AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-3-82
Vol. 47 No. 85
Pages 18847-19110

federal register

Monday
May 3, 1982

379-329
G.SA
Item 5

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

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

Contents

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982

Agricultural Marketing Service
RULES
18847 Hops of domestic production; emergency; correction

Agriculture Department
See Agricultural Marketing Service; Federal Grain Inspection Service.

Air Force Department
NOTICES
Meetings:
18945 Scientific Advisory Board

Arms Control and Disarmament Agency
NOTICES
18943 Hubert H. Humphrey Fellowship competition

Army Department
NOTICES
18946 Information collection; record of preparation and disposition of remains; inquiry
Meetings:
18946 Science Board (2 documents)

Bonneville Power Administration
NOTICES
18947 Customer-owned facilities; operating and maintenance charge, adjustments; inquiry

Census Bureau
NOTICES
18945 Cubans and Haitians who entered U.S. between April 1 and September 30, 1980

Central Intelligence Agency
NOTICES
18943 Privacy Act; systems of records

Civil Aeronautics Board
PROPOSED RULES
18913 Hawaiian joint fares; interline service; correction and extension of time
NOTICES
Hearings, etc.:
18944 EOA fitness investigation
18944 Samoa Airlines, Inc., fitness investigation

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
18944 California
18944 Michigan
18982 Meetings; Sunshine Act

Coast Guard
RULES
Safety and Security zones:
18851 Newark Bay, New York Harbor, N.J.; temporary
PROPOSED RULES
Merchant marine officers and seamen:
18929 Licenses and certificates, issuance; establishment of regional examination centers

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
NOTICES
18982 Meetings; Sunshine Act

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings:
18946 DIA Advisory Committee

Education Department
RULES
Postsecondary education:
18852 Cooperative education program, supplemental funds
NOTICES
19086 Guaranteed student loan program; family contribution schedule
Meetings:
18946 Indian Education National Advisory Council

Energy Department
See also Bonneville Power Administration, Federal Energy Regulatory Commission.
PROPOSED RULES
Administrative procedures and sanctions:
18907 International electric power system applications; fee structure review
18923 Procurement
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
18946 Japan

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
18860 Arkansas
18852 California
18858 New Mexico
18857 Texas
18859 Virginia
Air quality planning purposes; designation of areas:
18861 Kentucky
PROPOSED RULES
Air quality planning purposes; designation of areas:
18922 Alabama

Federal Aviation Administration
RULES
Airworthiness directives:
18848 Beech
18849 Standard instrument approach procedures
PROPOSED RULES
Airworthiness directives:
18913 Rolls Royce

Federal Communications Commission
RULES
Common carrier services:
18883 Record carrier competition, domestic and international; interconnection guidelines; interim
Radio services, special:
18881 Maritime services; inland waterways communications system; Gulf Intracoastal Waterway
Radio stations; table of assignments:
18900 Alabama
18901 Missouri
18901 Montana
18902 Texas
PROPOSED RULES
Radio broadcasting:
18936 FM stations; interference blanketing
Radio services, special:
18932 Instructional television fixed service, multipoint distribution service, and private operational fixed microwave service; frequency allocations and technical requirements; extension of time
Televison stations; table of assignments:
18934 Arizona
NOTICES
Hearings, etc.:
18957 Connecticut Yankee Broadcasting Co. et al.
18960 Faith Center, Inc., et al.
Organization and functions:
18957 Pittsburgh, Pa.; field office closed

Federal Deposit Insurance Corporation
PROPOSED RULES
18908 Regulatory agenda
18910 Securities transfer agents; registration

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
18867 California et al.
Flood insurance; special hazard areas:
18869 Arkansas et al. (2 documents)
Flood insurance; special hazard areas; map corrections:
18870, 18872 California (2 documents)
18873 Florida
18871, 18874 Illinois (2 documents)
18871, 18874-18876 Michigan (5 documents)
18872, 18877 Minnesota (2 documents)
18877 South Dakota
18878, 18879 Texas (3 documents)
NOTICES
Disaster and emergency areas:
18965 Arkansas
18966 California

Federal Energy Regulatory Commission
RULES
Practice and procedure:
19014 Commission proceedings; conduct
NOTICES
Hearings, etc.:
18947 Austin, Stephen E. and George S.
18948 Colorado Interstate Gas Co.
18949 Emerald Peoples Utility District
18949 Energenics Systems, Inc.
18950 Grisdale Hill Co.
18950 Hydro Development Group Inc.
18951 Los Angeles Department of Water and Power
18952 Mac Hydro-Power Co., Inc.
18953 McMurtrey, Lawrence J. (2 documents)
18954 Michigan Wisconsin Pipe Line Co.
18955 Modesto Irrigation District
18955 Mountain Fuel Supply Co.
18956 Southern Natural Gas Co.
18956 Tennessee Gas Pipeline Co.
18957 United Gas Pipe Line Co.

Federal Grain Inspection Service
NOTICES
Agency designation actions:
18941 Alaska
18941 Arkansas and Tennessee
18942 California and Illinois

Federal Home Loan Bank Board
NOTICES
18982 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
Mortgage and loan insurance programs and low income housing:
18914 Aliens; restriction on use of assisted housing

Federal Maritime Commission
NOTICES
Casualty and nonperformance, certificates:
18966 Special Expeditions, Inc., et al.
18982 Meetings; Sunshine Act

Federal Reserve System
RULES
Reserve requirements of depository institutions (Regulation D):
18847 Time deposits, nonpersonal
NOTICES
Applications, etc.:
18966 AmeriTrust Corp. et al.
18967 Banco Del Pacifico International
18967 First of Austin Bancshares, Inc., et al.
18968 Republic International Bank of New York (California)
18967 U.C.B. Banc Corp. et al.

General Services Administration
RULES
Procurement:
18865 Bid abstract; new form and technical changes
18862 Foreign purchases; authority delegations

Health and Human Services Administration
See also Human Development Services Office; Public Health Service; Social Security Administration
NOTICES
Meetings:
18968 Physical Fitness and Sports, President's Council

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
18968 Child abuse and neglect program; research and demonstration projects

Interior Department
See also Land Management Bureau; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.
PROPOSED RULES
19066 Mineral materials disposal and surface exploration; mining and reclamation of land

International Trade Administration
NOTICES
Meetings:
18945 President's Export Council

Interstate Commerce Commission
RULES
Practice and procedure:
18906 Oil pipeline filings and proceedings; termination of applicability by FERC; cross reference
NOTICES
Motor carriers:
18973 Temporary authority applications
Rail carriers:
18973 Prairie Central Railway Co.; exemption petition
Rail carriers; contract tariff exemptions:
18972 Pittsburgh & Lake Erie Railroad Co. et al.

Land Management Bureau
PROPOSED RULES
19060 Disclaimer of interest, recordable; conveyancing documents correction
19066 Mineral materials disposal and surface exploration; mining and reclamation of land
NOTICES
Environmental statements; availability, etc.:
18971 San Gorgonio Pass Wind Energy Project, Calif.
Geothermal lease sales:
18971 Cosco and Wedel Amedee KGRA's, Inyo and Lassen, Calif.
Withdrawal and reservation of lands, proposed, etc.:
18972 Wyoming

Maritime Administration
NOTICES
Environmental statements; availability, etc.:
18980 Tanker construction program; construction-differential subsidy applications for retrofitting vessels

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
18904 Tires, new pneumatic, for passenger cars

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
18939 Atlantic surf clam and ocean quahog

Nuclear Regulatory Commission
NOTICES
18982 Meetings; Sunshine Act

Panama Canal Commission
NOTICES
18979 Privacy Act; systems of records

Public Health Service
NOTICES
18971 Health maintenance organizations, qualified; list

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
18972 Boise Project, Idaho; Cascade Reservoir land use management plan

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
18904 Aluminum cylinders (DOT 3AL seamless); specifications and usage requirements

Small Business Administration
PROPOSED RULES
18992 Small business size standards; advance notice

Social Security Administration
RULES
Public assistance programs:
18879 Aid to families with dependent children applicants or recipients; public audits, disclosure of information; interim rule and request for comments

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent and interim regulatory programs:
19076 Prime farmland; performance standards and permit application procedures
18920 Permanent program regulations, revisions; cumulative environmental impacts; availability of environmental assessment, etc.

Transportation Department
See also Coast Guard; Federal Aviation Administration; Maritime Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department
RULES
Organization, functions, and authority delegations:
18903 Coast Guard Discharge Review Board

Treasury Department
NOTICES
18980 Agency forms submitted to OMB for review

Veterans Administration
RULES
18866 Procurement

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
991 18847

10 CFR
Proposed Rules:
205 18907

12 CFR
204 18847
Proposed Rules:
Ch. III 18908
341 18910

13 CFR
Proposed Rules:
121 18992

14 CFR
39 18848
97 18849
Proposed Rules:
39 18913
399 18913

18 CFR
1 19014
1b 19014
2 19014
3 19014
3a 19014
3c 19014
4 19014
12 19014
16 19014
25 19014
32 19014
33 19014
34 19014
35 19014
41 19014
45 19014
131 19014
152 19014
153 19014
154 19014
156 19014
157 19014
158 19014
250 19014
270 19014
271 19014
275 19014
281 19014
282 19014
284 19014
286 19014
292 19014
375 19014
385 19014
388 19014

24 CFR
Proposed Rules:
200 18914
215 18914
236 18914
812 18914

30 CFR
Proposed Rules:
Ch. VII 18920
779 19076
783 19076
785 19076
823 19076

33 CFR
100 18851
165 18851

34 CFR
636 18852

40 CFR
52 (5 documents) 18854–18860
81 18861
Proposed Rules:
81 18922

41 CFR
5–6 18862
5A–72 18862
5B–1 18865
5B–2 18865
5B–16 18865
8–3 18866
Proposed Rules:
Ch. 9 18923

43 CFR
Proposed Rules:
23 19066
1820 19060
1860 19060
3600 19060
3610 19060
3620 19060

44 CFR
64 18867
65 (2 documents) 18869
70 (16 documents) 18870–18879

45 CFR
205 18879

46 CFR
Proposed Rules:
1 18929
10 18929
12 18929
187 18929

47 CFR
2 18881
61 18883
73 (4 documents) 18900–18902
81 18881
83 18881
Proposed Rules:
2 18932
21 18932
73 (2 documents) 18934, 18936
74 18932
94 18932

49 CFR
1 18903
178 18904
571 18904
1100 18906

50 CFR
Proposed Rules:
652 18939

Rules and Regulations

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 991

Hops of Domestic Production; Amendment of Administrative Rules and Regulations

Correction

In FR Doc. 82–10874 appearing on page 10734 in the issue of Wednesday, April 21, 1982, make the following corrections:

1. In the first column of page 17035, in the second complete paragraph, in the 14th line, "to April" should have read "to April 30".

2. In the same column, third complete paragraph, in the ninth line "April" should have read "April 30".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0401]

Regulation D; Reserve Requirements of Depository Institutions; Reserve Requirements on Nonpersonal Time Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to modify the reserve requirements on nonpersonal time deposits. Under the amendment, nonpersonal time deposits with original maturities of 3½ years or more will be subject to a reserve requirement ratio of zero percent. Nonpersonal time deposits with original maturities of less than 3½ years will continue to be subject to a 3 percent reserve requirement ratio. This action was taken in light of the Depository Institution Deregulation Committee's authorization of a new category of ceiling-free time deposit with an original maturity of 3½ years or more which may be offered by depository institutions in negotiable form.

EFFECTIVE DATE: April 29, 1982. The first reserve maintenance period to which the amendment applies commences May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), Paul S. Pilecki, Senior Attorney (202/452–3281), or Robert G. Ballen, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221; 94 Stat. 132) empowers the Board to prescribe, solely for the purpose of implementing monetary policy, reserve requirements against nonpersonal time deposits within a reserve ratio range of zero and nine percent. The Monetary Control Act requires the reserve requirement against nonpersonal time deposits to be applied uniformly to the deposits at all depository institutions, except that such requirement may vary by deposit maturity. Nonpersonal time deposits are defined by the Act as time deposits that are transferable, regardless of the nature of the holder, and time deposits in which any beneficial interest is held by a depositor who is not a natural person. Nontransferable time deposits solely in the name of, or in which the entire beneficial interest is held by, a natural person are not subject to reserve requirements.

Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) currently imposes a 3 percent reserve requirement on nonpersonal time deposits with original maturities or notice periods of less than four years. Nonpersonal time deposits with maturities of four years or more are subject to a zero percent reserve requirement.

The Depository Institutions Deregulation Committee ("DIDC"), pursuant to its authority under the Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221), authorized Federally insured commercial banks, mutual savings banks, and savings and loan associations to offer, effective May 1, 1982, a new category of ceiling-free time deposit with an original maturity of 3½ years or more. Such time deposits may be issued in negotiable or nonnegotiable form at the option of the issuer to any holder.

This new instrument, if issued to an individual with an original maturity of 3½ to less than 4 years and in negotiable form (as well as an instrument with that maturity issued to other than a natural person regardless of negotiability) would be subject to a 3 percent reserve requirement. Thus, the existing reserve requirement structure presents a disincentive for issuing the new instrument with maturities of 3½ to less than 4 years to individuals in negotiable form. Since reserve requirements are not imposed presently on longer term time deposits, and to facilitate the DIDC's objectives in the authorization of this new instrument, the Board has amended the reserve requirements on nonpersonal time deposits so that nonpersonal time deposits with original maturities of 3½ years or more will be subject to a zero percent reserve requirement ratio and nonpersonal time deposits with original maturities of less than 3½ years will be subject to a 3 percent reserve requirement ratio.

According to the current deregulation schedule adopted by the DIDC, the minimum maturity of the new 3½ year or more instrument will decrease by one year annually until March 31, 1986, at which time the minimum maturity will be that specified for any time deposit—currently 14 days. However, the Board indicated that its action should not be regarded at a commitment to make further adjustments in the reserve requirements on nonpersonal time deposits in line with the DIDC's currently announced schedule to decrease annually the minimum maturity of this ceiling-free time deposit by one year.

In view of the fact that commercial banks, mutual savings banks, and savings and loan associations may offer the new time deposit category authorized by the DIDC, as of May 1, 1982, the Board finds that application of the notice and public participation

provisions of 5 U.S.C. 553 to this action would be contrary to the public interest, and that good cause exists for making this action effective April 29, 1982.

List of Subjects in 12 CFR Part 204

Banks, banking; Currency, Federal Reserve System; Penalties; Reporting Requirements.

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

Pursuant to its authority under sections 19, 25, and 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601 *et seq.* 611 *et seq.*) and under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), the Board amends Regulation D (12 CFR Part 204) effective April 29, 1982, by revising paragraph (a) of § 204.9 to read as follows:

§ 204.9 Reserve requirement ratios.

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
$0 to $26 million	3 pct of amount.
Over $26 million	$780,000 plus 12 pct of amount over $26 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 3½ yrs.	3 pct.
3½ yrs or more	0 pct.
Eurocurrency liabilities	3 pct.

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 27, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-11943 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-15-AD; Amdt. 39-4372]

Beech Model 77 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, superseding Airworthiness Directive (AD).

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), superseding AD 81-09-05, and requires a one-time inspection and modification if required of the shoulder harness attach bracket of certain Beech Model 77 airplanes to ensure that fasteners are capable of sustaining design loads. Failure of this bracket will result in loss of occupant restraint and increase the potential for serious injury during a minor crash landing.

EFFECTIVE DATE: May 6, 1982

Compliance: Within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 1173, Rev. 1, applicable to this AD, may be obtained from Beech Aircraft Corporation, Liberal Division, Liberal, Kansas 67901; Telephone number (316) 624-1613. A copy of the Service Instructions is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don L. Williams, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: Missing rivets and insufficient fastener edge distances have been found on the P/N 108-440000-31 shoulder harness attach bracket of Beech Model 77 airplanes. This condition reduces the ability of the shoulder harness attach bracket to carry design loads. Failure of this bracket will result in loss of occupant restraint and increase the potential for serious injury during a minor crash landing. The airplane manufacturer issued Service Instructions No. 1173 calling for inspection and rework of the shoulder harness attach bracket of Beech Model 77 airplanes within 50 hours time-in-service. Since the FAA determined that this was an unsafe condition that could exist in other airplanes of the same type design, mandatory compliance with the Service Instructions was required by issuance of AD 81-09-05.

When complying with the aforementioned Service Instructions and AD, mechanics were unable to obtain proper edge distance of the P/N 108-440000-31 bracket with pre-drilled holes supplied by Beech even after reworking the frame cut out per the Service Instructions. Accordingly, the manufacturer issued Beechcraft Service Instructions No. 1173, Revision 1, incorporating a blank bracket rather than the pre-drilled bracket, and instructions for installing screws at all seven attachment holes rather than the three screws and four rivets originally specified. Additionally, certain airplanes which could have the same condition of insufficient fastener edge distance were added.

Since the condition described herein is likely to exist on other airplanes of the same type design, an AD is being issued, superseding AD 81-09-05, applicable to Beech Model 77 airplanes making compliance with Revision 1 of the Service Instructions utilizing an undrilled P/N 108-440000-31 bracket mandatory. Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, notice and public procedure hereon are considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 39

Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new Airworthiness Directive.

Beech: Applies to Model 77 (Serial Numbers WA-3 through WA-235, WA-237, WA-238, WA-240 through WA-254, WA-256, WA-258, WA-261 through WA-264, WA-266, WA-267 and WA-269) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To detect any Beech P/N 108-440000-31 shoulder harness attach brackets which may have been improperly installed during manufacture or when complying with AD 81-09-05 and to ensure the required structural level of occupant protection during minor crash conditions, within the next 50 hours time-in-service after the effective date of this AD, accomplish the following:

(a) Visually inspect and, if required, replace the P/N 108-440000-31 shoulder harness attach bracket in accordance with procedures set forth in Beechcraft Service Instructions No. 1173, Rev. 1. If an undrilled P/N 108-440000-31U shoulder harness attach bracket was installed and minimum edge distances specified in Rev. 1, Figure 1, were maintained on the attaching screws and rivets when complying with AD 81-09-05, the bracket installation is acceptable. Make the prescribed entry in the aircraft maintenance records indicating compliance with this AD.

(b) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) Any equivalent method of compliance with this AD, if used, must be approved by the Chief, Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7000.

This amendment supersedes Amendment 39-4101 (AD 81-09-05) effective May 7, 1981.

This amendment becomes effective on May 6, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and modification on only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the rules docket at the location identified under the caption "ADDRESSES."

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Mo., on April 19, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-11946 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 97

[Docket No. 22899; Amdt. No. 1215]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Adminstration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 522(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Aviation safety, Standard instrument approaches.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

Effective July 8, 1982

Hartford, CT—Hartford-Brainard, VOR–A, Amdt. 5
St. Jacob, IL—Shafer Metro East, VOR–A, Original
Benton, KS—Benton, VOR–E, Original
McPherson, KS—McPherson, VOR/DME Rwy 36, Amdt. 4
Grain Valley, MO—East Kansas City, VOR Rwy 23, Amdt. 1

Effective June 10, 1982

Ozark, AR—Ozark-Franklin County, VOR/DME–A, Amdt. 2
Orlando, FL—Orlando Executive, VOR Rwy 31, Amdt. 12
West Palm Beach, FL—Palm Beach County Park, VOR Rwy 15, Amdt. 3
Indianapolis, IN—Indianapolis Metropolitan, VOR Rwy 32, Amdt. 5
Terre Haute, IN—Hulman Regional, VOR Rwy 5, Amdt. 13
Terre Haute, IN—Hulman Regional, VOR Rwy 23, Amdt. 16
Detroit, MI—Detroit City, VOR Rwy 33, Amdt. 22
Marlette, MI—Marlette, VOR/DME–A, Amdt. 4
Newberry, MI—Luce County Hale, VOR Rwy 11, Amdt. 7
Newberry, MI—Luce County Hale, VOR Rwy 29, Amdt. 7
Andover, NJ—Aeroflex-Andover, VOR–A, Amdt. 6
Toms River, NJ—Robert J. Miller Air Park, VOR Rwy 24, Amdt. 2
Erwin, NC—Harnett County, VOR/DME Rwy 4, Orig.
Hillsboro, OR—Portland-Hillsboro, VOR–A, Amdt. 2, cancelled
Philipsburg, PA—Mid-State, VOR Rwy 24, Amdt. 13
State College, PA—State College Air Depot, VOR–Am Amdt. 8
Rockport, TX—Aransas Co., VOR/DME or TACAN–A, Amdt. 5
Waco, TX—TSTI-Waco, VOR–A, Amdt. 7, cancelled
Manassas, VA—Manassas Muni/Harry P. Davis Field, VOR–B, Amdt. 1
Winchester, VA—Winchester Muni., VOR–A, Amdt. 1, cancelled
Yakima, WA—Yakima Air Terminal, VOR/DME Rwy 27, Amdt. 5
Rawlins, WY—Rawlins Muni., VOR/DME Rwy 22, Amdt. 1

Effective April 14, 1982

Sanford, ME—Sanford Muni., VOR Rwy 25, Amdt. 10
Charlotte Amalie, St. Thomas, V.I.—Harry S. Truman, VOR–A, Amdt. 14

Effective April 1, 1982

Columbus, GA—Columbus Metropolitan, VOR–A, Amdt. 21

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

Effective July 8, 1982

Bloomington-Normal, IL—Bloomington-Normal, LOC BC Rwy 11, Amdt. 4

Effective June 10, 1982

El Dorado, AR—Goodwin Field, LOC Rwy 22, Original
Orlando, FL—Orlando Executive, LOC BC Rwy 25, Amdt. 14
Goshen, IN—Goshen Muni., LOC Rwy 27, Original
Terre Haute, IN—Hulman Regional, LOC BC Rwy 23, Amdt. 16
Houston, TX—Arcola-Houston, LOC/DME Rwy 10, Amdt. 1
Bremerton, WA—Kitsap County, LOC BC Rwy 1, Amdt. 2, cancelled

Effective May 13, 1982

Meadville, PA—Port Meadville, LOC Rwy 25, Orig.
Knoxville, TN—Knoxville Downtown Island, LOC Rwy 26, Original

Effective April 15, 1982

Rockland, ME—Knox County Regional, LOC Rwy 3, Amdt. 6
The FAA published an amendment in Docket No. 22777, amdt. no. 12131 to Part 97 of the Federal Aviation regulations (Vol. 47 FR No. 65 page 14486; dated April 5, 1982) under Section 97.25 effective July 8, 1982, which is hereby amended as follows:
Arlington, WA—Arlington Muni., LOC Rwy 34 Orig change effective date to 13 May 1982.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

Effective July 8, 1982

Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 16, Amdt. 2
Andreafsky/St. Marys, AK—St. Marys, NDB/DME Rwy 16, Amdt. 2
Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 34, Amdt. 1
Hartford, CT—Hartford-Brainard, NDB–B, Amdt. 5
McPherson, KS—McPherson, NDB–A, Amdt. 2
Topeka, KS—Forbes Field, NDB Rwy 13, Amdt. 3
York, PA—York, NDB–A, Amdt. 8

Effective June 10, 1982

Santa Barbara, CA—Santa Barbara Muni., NDB–A, Amdt. 5, cancelled
Orlando, FL—Orlando Executive, NDB Rwy 7, Amdt. 12
Terre Haute, IN—Hulman Regional, NDB Rwy 5, Amdt. 14
Detroit, MI—Detroit City, NDB Rwy 15, Amdt. 18
Olive Branch, MS—Olive Branch, NDB Rwy 18, Amdt. 2
Olive Branch, MS—Olive Branch, NDB Rwy 36, Amdt. 2
Lebanon, OH—Lebanon-Warren County, NDB–A, Amdt. 2
Philipsburg, PA—Mid-State, NDB Rwy 16, Amdt. 4
Houston, TX—Arcola-Houston, NDB Rwy 28, Amdt. 1
Rockport, TX—Aransas Co., NDB Rwy 14, Amdt. 3
Waco, TX—TSTI-Waco, NDB Rwy 17L, Amdt. 7
Waco, TX—TSTI-Waco, NDB Rwy 35R, Amdt. 8
Manassas, VA—Manassas Muni/Harry P. Davis Field, NDB–A, Amdt. 5
Port Angeles, WA—Port Angeles CGAS, NDB–C, Amdt. 1, cancelled
Port Angeles, WA—Port Angeles CGAS, COPTER NDB 237, Original
Rawlins, WY—Rawlins Muni., NDB–A, Amdt. 7

