home Administration—

54517 9–20–79 / Supervision of association and organization borrowers and grant recipients; comments by 11–19–79

Federal Crop Insurance Corporation—

54711 9–21–79 / Proposed dry bean crop insurance; comments by 11–20–79

Food and Nutrition Service—

57414 10–5–79 / Food Stamp Program; Procedures for rounding amounts in calculating net monthly income; comments by 11–19–79

Forest Service—

54268 9–18–79 / Enhancement, protection and management of cultural resources; proposed policy; comments by 11–19–79

Soil Conservation Service—

54073 9–18–79 / Emergency watershed protection; comments by 11–19–79

CIVIL AERONAUTICS BOARD

43481 7–25–79 / Consumer protections for members of scheduled service tour groups; reply comments by 11–22–79

59242 10–15–79 / Transportation of mail and establishment of mail rates and rules applicable to mail rate proceedings; reply comments by 11–20–79

COMMERCE DEPARTMENT

Office of the Secretary—

54908 9–21–79 / Grants: disputes and appeals procedures; comments by 11–20–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

60744 10–22–79 / Motor gasolene retail sales; equal application rule and increased cost allocation; comments period extended from 11–5–79 to 11–23–79

[Originally published at 44 FR 54902, Sept. 21, 1979]

61085 10–23–79 / Supplemental allocation notice for October through December 31, 1979; comments by 11–23–79

Federal Energy Regulatory Commission—

61976 10–29–79 / Data collection forms; discontinuance of unnecessary forms; comments by 11–23–79

ENVIRONMENTAL PROTECTION AGENCY

54508 9–20–79 / Closed system packaging for pesticides; comments by 11–19–79

54284 9–18–79 / Data reimbursement under sections 4 and 5 of the Toxic Substances Control Act; comments by 11–19–79

60341 10–19–79 / Designation of areas of air quality planning purposes, Oregon attainment status; comments by 11–19–79

54222 9–18–79 / Guidelines for specification of disposal sites for dredged or fill material; comments by 11–19–79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

54733 9–21–79 / Extension or retroactivity for allegations of handicap discrimination; comments by 11–20–79

FEDERAL COMMUNICATIONS COMMISSION

57138 10–4–79 / Bonita Springs, Goulds, and Homestead, Fla.; changes in table of assignments; comments by 11–20–79

59568 10–16–79 / Ex parte communications; comments by 11–19–79

58929 10–12–79 / Modifying individual radio licensing procedures in the domestic public radio services; comments by 11–19–79

59570 10–16–79 / Providing for the operation of a TV interface device; comments by 11–19–79

FEDERAL RESERVE SYSTEM

54311 9–19–79 / Reserve requirements and interest rate limitations on deposits for U.S. branches and agencies of foreign banks; comments by 11–23–79

[Originally published at 44 FR 44876, July 3, 1979]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

54731 9–21–79 / Antacid drug products for over-the-counter human use; proposed amendment of monograph; comments by 11–20–79

48986 8–21–79 / Lakes of color additives; intent to list; comments extended to 11–19–79 [Originally published at 44 FR 36411, June 22, 1979]

54730 9–21–79 / Special requirements for specific human drugs, revocation of requirements for dimethylsulfoxide; comments by 11–20–79

Office of Education—

61109 10–23–79 / Procedures for resolving complaints under the Elementary and Secondary Act; comments by 11–23–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner—

54492 9–20–79 / Change in notification to HUD of sale of insured mortgages and loans; comments by 11–19–79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

61231 10–24–79 / Archeologic, historic, and scientific properties; procedures for identification and protection; comments by 11–23–79

Indian Bureau Affairs—

61209 10–24–79 / San Carlos Indian irrigation project, Arizona; Proposed power rate schedules; comments by 11–23–79

Land Management Bureau—

54254 9–18–79 / Federal installations; implementation of section 3(e) of the Alaska Native Claims Settlement Act; comments by 11–19–79

60764 10–22–79 / Proposed trespass penalties; comments by 11–21–79

Surface Mining Office—

61312 10–24–79 / Steep-slope mining, backfilling and grading to achieve approximate original contour; comments by 11–23–79

Surface Mining Reclamation and Enforcement Office—

60233 10–18–79 / Procedures for approval or disapproval of State pemanent regulatory program submissions by the Secretary of Interior; comments by 11–21–79

60226, 60228 10–18–79 / Request for comments by 11–19–79 or petitions to amend certain standards, and procedures of the Surface Coal Mining and Reclamation Operations Permanent Regulatory programs (2 documents)

NUCLEAR REGULATORY COMMISSION

54308 9–19–79 / Emergency planning by production and utilization facility licensees; submission of plans to NRC and requirements for keeping updated; comments by 11–19–79

PERSONNEL MANAGEMENT OFFICE

54695 9–21–79 / Retirement exclusions from retirement coverage; Senior Executive Service; comments by 11–20–79

POSTAL SERVICE

61383 10–25–79 / Handling of unpaid articles placed in private mail receptacles or in the mail by private delivery companies; comments by 11–24–79

61385 10–25–79 / Provisions for pickup of express mail addressed to post office box addresses; comments by 11–24–79