Effective April 15, 1982

Rockland, ME—Knox County Regional, NDB Rwy 3, Amdt. 5

Effective April 1, 1982

Columbus, GA—Columbus Metropolitan, NDB Rwy 5, Amdt. 26
The FAA published an amendment in Docket No. 22777, Amdt. No. 12131 to Part 97 of the Federal Aviation regulations (Vol. 47 FR No. 65 page 14486; dated April 5, 1982) under section 97.27 effective July 8, 1982, which is hereby amended as follows:
Arlington, WA—Arlington Muni NDB Rwy 34 orig change effective date to 13 May 1982.
Arlington, WA—Arlington Muni, NDB–A amdt 2 cancelled change effective date of cancellation to 13 May 1982.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective July 8, 1982*

Andreafsky/St. Marys, AK—St. Marys, ILS/DME Rwy 16, Amdt. 2
Bloomington-Normal, IL—Bloomington-Normal, ILS Rwy 29, Amdt. 5

** * * Effective June 10, 1982*

San Francisco, CA—San Francisco Intl, ILS Rwy 19L, Amdt. 17
Santa Barbara, CA—Santa Barbara Muni., ILS Rwy 7, Amdt. 22
Orlando, FL—Orlando Executive, ILS Rwy 7, Amdt. 16
Terre Haute, IN—Hulman Regional, ILS Rwy 5, Amdt. 18
Detroit, MI—Detroit City, ILS Rwy 15, Amdt. 4
Detroit, MI—Detroit City, ILS Rwy 33, Amdt. 7
Philipsburg, PA—Mid-State, ILS Rwy 16, Amdt. 4
Waco, TX—TSTI-Waco, ILS Rwy 17L, Amdt. 8
Yakima, WA—Yakima Air Terminal, ILS Rwy 27, Amdt. 24

** * * Effective April 1, 1982*

Columbus, GA—Columbus Metropolitan, ILS Rwy 5, Amdt. 21

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective June 10, 1982*

Orlando, FL—Orlando Executive, RADAR–1, Amdt. 18
Terre Haute, IN—Hulman Regional, RADAR–1, Amdt. 1
Flint, MI—Bishop RADAR–1, Amdt. 5
Waco, TX—TSTI-Waco, RADAR–1, Amdt. 2

** * * Effective April 21, 1982*

Columbus, GA—Columbus Metropolitan, RADAR–1, Amdt. 7

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective July 8, 1982*

McPherson, KA—McPherson, RNAV Rwy 18, Original, cancelled

Grain Valley, MO—East Kansas City, RNAV Rwy 27, Original

** * * Effective June 10, 1982*

Terre Haute, IN—Hulman Regional, RNAV Rwy 31, Amdt. 4
Hillsboro, OR—Portland-Hillsboro, RNAV Rwy 12, Amdt. 2, cancelled
Houston, TX—Hull Field, RNAV Rwy 17, Amdt. 3
Manassas, VA—Manassas Muni/Harry P. Davis Field, RNAV Rwy 16R, Amdt. 5
Winchester, VA—Winchester Muni., RNAV Rwy 14, Amdt. 1, cancelled
Winchester, VA—Winchester Muni., RNAV Rwy 32, Amdt. 1, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on April 23, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-11945 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Parts 100 and 165

[CGD 82-044]

Establishment of Temporary Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety and security zones. Periodically, the Coast Guard must issue safety and security zones for limited periods of time in limited areas. These zones are established, for example, around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area.

DATES: The following list includes zones that were established between December 14, 1981 and March 15, 1982 and have since been terminated.

ADDRESS: The complete text of any of these temporary zones may be examined at, and is available upon request from Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LTJG Dave Schoorens at (202) 426-1477.

SUPPLEMENTARY INFORMATION: This document lists zones that were recently established and were subsequently terminated. The local Captain of the Port (COTP) must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated authority to issue these zones. Since these events usually take place without advance notice, timely publication of notice in the **Federal Register** is often precluded. However, the effected public is informed by means of local notice to mariners, press releases, or other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity.

Because most mariners are notified by the local notice to mariners and Coast Guard officials on scene, **Federal Register** notice is not required to place the security zone or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of temporary security and safety zones which have been established throughout the United States. Permanent safety and security zones, and certain temporary zones are not included in this list. Permanent zones are published in their entirely in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water).

33 CFR Part 165

Harbors, Marine safety, Waterways.

Docket No.	Location	Type	Date
1. CGD 3-81-18R	Newark Bay, New York Harbor, New Jersey	Safety Zone	12-14-81
2. CGD 3-82-01R	Lower Hudson River, New York	Security Zone	01-14-82
3. CGD 3-82-03	Lower Hudson River, New York	Security Zone	03-23-82
4. CGD 5-82-01R	Chesapeake Bay, James River, Newport News Channel, Newport News, Virginia	Safety Zone	01-26-82
5. CGD 5-82-02R	Chesapeake Bay, James River, Newport News Channel, Newport News, Virginia	Safety Zone	02-16-82
6. CGD 5-82-03R	Chesapeake Bay, James River, Newport News Channel, Newport News, Virginia	Safety Zone	02-17-82
7. CGD 5-82-05R	Cape Fear River, Wilmington, North Carolina	Security Zone	03-09-82
8. CGD 5-82-06R	Chesapeake Bay, Hampton Roads Newport News Channel, Elizabeth River Channel, Newport News, Virginia	Safety Zone	03-15-82
9. CGD 5-82-17R	Chesapeake Bay, Hampton Roads Newport News Channel, Elizabeth River Channel, Newport News, Virginia	Safety Zone	01-24-82
10. CGD 8-81-19	Vicinity of Southwest Pass, Mississippi River	Safety Zone	01-26-82
11. CGD 11-82-02	Long Beach Harbor, California	Safety Zone	02-10-82

A. D. Utara,

Commander, U.S. Coast Guard, Regulations Officer.

April 20, 1982.

[FR Doc. 82-11686 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 636

Supplemental Funds Program for Cooperative Education

AGENCY: Education Department.

ACTION: Final Regulations.

SUMMARY: The Secretary issues regulations governing the award of certain unused College Work-Study Program funds under the Supplemental Funds Program for Cooperative Education. The regulations are published to implement statutory provisions that authorize the reallotment of these funds as supplemental funds to eligible institutions of higher education for use in initiating, improving, and expanding programs of Cooperative Education, as described in 34 CFR 631.3(b), governing Title VIII of the Higher Education Act of 1965, as amended. These regulations inform potential grant recipients of the application procedures and distribution formula used by the Secretary in making awards under this part.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register.** If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara W. Freeman, (Room 3053, ROB–3), Department of Education, 400 Maryland Ave., SW., Washington, D.C. 20202. Telephone: (202) 245–2146.

SUPPLEMENTARY INFORMATION:

Background

Section 442(d) of Title IV, Part C of the Higher Education Act of 1965, as amended ("Act"), authorizes the Secretary to give preference in reallotting the first 50 percent of unused College Work-Study Program funds as supplemental funds to eligible institutions of higher education for use in initiating, improving, and expanding programs of Cooperative Education administered in accordance with the regulations implementing Title VIII of the Act. For detailed information on the Title VIII program, and particularly the components that assist students, refer to 34 CFR Parts 631, 632, and 633.

Institutions of higher education are eligible to apply for supplemental funds if they conduct programs of cooperative education that offer students alternating or parallel periods of academic study and public or private employment that afford those students an opportunity to earn funds necessary for continuing and completing their education and, as far as practicable, give them work experience related to their academic or occupational objectives.

Each eligible applicant will receive a proportionate share of the available funds, based on the ratio of the number of students assisted under its applicable program of cooperative education to the number of students assisted under those programs conducted by all eligible institutions applying for supplemental funds under this part.

On August 4, 1981, the Secretary published in the **Federal Register** (Vol. 46, No. 149, 46 FR 39804) final regulations governing awards made under this program only in fiscal year 1981. The Secretary requested and received public comments on those final regulations. After considering the comments and reviewing the regulations for further opportunities to deregulate, the Secretary issues these final regulations which incorporate certain changes suggested by the public.

Summary of Comments and Responses

A summary of the public comments received and the Secretary's responses to those comments are printed below. The comments and responses appear in the order that the referenced sections appear in these regulations.

Section 636.4 Definitions that apply to this program.

Comment. The commenter suggested that the definition of "Assisted" be clarified so that there is less ambiguity. The commenter further suggested that institutions be allowed to count students that have gone through the counseling, placement search, and assignment procedures but are not yet on a job.

Response. No change has been made. A student who has benefited from all of the services offerd by the Cooperative Education project but has not yet begun work on a job during the reporting period (July 1 of one year until June 30 of the next year) may not be counted as a student "assisted" in a program of cooperative education during that reporting period but may be counted in the succeeding reporting period.

Comment. Four commenters expressed concern about the minimum award level established by the Secretary. One commenter stated that the application of the threshold unlawfully enriched those institutions that received funds under this part by unjustly inflating their allocation. Three commenters suggested that the Secretary establish a maximum award level. They expressed concern that a minimum threshold worked against newer programs of Cooperative Education, especially (in the opinion of one commenter) at institutions having a smaller enrollment. One of these commenters further suggested that the Secretary consider a sliding scale, geared toward extra help for the smaller schools, or that the Secretary establish a lower threshold, perhaps from $500 to $750, to prevent the need to award miniscule grants but still to encourage institutions with small programs of cooperative education to apply for unused College Work-Study funds.

Response. A change has been made. The Secretary has established a minimum award level of $500. The Secretary has established a lower threshold to enable a greater number of institutions to qualify for awards, yet still avoid the issuance of miniscule grants and, thereby, impose a paperwork burden upon institutions to account for the expenditure of Federal dollars. The Secretary notes, however, that the minumum award level established for fiscal year 1981 did not necessarily mitigate against institutions with small enrollments. Whether an institution assisted a sufficient number of students (155) to receive the minimum award of $2,500 depended primarily upon the extent of the institution's commitment to Cooperative Education.

Executive Order 12291

These regulations have been reviewed by the Department in accordance with Executive Order 12291. They are classified as non-major regulations because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. A minimum award level of $500 is established to encourage applications from institutions with small programs, and paperwork compliance and reporting requirements are limited to relieve institutions of a paperwork burden.

Invitation to Comment

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations, especially with regard

to paperwork and compliance requirements.

List of Subjects in 34 CFR Part 636

Colleges and Universities, Education, Employment, Grant programs—education, Manpower training programs, Student aid, Students.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: April 27, 1982.

(Catalog of Federal Domestic Assistance No. 84.055E—Supplemental Funds Program for Cooperative Education)

T. H. Bell,

Secretary of Education.

The Secretary revises Part 636 of Title 34 of the Code of Federal Regulations to read as follows:

PART 636—SUPPLEMENTAL FUNDS PROGRAM FOR COOPERATIVE EDUCATION

Subpart A—General

Sec.

636.1 Supplemental Funds Program for Cooperative Education.
636.2 Eligible grantees.
636.3 Regulations that apply to this program.
636.4 Definitions that apply to this program.

Subpart B—Activities the Secretary Assists Under This Program

636.10 Eligible activities.

Subpart C—How To Apply for a Grant

636.20 Application information.
636.21 Minimum award level.

Subpart D—How the Secretary Makes a Grant

636.30 Distribution of funds.

Subpart E—Conditions a Grantee Must Meet

636.40 Allowable costs.
636.41 Unallowable costs.

Authority: Title IV, Part C, of the Higher Education Act of 1965, as amended (42 U.S.C. 2752(d)), unless otherwise noted.

Subpart A—General

§ 636.1 Supplemental Funds Program for Cooperative Education.

In awarding 50 percent of the unused College Work-Study Program funds that are available for reallotment as supplemental funds, the Secretary gives preference to eligible institutions of higher education for use in initiating, improving, and expanding programs of cooperative education that offer students alternating or parallel periods of academic study and public or private employment that—

(a) Afford students the opportunity to earn funds necessary for continuing and completing their education; and

(b) As far as practicable, give students work experience related to their academic or occupational objectives.

(42 U.S.C. 2752(d))

§ 636.2 Eligible grantees.

The following are eligible to apply for grants under this part:

(a) Institutions of higher education that conduct programs of cooperative education—as described in § 636.1—and propose to initiate programs of Cooperative Education, as defined in 34 CFR 631.3(b).

(b) Institutions of higher education that conduct programs of Cooperative Education—as defined in 34 CFR 631.3(b)—and propose to improve and expand those programs.

(20 U.S.C. 1133, 42 U.S.C. 2752(d))

§ 636.3 Regulations that apply to this program.

The following regulations apply to institutions receiving funds under this part:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions).

(b) The regulations in this Part 636.

(20 U.S.C. 1221e-3(a)(1), 1133, 42 U.S.C. 2752(d))

§ 636.4 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Contract
EDGAR
Equipment
Grant
Grantee
Secretary

(b) *Definitions in the Cooperative Education Program.* The following terms used in this part are defined in 34 CFR Part 631:

Act
Alternating periods of study and employment
Cooperative Education
Institutions of higher education
Parallel periods of study and employment
Student

(c) *Definitions that apply to this part.* The following definitions apply to this part:

"Assisted" means both of the following:

(1) Received academic and career counseling; and

(2) Was placed in a work experience by a program of cooperative education.

"College Work-Study Program award year" means the period between July 1 of one year and June 30 of the next year.

"Expand Cooperative Education" means offer Cooperative Education, as defined in 34 CFR 631.3(b), to students in an academic department or discipline not presently participating in a program of Cooperative Education, or increase the number of students served in a program of Cooperative Education.

"Full-time equivalent student" means two or more students whose credit hours, when combined, equal the number of credit hours that a full-time student at that institution of higher education is required to carry.

"Improve Cooperative Education" means provide additional support to a program of Cooperative Education, as defined in 34 CFR 631.3(b).

"Initiate Cooperative Education" means bring an existing program of cooperative education—as described in § 636.1—into conformity with a program of Cooperative Education, as defined in 34 CFR 631.3(b).

(20 U.S.C. 1221e-3(a)(1), 1133, 42 U.S.C. 2752(d))

Subpart B—Activities the Secretary Assists Under This Program

§ 636.10 Eligible activities.

Supplemental funds shall be used for initiating, improving, and expanding programs of Cooperative Education, as defined in 34 CFR 631.3(b).

(42 U.S.C. 2752(d))

Subpart C—How To Apply for a Grant

§ 636.20 Application information.

(a) To receive funds under this part, an institution of higher education must submit an application to the Secretary on official institutional stationery and at such time as the Secretary may require.

(b) An application must contain—

(1) The number of full-time students assisted by the institution's program of cooperative education during the most recently completed College Work-Study Program award year;

(2) The number of full-time equivalent students assisted by the institution's program of cooperative education during the most recently completed College Work-Study Program award year; and

(3) A narrative budget describing how the funds will be used for initiating, improving, and expanding a program of Cooperative Education. The budget must be submitted to the Department of Education *after* the Secretary advises the institution of the amount of the grant to be awarded.

(c) In calculating the number of students assisted in a program of cooperative education, an applicant may include students assisted under the College Work-Study Program.

(20 U.S.C. 1133, 42 U.S.C. 2752(d))

§ 636.21 Minimum award level.

The Secretary will not issue an award to an institution that does not qualify, under the formula specified in § 636.30, for an award of at least $500.

(20 U.S.C. 1221e-3(a)(1), 42 U.S.C. 2752(d))

Subpart D—How the Secretary Makes a Grant

§ 636.30 Distribution of funds.

The Secretary awards supplemental funds available for distribution under this part in accordance with the formula contained in Section 442(d)(2) of the Higher Education Act of 1965, as amended. Under that formula, each eligible institution's share of supplemental funds is based on a ratio of—

$$\frac{\text{The number of full-time students and full-time equivalent students assisted in the program of cooperative education at the institution}}{\text{The number of full-time students and full-time equivalent students assisted in programs of cooperative education in all eligible applicant institutions}} \times \text{50\% of unused College Work-Study Program funds available for reallotment}$$

(20 U.S.C. 1221e-3(a)(1), 42 U.S.C. 2752(d))

Subpart E—Conditions a Grantee Must Meet

§ 636.40 Allowable costs.

A grantee may pay from its grant those costs allowed under 34 CFR 75.530 and 34 CFR 631.40.

(20 U.S.C. 1221e-3(a)(1), 1133, 42 U.S.C. 2752(d))

§ 636.41 Unallowable costs.

A grantee may not use its grant to pay for those costs disallowed under 34 CFR 75.519, 34 CFR 75.530 through 75.533 or 34 CFR 631.41.

(20 U.S.C. 1221e-3(a)(1), 1133, 42 U.S.C. 2752(d))

[FR Doc. 82-11988 Filed 4-30-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-1968-8]

Approval and Promulgation of Implementation Plans; California Nonattainment Area Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On September 5, 1980, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking concerning the Sacramento Valley Air Basin nonattainment area plan (NAP) for ozone and Carbon Monoxide (CO). Today's notice conditionally approves the NAP for Butte, Sutter, and Yuba Counties with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Area."

DATE: This action is effective May 3, 1982.

ADDRESS: A copy of the NAP is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: David Howecamp, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974-8222.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1979, the California Air Resources Board (ARB), submitted revisions to the California State Implementation Plan (SIP) consisting of a control strategy and regulations for the Sacramento Valley Air Basin. These revisions, which comprise the Sacramento Valley Air Basin NAP, are intended to provide for attainment of the ozone and CO national ambient air quality standards (NAAQS) in the Sacramento Valley Air Basin.

On September 5, 1980 (45 FR 58883), EPA published a notice of proposed rulemaking for the NAP, which covers the Sacramento Metropolitan and Butte, Sutter, and Yuba nonattainment areas. That notice provides a description of the NAP, summarizes the applicable Clean Air Act requirements into 14 criteria, and proposed to approve, conditionally approve, or disapprove portions of the NAP. The September 5 notice should be used as a reference in reviewing today's actions.

Supplemental Revisions

After EPA's review, which appears in the September 5, 1980 notice, the State submitted revisions to the NAP as discussed below.

New Source Review (NSR) Rules

The State submitted revised Sutter and Yuba County NSR Rules, both entitled 4.6, "Standards for Authority to Construct and Permit to Operate", on January 28 and March 30, 1981, respectively. The revisions changed only the paragraph numbers.

Volatile Organic Compound (VOC) Rules

The following amendments were submitted by the State on the dates indicated:

Sutter County

Rule 3.8, "Storage and Transfer of Gasoline," submitted on January 28, 1981.
Rule 3.14, "Solvent Degreasing," submitted on January 28, 1981.
Rule 3.15, "Architectural Coating," submitted on January 28, 1981.

Yuba County

Rule 3.8, "Storage and Transfer of Gasoline," submitted on March 30, 1981.
Rule 3.12, "Organic Solvents," submitted on March 30, 1981.
Rule 3.15, "Architectural Coatings," submitted on March 30, 1981.

Rule 3.8 for both Counties was renumbered and paragraph (c)(2) of the Rule was amended to insure that the rule requires at least 90% emission reduction. The amendment corrects a deficiency described in EPA's September 5, 1980 proposal notice. Rules 3.12, 3.14, and 3.15 for the two Counties have been renumbered only.

EPA has determined that "good cause" exists to approve the above NSR and VOC rules without further notice and opportunity for public comment since the revisions are not substantive or satisfy conditions of approval.

Public Comments

During the public comment period, EPA received, in an October 9, 1980 letter, comments from the ARB concerning the South Central Coast, San Joaquin Valley and Sacramento Valley Air Basin NAPs. Those comments, except as discussed below for Butte County, were addressed by EPA in a final rulemaking notice for the San Joaquin Valley NAP published on August 21, 1981 (46 FR 42450) and are not repeated in this notice.

In response to the proposed condition calling for the submittal of an Annual Report for Butte County, the ARB indicated that they will ensure this report is submitted. EPA accepts ARB's commitment and therefore deletes the condition.

EPA also received a letter dated November 14, 1980 from the ARB concerning rules that were proposed to be approved with conditions. The ARB provided documentation that cutback asphalt operations did not exceed 100 tons/year in either Butte, Sutter, or Yuba Counties. Further, ARB commented that Sutter County Rule 2.16, "Storage and Transfer of Gasoline," requires 90% control. ARB requested that the conditions of approval for these rules be deleted.

EPA agrees that the State's November 14 letter satisfies the proposed condition for certification that no major source exists for this source category, and therefore the condition is being removed from this final rulemaking action for all three counties. As described in the SUPPLEMENTAL REVISIONS section of this notice, Sutter Rule 2.16 has been amended to correct the deficiency noted by EPA and the condition is therefore deleted.

EPA Actions

Introduction

The criteria used in EPA's review are detailed in the General Preamble and four supplements referenced in the notice of proposed rulemaking.

While EPA's evaluation of the NAP for ozone includes use of "Control Technique Guidelines" ("CTG's") documents as a "presumptive norm," the states may adjust the recommended controls or develop requirements which are not based on the CTG's, provided that they submit information supporting their decisions.

It should be noted that action may be taken on a portion of a NAP for a specific pollutant or rule. Therefore, a portion of a NAP may be adequate for one pollutant but inadequate for others. Further, a rule may be adequate under section 110, but inadequate under section 172 or 173 of the Act. EPA's policy is to take final action on all portions of a NAP for each pollutant. Therefore, this notice contains a series of actions for each pollutant and for each portion of the NAP rather than a single action. One of the following three actions may be taken for each portion of the NAP:

1. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective of the NAP; or

2. Approval where the portion of the NAP under consideration meets all requirements; or

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and where the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's understanding that the State will proceed expeditiously to correct the noted deficiency by certain dates.

For further information, see the supplements to EPA's General Preamble.

EPA's final actions described below are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

Approved Portions of the NAP

EPA is taking final action under Section 110 of the Clean Air Act to approve the following rules since they provide emission limits necessary to insure attainment of the NAAQS: Butte County rules 2.12.a.d, 2.12.f, and 4–5; Sutter County rules 3.8, 3.14 and 3.15; and Yuba County rules 3.8, 3.12 and 3.15.

EPA is also taking final action under Section 172 of the Act to approve Butte County Rule 2–12.b, Sutter County Rule 3.8 and Yuba County Rule 3.8 since they fully satisfy the requirement for reasonably available control technology.

As proposed in the September 5, 1980 notice, and as discussed in the PUBLIC COMMENT and SUPPLEMENTAL REVISIONS sections of this notice, EPA is taking final action under Section 172 to approve the following portion of the Sacramento Valley NAP for the Butte, Sutter and Yuba County nonattainment areas.

Emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress (RFP), emissions growth, legally adopted measures, annual reporting, resources, public and government involvement, and public hearing.

Conditionally Approved Portions of the NAP

As discussed in the September 5 notice the permit program portion of the NAP for the Butte, Sutter, and Yuba County nonattainment areas contains minor deficiencies with respect to section 173. Since the State and the Counties have assured EPA that they will submit the material to correct the minor deficiencies EPA takes final action to approve this portion of the Sacramento Valley Air Basin NAP with the following condition.

By August 2, 1982, the NSR rules for the three counties must be revised to meet the requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980, 45 FR 31307 and August 7, 1980, 45 FR 52676).

Final Overall Action on the NAP for Butte, Sutter and Yuba Counties

Since the Sacramento Valley Air Basin NAP for ozone and CO for Butte, Sutter, and Yuba counties contains only minor deficiencies and since the State has provided assurances to correct these deficiencies, EPA is taking final action to conditionally approve the NAP overall for these counties with respect to Part D. As a result, the current prohibition on construction of certain sources is no longer in effect in these counties.

Regulatory Process

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for the counties discussed in this notice, EPA finds that good cause exists for making this action immediately effective.

The new SIP requirements approved or conditionally approved by today's notice are an addition to the existing SIP and do not supersede or replace the "old" SIP requirements until a source comes into compliance with the new requirements. For further information, see EPA's General Preamble.