SMALL BUSINESS ADMINISTRATION

54724 9–21–79 / Guaranty fees, fluctuating interest rates; comments by 11–20–79

60745 10–22–79 / Leverage to small business investment companies; events of default; comments by 11–21–79

60746 10–22–79 / Small business size standards; naval architecture and marine engineering size standard proposal; comments by 11–21–79

TRANSPORTATION DEPARTMENT

Coast Guard—

57137 10–4–79 / Ports of documentation; revocation of Sitka and Wrangrell, Alaska; comments by 11–19–79

Federal Aviation Administration—

54467 9–20–79 / Allowable project costs under airport development projects; comments by 11–20–79

60749 10–22–79 / Houghton Lake, Michigan; transition area; comments by 11–19–79

60749 10–22–79 / Hutchinson, Minn.; transition area; comments by 11–19–79

60750 10–22–79 / Marks, Mississippi; alteration of transition area; comments by 11–24–79

42410 7–19–79 / Noise standards for helicopters in the normal, transport, and restricted categories; comments by 11–19–79

60751 10–22–79 / Shell Lake; Wisconsin; proposed designation of transition area; comments by 11–19–79

60748 10–22–79 / Transition area; Glenwood, Minn.; comments by 11–19–79

60752 10–22–79 / Worthington, Minn.; alteration of transition area; comments by 11–19–79

Research and Special Programs Administration—

58767 10–11–79 / Addition of certain materials to hazardous materials table and changes in provisions for forbidden materials; comments period extended to 11–19–79

[Originally published at 44 FR 43861, July 26, 1979]

TREASURY DEPARTMENT

Comptroller of the Currency—

54310 9–19–79 / Annual report to shareholders; changes in form and content; comments by 11–19–79

Customs Service—

57044 10–3–79 / Countervailing duties; comments by 11–19–79

54311 9–19–79 / Denver, Colo. port of entry; clarification of port limits; comments by 11–19–79

Next Week's Meetings

Next Week's Public Hearings

List of Public Laws

Last Listing November 8, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 117 / Pub. L. 96–105 To provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes. (Nov. 8, 1979; 93 Stat. 794) Price $.75.

H.R. 4249 / Pub. L. 96–106 To amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes. (Nov. 9, 1979; 93 Stat. 796) Price $.75.

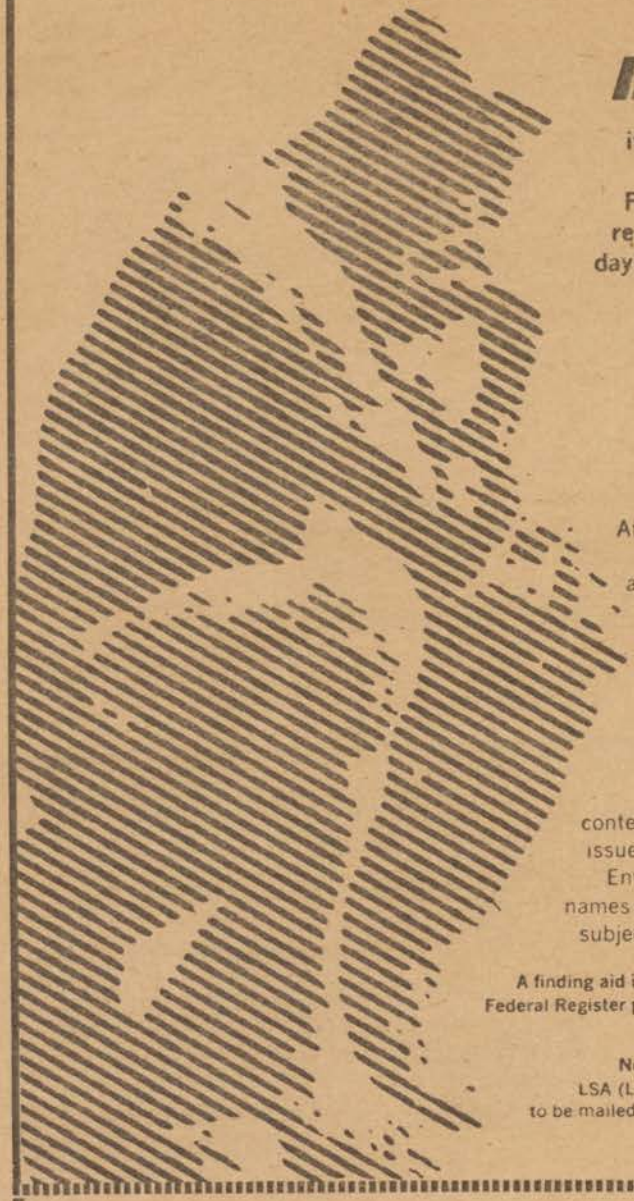
S. 428 / Pub. L. 96–107 "Department of Defense Authorization Act, 1980". (Nov. 9, 1979; 93 Stat. 803) Price $1.25.

H.R. 4387 / Pub. L. 96–108 Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes. (Nov. 9, 1979; 93 Stat. 821) Price $1.25.

H.R. 5218 / Pub. L. 96–109 To amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance. (Nov. 9, 1979; 93

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.



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