As a result of approval of certain portions of the NAP, EPA is taking final action to rescind the following analogous portions of 40 CFR Part 52 for the counties indicated:

Butte County

§ 52.254 *Organic solvent usage,* paragraph (m).

§ 52.255 *Gasoline transfer vapor control.*

Sutter County

§ 52.254 *Organic solvent usage,* paragraph (m).

Yuba County

§ 52.246 *Control of dry cleaning solvent vapor losses.*

§ 52.252 *Control of degreasing operations.*

§ 52.253 *Metal surface coating thinner and reducer.*

§ 52.254 *Organic solvent usage.*

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major". This regulation is not "major" because it approves state and local actions and imposes no new requirements. As required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget (OMB) for review.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 1982. This action may not be challenged later in proceeding to enforce its requirements.

List of Subjects in 40 CFR Part 52

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

Pursuant to section 605(b) of the Regulatory Flexibility Act, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action merely approves state actions. This action imposes no new requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Sections 110, 129, 171–178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501–7508, and 7601(a)))

Dated: April 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F—California

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.220 is amended by adding paragraphs (c)(58)(v), (89)(iii), (91)(ii), and (98) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(58) * * *

(v) Butte County APCD.

(A) New or amended Rules 2.12a, 2.12b, 2.12c, and 2.12d.

* * * * *

(89) * * *

(iii) Yuba County APCD.

(A) Amended rules 3.8, 3.12, and 3.15.

* * * * *

(91) * * *

(i) * * *

(ii) The Sacramento Valley Air Basin Control Strategy [Chapter 13 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards]: those portions pertaining to Butte, Yuba, and Sutter Counties, including the following rules:

(A) Butte County APCD Rules 2.12f and 4–5.

* * * * *

(98) Revised regulations for the following APCDs, submitted on January 28, 1981, by the Governor's designee.

(i) Sutter County APCD.

(A) Amended Rules 3.8, 3.14, and 3.15.

* * * * *

2. Section 52.223 is amended by adding paragraph (b)(7) as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(7) Sacramento Valley Air Basin.

(i) Butte County for O_3 and CO.

(ii) Sutter County for O_3.

(iii) Yuba County for O_3.

* * * * *

3. Section 52.232 is amended by adding paragraph (a)(12) as follows:

§ 52.232 Part D Conditional approval.

(a) * * *

(12) Butte, Sutter and Yuba County APCDs.

(i) For Ozone:

(A) By August 2, 1982, the NSR rules for the counties discussed in this notice must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (May 13, 1980, 45 FR 31307 and August 7, 1980, 45 FR 52676).

* * * * *

4. In § 52.238 the entries for the Butte, Sutter, and Yuba Counties in the Sacramento Valley Intrastate are revised as follows:

§ 52.238 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
* *	*	*	*	*	*	*	*
Sacramento Valley Intrastate:							
* *	*	*	*	*	*	*	*
Solano County (portion)	d	e	d	e	e	e	i.
Butte County	d	a	e	e	e	h	i.
Sutter County	d	a	e	e	e	e	j
Yuba County	d	a	e	e	e	e	i.
Colusa County	d	a	e	e	e	e	e.
Glenn County	d	a	e	e	e	e	e.
Tehama County	d	a	e	e	e	e	e.
Siskiyou County	d	a	e	e	e	e	e.
* *	*	*	*	*	*	*	*

5. Section 52.246 is amended by adding paragraph (b)(1)(iii) as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) * * *

(1) * * *

(iii) Yuba County APCD.

* * * * *

6. Section 52.252 is amended by adding paragraph (b)(1)(iii) as follows:

§ 52.252 Control of degreasing operations.

* * * * *

(b) * * *

(1) * * *

(iii) Yuba County APCD.

* * * * *

7. Section 52.253 is amended by adding paragraph (b)(1)(iv) as follows:

§ 52.253 Metal surface coating thinner and reducer.

* * * * *

(b) * * *

(1) * * *

(iv) Yuba County APCD.

* * * * *

8. Section 52.254 is amended by adding paragraph (a)(3)(v) and (5) as follows:

§ 52.254 Organic solvent usage.

(a) * * *

(3) * * *

(v) Yuba County APCD.

* * * * *

(5) In the following portions of the Sacramento Valley Intrastate Region, paragraph (m) of this section is rescinded.

(i) Butte County APCD.

(ii) Sutter County APCD.

* * * * *

9. Section 52.255 is amended by adding paragraph (b)(3)(xiii) as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) * * *

(3) * * *

(xiii) Butte County APCD.

* * * * *

[FR Doc. 82-11861 Filed 4-30-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL-2094-5]

Approval and Promulgation of State Implementation Plans: Texas Submission of Volatile Organic Compound (VOC) Regulations for Set II Control Technique Guideline Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This action approves revisions to the Texas State Implementation Plan (SIP) which were submitted by the Governor on July 25, 1980 and proposed for approval by EPA in the February 11, 1982 issue of the Federal Register (at 47 FR 6296). Specifically, the State revised the General Rules and Regulation V to include new definitions and legally enforceable regulations for the source categories addressed in the EPA Control Technique Guideline (CTG) documents issued between January 1978 and January 1979 (Set II CTGs). These additional control measures are required as part of the ozone nonattainment area control strategies developed to meet the requirements of Part D of the Clean Air Act (hereinafter referred to as the Act).

EFFECTIVE DATE: Effective on June 2, 1982.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Rm 8401, Washington, D.C. 20460.

EPA, Public Information Reference Unit, 401 M Street, SW., Rm 2922, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donna M. Ascenzi, SIP Section, Air and Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On July 25, 1980, the Governor of Texas submitted, among other things, revisions to the General Rules and Regulation V. These revisions had been submitted in response to the requirement that, for the stationary source portion of an approvable ozone SIP, States provide for the adoption and submittal of legally enforceable regulations that reflect the application of reasonably available control technology (RACT) for VOC sources covered by the Set II CTGs. The revisions to Regulation V consisted of legally enforceable regulations for the following Set II CTG source categories: petroleum liquid storage in external floating roof tanks, leaks from gasoline tank trucks, surface coating of miscellaneous metal parts and products and flat wood paneling, graphic arts, perchloroethylene dry cleaning, pharmaceutical manufacture, and petroleum refinery fugitive emissions. The submittal also contained revisions to the General Rules, which included definitions of new terms used in conjunction with the above mentioned source categories.

EPA reviewed the State's submittal and in the February 11, 1982 issue of the Federal Register, proposed approval of the revisions for the reasons specified in the Agency's evaluation report [1], and solicited public comment on the Agency's proposed action. No comments were received.

In that notice, EPA also noted that the submitted regulations represented RACT, except for the following.

1. In § 115.193(b), the State provided an exemption for surface coating operations for miscellaneous metal parts and products which will emit, when uncontrolled, less than 100 pounds per day. EPA proposed to approve this portion of Regulation V with the understanding that the State would provide an evaluation of how this exemption affects the reductions achieved from this source category.

2. Regulation V did not include appropriate test methods and procedures for determining whether the following Set II CTG source categories comply with the applicable standards and/or emission limitations: (1) Surface coating of miscellaneous metal parts and products and flat wood paneling, (2) graphic arts, (3) pharmaceutical manufacture, (4) petroleum refinery fugitive emissions, (5) perchloroethylene dry cleaning, and (6) gasoline tank truck leaks.

Regarding the first item noted above, on December 15, 1981, the State submitted the required documentation which indicated that the exemption would not significantly impact on the reductions achieved from the source category. Therefore, EPA is hereby approving this portion of Regulation V.

In regard to the second item, EPA noted in the proposal notice that without appropriate test methods and procedures, these regulations were federally unenforceable. EPA also noted that, for purposes of federal enforcement, 40 CFR Part 60 prescribed test methods and procedures that would apply to the first three source categories listed above. For the remaining three categories, EPA proposed to use the applicable test methods and procedures that the Agency approved for Louisiana on October 29, 1981 (at 46 FR 53412). Therefore, on this basis, EPA is approving these portions of Regulation V. By this action, EPA is approving the revisions as submitted and promulgating the Louisiana test methods and procedures for the last three source categories noted above.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

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

Incorporation by reference of the State Implementation Plan for Texas was approved by the Director of the Federal Register on July 1, 1981.

This notice of final rulemaking is issued under the authority of sections 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, carbon monoxice, Hydrocarbons.

Dated: April 26, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding a new subparagraph (32) which reads as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(32) Revisions to the General Rules (i.e., the addition of definitions for liquid-mounted seal, miscellaneous

[1] EPA Review of Texas' State Implementation Plan Revisions for the Set II CTG Source Categories, May 1981.

metal parts and products, factory surface coating of flat wood paneling, vapor tight, and waxy high pour point crude oil) and Regulation V (i.e., §§ 115.101–106, § 115.191 (9) and (10), § 115.193, § 115.194, §§ 115.201–203, §§ 115.221–223, §§ 115.231–233, §§ 115.251–255, §§ 115.261–264, and §§ 115.421–424) were adopted by the Texas Air Control Board on July 11, 1980 and submitted by the Governor on July 25, 1980.

2. Section 52.2275 is amended by adding a new paragraph (d) which reads as follows:

§ 52.2275 Control strategy and regulations: Ozone.

* * * * *

(d) For purposes of federal enforcement, the following test methods shall be used:

(1) For perchloroethylene dry cleaning systems regulated under §§ 115.221–223 of Regulation V of the Texas Air Control Board (TACB) Regulations, compliance with the requirements therein shall be determined by the test methods and procedures specified in Regulation 22.19 of the Louisiana Environmental Control Commission (LECC) Regulations as adopted by the LECC on November 27, 1979 and approved by EPA on October 29, 1981. (See 40 CFR 52.970.)

(2) For petroleum refineries regulated under §§ 115.251–255 of Regulation V of the TACB Regulations, compliance with the requirements therein shall be determined by the test methods and procedures specified in Regulation 22.21 of the LECC Regulations as adopted by the LECC on November 27, 1979 and approved by EPA on October 29, 1981. (See 40 CFR 52.970.)

(3) For gasoline tank trucks regulated under §§ 115.261–264 of Regulation V of the TACB Regulations, compliance with the requirements therein shall be determined by the test methods and procedures specified in Regulation 22.22 of the LECC Regulations as adopted by the LECC on November 27, 1979 and approved by EPA on October 29, 1981. (See 40 CFR 52.970.)

[FR Doc. 82–11950 Filed 4–30–82; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 52

[A–6–FRL–2098–8]

Approval and Promulgation of Revisions to the New Mexico State Implementation Plan Regarding Maintenance of Pay for Sources Subject to Nonferrous Smelter Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve a minor revision to the New Mexico State Implementation Plan (SIP) in fulfillment of section 110(a)(6) of the Clean Air Act Amendments of 1977. This revision is one of several amendments that were submitted to the Environmental Protection Agency (EPA) by the Governor on September 26, 1979, and relates to maintenance of pay provisions for employees of sources subject to nonferrous smelter orders which depend on a supplemental or intermittent control system for compliance with the National Ambient Air Quality Standards (NAAQS). In reviewing the State's submittal, EPA assessed the ability of the revision to meet the requirements of the 1977 amendments. The revision being acted on today is a non-Part D requirement. Other amendments submitted on September 26, 1979, are presently under review in the Regional Office and will be acted upon shortly.

EFFECTIVE DATE: This action will be effective on July 2, 1982, unless notice is received by June 2, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the State's submittals and incorporation by reference materials are available for review during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

Environmental Protection Agency, Public Information Reference Unit (PM–213), EPA Library, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: John R. Helpola, Chief, State Programs Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270. Phone: (214) 767–2742 or FTS 729–2742.

SUPPLEMENTARY INFORMATION: On September 26, 1979, the New Mexico Environmental Improvement Board (NMEID) submitted a revision to the SIP in fulfillment of the Clean Air Act Amendments of 1977. This revision (Section 74–2–11.1B of the New Mexico Air Quality Control Act) was submitted by the Governor and relates to new requirements for maintenance of pay for employees of sources subject to nonferrous smelter orders which depend on a supplementary control system (SCS) for compliance with the National Ambient Air Quality Standards (NAAQS). EPA has reviewed the State's submittal and developed an Evaluation Report[1] which describes the new 1977 requirements and evaluates the State's efforts to satisfy those requirements. This evaluation report is available for review during normal business hours at the addresses listed above.

The New Mexico Environmental Improvement Board has revised the New Mexico Implementation Plan to include the following requirement: Section 110(a)(6) of the Clean Air Act states that the SIP shall provide that an owner or operator of any source which uses a supplemental, or intermittent control system for the purpose of meeting the requirements under section 113(d) and section 119 (relating to primary nonferrous smelter orders) of the Clean Air Act may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system. This "maintenance of pay" requirement applies only to those SIPs which depend on the use of such systems in order to comply with the NAAQS. The NMEID has imposed and adopted maintenance of pay requirements under the New Mexico Air Quality Control Act (Section 74–2–11.1B) for sources operating under a nonferrous smelter order (NSO). This provision meets the requirements of section 110(a)(6) dealing with NSOs; however, it does not address section 113(d) orders. The State has indicated it does not presently have any section 113(d) orders in existence nor would it incorporate a supplemental control system in any future section 113(d) order.

The revision included in this approval notice is considered minor in nature and noncontroversial. EPA is approving it without prior proposal. This action will be effective July 2, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

---

[1] Evaluation Report for Revisions to the New Mexico State Implementation Plan regarding maintenance of pay for sources subject to nonferrous orders as required by the 1977 Clean Air Act Amendments.

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

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

Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1981. This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: April 26, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart GG—New Mexico

§ 52.1620 [Amended]

1. In § 52.1620, paragraph (c) is amended by adding paragraph (25) as follows:

* * * * *

(c) * * *

(25) Revision to the plan for maintenance of pay for sources subject to nonferrous smelter orders (Section 74-2-11.1B of the New Mexico Air Quality Control Act) was submitted by the Governor on September 26, 1979.

[FR Doc. 82-11951 Filed 4-30-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

Approval of Revisions to the Virginia Implementation Plan

[EPA Docket No. AH300dVA; A-3-FRL-2047-1]

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: A revision to the Virginia State Implementation Plan (SIP) for the attainment of ozone and carbon monoxide standards was submitted to the Environmental Protection Agency (EPA) by the Governor on February 16, 1981. The intended effect of the revision is to meet the requirements of Part D of the Clean Air Act, amended, "Plan Requirements for Nonattainment Areas." The revision pertains only to the Richmond nonattainment area and includes deletion of the automobile Inspection and Maintenance (I/M) requirements for this area.

EFFECTIVE DATE: June 2, 1982.

ADDRESSES: Copies of the revision, accompanying support material, and the comments received by EPA during the public comment period are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Media & Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Patricia Sheridan

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

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 801, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen (3AW13), Air Media & Energy Branch, Environmental Protection Agency, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597-8187.

SUPPLEMENTARY INFORMATION: The subject of this Notice is a February 16, 1981 submittal which deals only with the Richmond nonattainment plan. A detailed discussion of the criteria for evaluating nonattainment area plans and revisions thereto appeared in the Proposed Rulemaking published in the **Federal Register** on September 14, 1981 at 46 FR 45629. Also in that **Federal Register** Notice is a summary of the basic requirements for nonattainment area plans as contained in Section 172(b) of the Clean Air Act and a detailed analysis of this revision's compliance with those requirements.

This section is divided into four categories entitled Description and Evaluation, Public Comments, and Conclusion. The Description and Evaluation section describes each area of the submittal and EPA's findings. The Public Comments section details the comments received and EPA's response. The Conclusion category is a closing section which approves the submittal.

Description and Evaluation

The following is a brief description of the proposed SIP revision submitted on February 16, 1981 and a summary of EPA's evaluation:

Chapter 2—Air Quality Monitoring Data Analysis

This chapter deletes and replaces the material submitted on January 11, 1979 and December 17, 1979 by the Commonwealth. It contains the design value, the statistical procedures, and monitoring methods used to demonstrate attainment and/or reasonable further progress toward attainment of the standard. EPA hereby approves this material.

Chapter 3—Control Strategy

This chapter deletes and replaces the material submitted on January 11, 1979 and December 17, 1979 by the Commonwealth. It also contains a plan for tracking growth and Reasonable Further Progress.

This chapter also provides for the accommodative concept in dealing with new source growth in nonattainment areas. By letter dated April 15, 1980, the Commonwealth confirmed that any offsets required to allow new source growth would be processed under this system. However, the Commonwealth also agreed that should additional offsets by necessary, the administrative procedures contained in the EPA Emission Offset Interpretative Ruling would be followed. EPA hereby approves this material.

Chapter 4—New Source Review (NSR)

Chapter 4 is merely a summary of the Commonwealth's NSR program and is not affected by this submittal.

Chapter 5—Regulations

This submittal contains no changes to Chapter 5.

Chapter 6—Emission Inventory

This submittal contains provisions intended to delete and replace the provisions contained in the corresponding chapters submitted on January 11 and December 17, 1979. The inventory, which EPA had previously questioned (see 46 FR 20692, April 7, 1981), is now acceptable.

Chapter 7—Compliance Schedules

This Chapter describes the historical procedure for dealing with compliance and the new requirements of Section 120 of the Clean Air Act which allows a

maximum of three years for a source to comply with a new or more stringent emission standard.

The February 16, 1981 plan contained three alternate compliance schedules submitted pursuant to Section 4.02(f) of the Commonwealth's regulations.

EPA requested additional information and supporting material for each of these schedules. Part of this data was submitted as an addenda to the SIP by the Commonwealth on May 27, 1981 and EPA's preliminary findings were detailed in the proposed rulemaking. By letter dated August 11, 1981, the Commonwealth withdrew the Fergusson and Reynolds schedules for further consideration as SIP revisions. EPA is deferring action on the compliance schedule for Westvaco until additional information is submitted.

Chapter 8—Resources

The February 16, 1981 submittal makes no changes to this chapter.

Chapter 9—Inspection/Maintenance

The February 16, 1981 submittal repeals the provisions contained in the corresponding chapters submitted January 11, 1979, December 17, 1979 and May 15, 1980.

As a result of more recent air quality monitoring data, the control strategy demonstration (see Chapter 3) now shows that the implementation of this measure in the Richmond nonattainment area is not required.

Chapter 10—Transportation Source Measures

This submittal proposed deletion of many of the provisions of this chapter as submitted on January 11, 1979.

Since the submittal of the above mentioned chapter, the control strategy for the nonattainment area has been revised and now shows that the ambient air quality standard will be attained on or before December 31, 1982 without the implementation of any transportation source measures. Therefore, the State proposed to withdraw those portions of the January 11, 1979 revision of this chapter relative to Items 2 through 5 of Chapter 10. They do not propose to evaluate, adopt or implement any future transportation measures. Withdrawal of transportation control measures for the Richmond nonattainment area is acceptable.

Chapter 11—Intergovernmental Responsibilities, Legal Authority, Consultation

The Commonwealth has certified that the appropriate public hearings were held in accordance with State and Federal regulations and procedures.

Chapter 12—Analysis of Effects

This section is acceptable.

Public Comments

During the 60-day public comment period, EPA received only two letters. One, from the Richmond Area Metropolitan Transportation Planning Organization (MPO), supported the elimination of I/M and transportation control measures in the Richmond area. The other, from Reynolds Aluminum regarding their graphic arts alternate compliance schedule, confirmed that the company is preparing a revised control plan which will be submitted shortly.

Conclusion

The February 16, 1981 submittal is hereby approved, except for the compliance schedules discussed above, pursuant to sections 110 and 172 of the Clean Air Act.

As a result of EPA's decision to approve these revisions to the Virginia Implementation Plan, 40 CFR Part 52, § 52.2420 (Identification of Plan) is hereby being revised.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–7642)

Dated: April 26, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart VV—Virginia

1. In § 52.2420, paragraph (c)(60) is added as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(60) Revisions submitted on February 16, 1981, except the compliance schedules contained in Chapter 7, by the Secretary of Commerce and Resources related to the ozone and carbon monoxide nonattainment plan for the Richmond area.

[FR Doc. 82-11949 Filed 4-30-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-6-FRL-2098-6]

Approval and Promulgation of a Revision to the Arkansas State Implementation Plan Regarding Maintenance of Employee Pay

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve a minor revision to the Arkansas State Implementation Plan (SIP) that was submitted by the Arkansas Department of Pollution Control and Ecology (ADPCE) on January 9, 1980, in fulfillment of the Federal Clean Air Act Amendments of 1977. The Environmental Protection Agency (EPA) conditionally approved plan revisions on January 29, 1980, that were submitted to meet the requirements of Part D (Plan Requirements for Nonattainment Areas) of the Act. The revision being acted on today is a new non Part D requirement and relates to maintenance of employee pay when/if a source uses a supplemental, intermittent, or other dispersion dependent pollution control system in order to comply with the national ambient air quality standards. In reviewing the State's submittal, EPA assessed the ability of the revision to

meet the new requirements of the 1977 amendments.

EFFECTIVE DATE: This action will be effective on July 2, 1982 unless notice is received by June 2, 1982, that someone wishes to submit adverse or critical comments or requests a public hearing on the subject revision.

ADDRESSES: A copy of the State's submittals and incorporation by reference materials are available for review during normal business hours at the following locations:

Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270;

Environmental Protection Agency, Public Information Reference Unit (PM-213), EPA Library, 401 M Street SW., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street NE., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John R. Hepola, Chief, State Programs Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270. Phone: (214) 767-2742.

SUPPLEMENTARY INFORMATION: On January 9, 1980, the Arkansas Department of Pollution Control and Ecology (ADPCE) submitted a minor revision to the Arkansas SIP in fulfillment of the Federal Clean Air Act Amendments of 1977. This revision relates to a specific new non Part D requirement for maintenance of employee pay if a source uses a supplemental, intermittent, or other dispersion dependent air pollution control system in order to meet the national ambient air quality standards. EPA has reviewed the State's submittal and developed an Evaluation Report [1] which describes the new 1977 requirement and evaluates the State's efforts to satisfy that requirement. This evaluation report is available for review during normal business hours at the addresses listed above.

The Arkansas Department of Pollution Control and Ecology (ADPCE) has revised the Arkansas State Implementation Plan to include the following non Part D requirement: The Arkansas Department of Pollution Control and Ecology has agreed to require that the owner or operator of a source may not reduce the pay of any employee at a source which is granted a variance under Section 82-1939 of the Arkansas Water and Air Pollution Control Act to operate a supplemental, intermittent, or other dispersion dependent air pollution control system in order to comply with an order issued under section 113(d) or 119 of the Federal Clean Air Act. This maintenance of pay requirement will be a condition for granting such variance. The Arkansas agency has also agreed to conduct a public hearing on this requirement, if requested by the public.

The revision included in this approval notice is considered minor in nature and noncontroversial. EPA is approving the revision without prior proposal. This action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, or requests a public hearing on the subject revision, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

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

Incorporation by reference of the State Implementation Plan for the State of Arkansas was approved by the Director of the Federal Register on July 1, 1981. This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: April 22, 1982.

Anne M. Gorsuch,

Administrator.

[1] Evaluation Report for Revisions to the Arkansas State Implementation Plan as Required by the 1977 Clean Air Act Amendments, March 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart E—Arkansas

1. Section 52.170 is amended by adding paragraph (c)(19) as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(19) Revision to the plan for maintenance of employee pay was submitted to EPA by the Arkansas Department of Pollution Control and Ecology on January 9, 1980.

[FR Doc. 82-11947 Filed 4-30-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 81

[A-4-FRL-2098-3]

Designation of Areas for Air Quality Planning Purposes; Kentucky: Redesignation of McCracken County for SO_2

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 16, 1982, the Kentucky Department for Natural Resources and Environmental Protection asked EPA, pursuant to Section 107 of the Clean Air Act, to redesignate McCracken County attainment for sulfur dioxide (SO_2). The State submitted air quality data which showed no violation of the SO_2 standards from 1978 through 1981. EPA today changes the designation of McCracken County, Kentucky from nonattainment to attainment for SO_2.

DATE: This action will be effective on July 2, 1982 unless notice is received within 30 days that someone wishes to submit critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Library, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Ms. Sally Bethea, Air Programs Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: *Background.* On March 3, 1978 (43 FR 8962 at 8996), EPA designated McCracken County nonattainment for the primary and secondary sulfur dioxide (SO_2) standards. The primary reason for the nonattainment designation was the compliance status of TVA's Shawnee power plant. This plant was not meeting the emission limitations which diffusion modeling had shown to be necessary for attainment. Since then, ambient monitoring has been conducted in the area, and no violations have been recorded. On February 16, 1982, the State submitted air quality data for the period from January 1978 through September 1981 which showed no violations of the ambient SO_2 standards. They certified that the Shawnee plant had demonstrated compliance with applicable emission limits and requested that McCracken County be redesignated attainment.

EPA has reviewed the State's data for representativeness, quality, and quantity, and has found them to be acceptable.

Action. EPA today designates McCracken County attainment for SO_2.

This action will be effective 60 days from the date of this **Federal Register** notice (July 2, 1982). However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

(Sec. 107, Clean Air Act (42 U.S.C. 7407)).

Air pollution control, national parks, wilderness areas.

List of Subjects in 40 CFR Part 81

Dated: April 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.318 [Amended]

In § 81.318, the "Kentucky—SO_2" table is amended by removing the entry titled "McCracken County".

[FR Doc. 82-11948 Filed 4-30-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-6 and 5A-72

[APD 2800.2 CHGE 21]

Foreign Purchases

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, (GSPR) Chapter 5, are amended to add a new Subpart 5-6.16, Purchases Under the Trade Agreements Act of 1979, and revise delegations of authority found in Part 5-6 Foreign Purchases. This action was necessitated by GSA Order APD 2800.2, Change 12, December 15, 1980, which added Part 5-6, Foreign Purchases, to Chapter 5, GSPR, and Federal Procurement Regulations Temporary Regulation 57, issued January 12, 1981, which implemented the provisions of the Trade Agreements Act of 1979 and Executive Order 12260, December 31, 1980. The effect of these changes is to improve the procurement system.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (202-523-4755).

SUPPLEMENTARY INFORMATION:

List of Subjects in 41 CFR Parts 5-6

Government procurement, Foreign purchases.

1. The table of contents for Part 5-6 is amended by adding § 5-6.104-52 and Subpart 5-6.16 as follows:

§ 5-6.104-52 Procurement of stainless steel flatware for Department of Defense.

Subpart 5-6.16—Purchases Under the Trade Agreements Act of 1979

Sec.
5-6.1600 Scope.
5-6.1601 Definitions.
5-6.1605 Procedures for the purchase of eligible products from designated countries.
5-6.1605-1 Solicitation procedures under the subpart.
5-6.1609 Certificate of eligible product.
5-6.1609-50 Listing of ineligible products.
5-6.1611 Buy American Act clause.

Authority: Section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 5-6.1—Buy American Act—Supply and Service Contracts

2. Section 5-6.104-4 is amended by revising the introductory text of paragraph (a), and paragraphs (a)(9), and (b) to read as follows:

§ 5-6.104-4 Evaluation of bids and proposals.

(a) Proposed awards requiring the approval of the head of the agency, pursuant to § 1-6.104-4 (b) and (c), shall be submitted to the head of the procuring activity or his designee together with a statement of facts containing the following information:

* * * * *

(9) Reasons for recommending rejection of an acceptable low foreign bid to protect essential national security interests, or rejection of any bid or proposal for other reasons of national interest, when the Trade Agreements Act of 1979 is not applicable.

(b) With the exception of (a)(8) of this section, before final action under paragraph (a) of this section, the head of the procuring activity or his designee shall obtain advice from the Director, Federal Emergency Management Agency, with respect to rejection of bids or offered prices on the grounds that such rejection is necessary to protect essential national security interests, and apprise the Executive Office of the President, Office of Management and Budget, of the facts in the matter with respect to rejection of bids or offered prices for reasons of the national interest not described or referred to in Executive Order 10582, as amended.

3. Section 5-6.104-50 is amended by revising paragraph (c), the introductory

text of paragraph (d), paragraphs (d)(1), (d)(3), example A of paragraph (e), and by adding paragraph (f) to read as follows:

§ 5-6.104-50 Evaluating bids for hand and measuring tools.

* * * * *

(c) *Solicitation provision.* All solicitations for hand and measuring tools shall include the following special provision:

Buy American Act—Hand and Measuring Tools

The following is added to Article 14 of Standard Form 32, General Provisions:

Congressional policy requires that GSA purchases of hand and measuring tools must be from domestic sources or be made in accordance with procedures prescribed by § 6-104.4(b) of Armed Services Procurement Regulation (now the Defense Acquisition Regulation), as such regulation existed on June 15, 1970. Accordingly, bids under this solicitation offering domestic source end products normally will be evaluated against bids offering other end products by adding a factor of 50 percent to the latter, exclusive of import duties. Details of the evaluation procedure are set forth in § 5-6.104-50 of the General Services Administration Procurement Regulations.

Each bidder offering a foreign source end product must state below or on an attachment to the bid the amount of duty included in each bid price. Failure to furnish duty information will result in use of the entire item bid price (inclusive of any unspecified duty) when adding the "Buy American" differential.

Item No.	Unit	Amount of duty (in dollars and cents)

(End of Provision)

(d) *Bid evaluation procedures.* Bids and proposals for hand and tools shall be evaluated in accordance with the following procedures. (**Note.**—Congressional policy requires that the procedures in § 6-104.4(b) of Armed Services Procurement Regulations which existed as of June 15, 1970, shall govern. Accordingly, the following procedures are GSA adaptations to DAR 6-104.4):

(1) Bids and proposals shall be evaluated to give preference to domestic bids. Bids offering end products manufactured in Canada shall be evaluated on the same basis as bids offering domestic end products after applicable duty is included for evaluation purposes, whether or not a duty free entry certificate is issued.

(2) * * *

(3) A 12 percent factor shall be used instead of the 6 percent factor, if (i) the firm submitting the low acceptable domestic bid is a small business or a labor surplus area concern, or both, and (ii) any contract award to a domestic concern which would result from applying the 12 percent factor, but which would not result from applying the 6 percent or 50 percent factor, would not exceed $100,000. If an award for more than $100,000 would be made to a domestic concern if the 12 percent factor is applied, but would not be made if the 6 percent or 50 percent factor is applied, the matter shall be submitted to the head of the procuring activity for a decision as to whether the award to the small business or labor surplus area concern would involve unreasonable cost or inconsistency with the public interest.

(4) * * *

(e) * * *

Example A

Foreign bid, including duty of $4,500	$14,500
Domestic bid—large	15,100
Domestic bid—small	15,110

Award on domestic bid—large. Domestic bid—small is not considered because it is not the low acceptable domestic bid. Foreign bid, if adjusted by the 50 percent factor, would be $14,500 less $4,500 duty (i.e., $10,000), plus 50 percent of $10,000 (i.e., $5,000), or $15,000; but if adjusted by the 6 percent factor, it would be $14,500 plus 6 percent of $14,500 (i.e., $870), or $15,370; therefore, the 6 percent factor is added and domestic bid—large is the low evaluated bid.

* * * * *

(f) Purchases made by the GSA National Tool Center are exempt from the application of the Trade Agreements Act of 1979.

4. Section 5-6.104-51 is amended by revising paragraphs (b), (c), and (d) and by adding paragraph (e) to read as follows:

§ 5-6.104-51 Evaluating bids for stainless steel flatware (for other than the Department of Defense).

* * * * *

(b) *Definition.* "Stainless steel flatware" means stainless steel knives, forks, and spoons as listed in Federal Supply Class 7340.

(c) *Solicitation provision.* All solicitations except those for the Department of Defense (for DOD contracts for stainless steel flatware see § 5-6.104-52) for stainless steel flatware shall include the following special provision:

Buy American Act—Stainless Steel Flatware

The following is added to Article 14 of Standard Form 32, General Provisions:

Congressional policy requires that GSA purchases of stainless steel flatware must be from domestic sources or purchased in accordance with procedures prescribed by § 6-104.4(b) of Armed Services Procurement Regulation (now the Defense Acquisition Regulation), dated January 1, 1969. Accordingly, bids under this solicitation offering domestic source end products normally will be evaluated against bids offering other end products by adding a factor of 50 percent to the latter, exclusive of import duties. Details of the evaluation procedure are set forth in § 5-6.104-50 of the General Services Administration Procurement Regulations.

Each bidder offering a foreign source end product must state below or on an attachment to the bid the amount of duty included in each bid price. Failure to furnish duty information will result in use of the entire item bid price (inclusive of any unspecified duty) when adding the "Buy American" differential.

Item No.	Unit	Amount of duty (in dollars and cents)

(End of Provision)

(d) *Bid evaluation procedures.* The procedures set forth in § 5-6.104-50 shall apply in the evaluation of bids for foreign source stainless steel flatware. (For purchases of stainless steel flatware restricted to domestic source end products see § 5-6.104-52).

(e) Purchases for stainless steel flatware are made by Region 9. Purchases made by Region 9 are exempt from the Trade Agreements Act of 1979.

§ 5A-72.307 [Redesignated as § 5-6.104-52.]

5. Section 5A-72.307 is redesignated § 5-6.104-52 and revised as follows:

§ 5-6.104-52 Procurement of stainless steel flatware for Department of Defense.

(a) Since the following stock items are issued almost exclusively to DOD, only domestic source end products of these stainless steel flatware items shall be procured. Also, nonstock items of stainless steel flatware purchased for DOD shall be domestic source end products.

7340-00-060-6057	7340-00-241-8171
7340-00-205-3340	7340-00-559-8357
7340-00-205-3341	7340-00-688-1055
7340-00-241-8169	7340-00-721-6316
7340-00-241-8170	7340-00-721-6971

(b) The following provision shall be included in solicitations (both requirements type and definite quantity) for the above items:

OFFERS MUST BE FOR DOMESTIC SOURCE END PRODUCTS

In accordance with the current Appropriation Act for the Department of Defense, *award will be made for domestic source* will be rejected as nonresponsive.

(End of Provision)

(c) Supply support for the above items will continue to be through the GSA supply distribution facilities. In addition, when requirements contracts are utilized, the scope of contract provisions set forth in § 5–7.103–71 (presently § 5A–7.103–82) shall be modified to indicate "the normal supply requirements of the Department of Defense" in lieu of "the General Services Administration normal supply requirements."

(d) The restriction prescribed for the procurement of stainless steel flatware items for DOD does not by itself justify negotiation. Such procurements shall be made in accordance with the rules for formal advertising unless one of the circumstances permitting negotiation exists.

6. Section 5–6.105 is amended by revising the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 5–6.105 Excepted articles, materials, and supplies.

(a) Requests for determinations concerning nonavailability of domestic supplies (see § 1–6.103–2) shall be submitted to the head of the procuring activity or his designee with an appropriate statement of facts and a proposed determination. The statement of facts shall include the following information:

* * * * *

(b) Findings and determination of nonavailability shall normally be prepared in the format shown below:

General Services Administration

Reference No. ———

FINDINGS AND DETERMINATION OF NONAVAILABILITY UNDER THE BUY AMERICAN ACT REGARDING PURCHASE OF (*insert description*)

Pursuant to the provisions of the Buy American Act (41 U.S.C. 10a–d) and Executive Order 10582, December 17, 1954 (3 CFR Supp.), and by virtue of delegated authority, the following findings of fact and determination are hereby made:

1. Findings (set forth a statement of facts).

2. Determination. In view of the foregoing, it is hereby determined that for the purposes of the Buy American Act (*insert item description*) is not mined, produced, or manufactured at the present time in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Date ———

Signed ———

(End of Findings and Determination)

* * * * *

Subpart 5–6.8—Balance of Payments Program

7. Section 5–6.801 is amended to revise paragraphs (a) and (b) to read as follows:

§ 5–6.801 General.

(a) When a procuring activity enters into contracts as the contracting agent for the Agency for International Development (AID), including contracts under the Commercial Import Program (CIP), such contracts (except those involving administrative purchases) are not governed by the policies and procedures in Subparts 1–6.8 and 5–6.8, but shall be governed by AID policies and procedures.

(b) When a procuring activity procures articles or services for use outside the United States for another agency it will be assumed (unless a specific notation is made on the purchase request) that use of excess or near excess foreign currencies has been considered by the requisitioning agency and that such currencies are not available.

8. Section 5–6.805 is revised to read as follows:

§ 5–6.805 Exceptions.

When the contracting officer has knowledge that the domestic cost of an end product or service exceeds the foreign cost by more than 50 percent of the foreign cost pursuant to the procedures in § 1–6.805(a)(6), the matter shall be submitted to the head of the procuring activity or his designee for a determination to procure the domestic product or service. This procedure shall be followed for all Balance of Payments Program procurements over $10,000.

9. Section 5–6.806–1 is amended to revise paragraph (a) to read as follows:

§ 5–6.806–1 Restricted solicitation.

(a) Estimates of comparative delivered prices of end products or services of domestic origin versus foreign origin normally will not be made by procuring activities. Such cost estimates will have been made by the requisitioning offices prior to the submission of purchase requests to FSS for procurement action. Specific written evidence from the requisitioning office concerning such estimates is not required. Accordingly, procurements made directly for other agencies of items to be used outside the United States shall be made under the Balance of Payments Program, except for AID (including Commercial Import Program) items.

* * * * *

10. The following subpart 5–6.16 is added in its entirety as follows:

Subpart 5–6.16—Purchases Under the Trade Agreements Act of 1979

§ 5–6.1600 Scope.

This subpart prescribes policies and procedures relating to FPR Temporary Regulation 57 which implements the provisions of the Trade Agreements Act of 1979 and the requirements of the Agreement on Government Procurement. Particular attention should be given to the definition of terms in the Temporary Regulation which includes, designated country, eligible product, product, rule of origin, and dollar threshold (see § 1–6.1601), and the requirement for synopsizing such procurements in the Commerce Business Daily (see § 1–6.1605–1(a)).

§ 5–6.1601 Definitions.

(a) *Product.* Supplementing the definition in § 1–6.1601(c) (FPR Temporary Regulation 57), a stock number or other identification means a National Stock Number (NSN), a non-NSN, part number or Special Item Number (SIN) that identifies a line item in a solicitation.

(b) *Dollar Threshold.* Supplementing the definition in § 1–6.1601(e) (FPR Temporary Regulation 57), when referring to General Services Administration Multiple Award Schedule contracts, the "dollar threshold" of $182,000 or such other amount as may be specified by the U.S. Trade Representative, is applicable to the total estimated dollar value of all orders placed under contracts for eligible products with individual contractors under a Special Item Number during the contact period, not the dollar value of individual products on a purchase/delivery order placed against the schedule contract. Therefore, when schedules to the Buy American Act, the Balance of Payments evaluation procedures, and the requirements of the Trade Agreements Act.

§ 5–6.1605 Procedures for the purchase of eligible products from designated countries.

§ 5–6.1605–1 Solicitation procedures under this subpart.

(a) The following clause shall be included in all applicable solicitions (see

FPR Temporary Regulation 57, § 1–6.1603(e) and § 1–6.1604, for exceptions).

Trade Agreements Act of 1979

(a) Offers of eligible products from designated countries shall be solicited and evaluated in the same manner as offers of products from the United States when the award price for the product is $182,000* or more.

(b) If the above is applicable, any reference in this solicitation to the Buy American Act, the Balance of Payments Program and Labor Surplus Area Set-Asides not restricted to Small Business, are not applicable.

(End of Clause)

Note.—In the event of a change by the U.S. Trade Representative, insert the current dollar threshold.

(b) The following instruction shall be added when applicable to solicitation instructions (e.g., a new paragraph (h) could be added to Article 2, Preparation of Offers, of SF 33A, Solicitation Instructions and Conditions) as an addendum to the solicitation.

Offers shall be submitted in the English language and in U.S. dollars.

§ 5–6.1609 Certificate of eligible product.

§ 5–6.1609–50 Listing of ineligible products.

The following statement shall be included in all solicitations (see FPR Temporary Regulation 57, § 1–6.1603(e) for exceptions).

Certificate of Ineligible Product

Section 1–6.1609, Certificate of Eligible Product (see FPR Temporary Regulation 57) does not apply to the following items. The items listed below by the offeror will be evaluated in accordance with the Buy American Act or the Balance of Payments Program as applicable.

Item No.	Country of origin

(Attach additional sheet, if necessary)

(End of Statement)

§ 5–6.1611 Buy American Act clause.

When an eligible product is involved, the clause prescribed by § 1–6.104–5 and by Standard Forms 32 and 147 shall be amended by adding an addendum to the solicitation which provides for the incorporation of a parenthetical phrase following the title of the clause as follows:

The Buy American Act clause is not applicable to contracts involving eligible products from designated countries when the award price for the product is $182,000* or more.

(End of Statement)

Note.—In the event of a change by the U.S. Trade Representative, insert the current dollar threshold.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 32]

PART 5A–72—PROCUREMENT OF STOCK ITEMS

§ 5A–72.307. [Removed]

1. Part 5A–72 is amended by removing § 5A–72.307, Procurement of Stainless Steel Flatware for Department of Defense.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: April 9, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–12015 Filed 4–30–82; 8:45 am]

BILLING CODE 6820–61–M

41 CFR Parts 5B–1, 5B–2, and 5B–16

[APD 2800.4 CHGE 12]

GSA Form 3471, Bid Abstract

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Chapter 5B, General Services Administration Procurement Regulations (GSPR), is amended to: (1) Prescribe GSA Form 3471, Bid Abstract; (2) illustrate the new form; and (3) make a technical change in Part 1. These actions were requested by the Public Buildings Service and reflect changes in policies and operating procedures. The intended effect of these changes is to improve the procurement system.

EFFECTIVE DATE: May 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (202–523–4755).

SUPPLEMENTARY INFORMATION:

List of Subjects

41 CFR Part 5B–1

Government procurement.

41 CFR Part 5B–2

Government procurement, Procurement by formal advertising.

41 CFR Part 5B–16

Government procurement, Procurement forms.

PART 5B–1—GENERAL

Subpart 5B–1.12—Responsible Prospective Contractors

1. Section 5B–1.1205–2 is revised as follows:

§ 5B–1.1205 Procedures for determining responsibility of prospective contractors.

§ 5B–1.1205–2 When information will be obtained.

Contracting officers shall obtain a financial responsibility report on the apparent low bidder/offeror for procurements of $50,000 or more prior to award by submitting, in duplicate, GSA Form 894, Financial Responsibility—Inquiry and Reply, to the appropriate financial office. Upon request copies of documents used to prepare a financial responsibility report will be attached to the GSA Form 894 and returned to the contracting officer for review. (See § 5B–16.950–894).

PART 5B–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5B–2.4—Opening of Bids and Award of Contract

1. Sections 5B–2.402 and 5B–2.403 are revised as follows:

§ 5B–2.402 Opening of bids.

(a) Public bid openings shall be held in the Business Service Center except when determined to be impracticable by the Director, Business Service Center, or the Director's designee and the contracting officer.

(b) All bids shall be opened by the contracting officer, or his designee, responsible for the procurement.

(c) Bid openings shall be open to the general public.

(d) When invitations for bids provide for the submission of bid or performance bonds or like guarantees, arrangements shall be made by the contracting officer or his designee to have a collection officer present when bids are opened to assume custody of guarantees other than bonds. The contracting officer shall retain bonds for checking of acceptability. As soon as awards have been made, the contracting officer shall request the collection officer to return guarantees other than bonds to unsuccessful bidders. Bonds need not be returned.

§ 5B–2.403 Recording of bids.

(a) Abstracting and tabulating of bids shall normally be completed on GSA Form 3471, Bid Abstract, within 24 hours after bid opening, and a legible copy shall be immediately delivered to the

appropriate Business Service Center where it shall be made available for public examination. Late bids determined eligible for consideration shall be included on the abstract. However, if eligiblity is established after delivery of the original Bid Abstract, they shall be recorded separately, identified as an amendment to the original Bid Abstract, GSA Form 3471, and delivered to the Business Service Center.

(b) As soon as possible, but not later than 24 hours after a notice of award has been dispatched to the contractor, a legible copy of the GSA Form 3471, Bid Abstract, showing the award made shall be furnished to the Business Service Center where it shall be made available for public examination for a minimum period of 30 calendar days.

PART 5B–16—PROCUREMENT FORMS

1. The Table of Contents for Part 5B–16 is amended by adding an entry as follows:

5B–16.950–3471 GSA Form 3471, Bid Abstract.

Subpart 5B–16.9—Illustrations of Forms

2. Section 5B–16.950–3471 is added to read as follows:

§ 5B–16.950–3471 GSA Form 3471, Bid Abstract.

Note.—The form illustrated at 5B–16.950–3471 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: April 2, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–11452 Filed 4–30–82; 8:45 am]

BILLING CODE 6820–61–M

VETERANS ADMINISTRATION

41 CFR Part 8–3

Procurement by Negotiation

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision amends the Veterans Administration Procurement Regulations by allowing for approval of certain scarce medical specialist services contracts by the appropriate Medical District Director. The appropriate Medical District Director is currently authorized to approve proposed renewals of sharing agreements only. The approval process for procurement of scarce medical specialist services at Veterans Administration facilities (including the services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel) will be enhanced by allowing the approval of proposed contract renewals to be made at the Medical District Director level.

EFFECTIVE DATE: This rule is effective April 23, 1982.

FOR FURTHER INFORMATION CONTACT: David S. Derr, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW., Washington, DC 20420, Telephone (202) 389–2334.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of Sections 603 and 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Part 8–3

Government procurement.

Approved: April 23, 1982.

Robert P. Nimmo,

Administrator.

PART 8–3—PROCUREMENT BY NEGOTIATION

41 CFR Part 8–3 is amended as follows: In § 8–3.204, paragraphs (e) and (f) are amended by revising the introductory portion of paragraph (e), and paragraph (f) to read as follows:

§ 8–3.204 Personal or professional services.

* * * * *

(e) Proposed contracts for the services and resources specified in paragraphs (c) and (d) of this section may be entered into for 1 year only. When deemed essential to the mission of the stations, proposed renewal contracts will be negotiated for the subsequent year. Except as provided in paragraph (f) of this section, such proposed contracts will be submitted for approval to the appropriate Regional Director (13C) when authority is 38 U.S.C. 5053, or Assistant Deputy Administrator for Procurement and Supply (93) when authority is 38 U.S.C. 4117, so as to reach Central Office 60 days prior to the effective date of the contract.

* * * * *

(f) Proposed renewal sharing contracts under the authority of 38 U.S.C. 5053 and proposed renewal scarce medical specialist services contracts under the authority of 38 U.S.C. 4117 may be approved by the appropriate Medical District Director when such contract proposals meet the following conditions:

(1) There shall be no new services added to sharing contract renewals and no increases in full-time equivalent employee requirements for scarce medical specialist services contracts. Services may be deleted from the contract without Central Office approval only if such deletions do not effectively result in an individual item or total cost increase in excess of 10 percent over the cost in the previous contract.

(2) No individual cost item that is being procured by sharing agreement from the contractor (non-Veterans Administration facility identified in the contract) shall increase in cost more than 10 percent over the cost for that same item in the previous contract. The total cost of a scarce medical specialist services contract shall not increase more than 10 percent over the total cost of the previous contract.

(3) The proposal has been reviewed for legal sufficiency by the District Counsel responsible for servicing the Veterans Administration facility involved. The District Counsel shall be sent, along with the proposal, a copy of the previous agreement for the same services so that a comparison can be made of the two documents.

(4) All contract clauses required by Chapters 1 and 8, Title 41, Code of Federal Regulations, are included in the proposal.

(5) Equal Employment Opportunity clearance has been obtained, when required.

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82–11969 Filed 4–30–82; 8:45 am]

BILLING CODE 8320–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6289]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that data flood insurance is no longer available in the community.

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

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
California:					
Tehama	Red Bluff, city of	065053D	Jan. 15, 1971, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 17, 1974, June 11, 1976, Dec. 26, 1978 and Dec. 26, 1979.	May 17, 1982.
San Mateo	Redwood City, city of	060325B	Aug. 12, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 28, 1974 and Jan. 2, 1976.	Do.
Siskiyou	Unincorporated areas	060362B	Feb. 23, 1973, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Nov. 15, 1977	Do.
Yuba	do	060427B	Sept. 6, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Sept. 6, 1974 and Sept. 6, 1977.	Do.
Connecticut: Hartford	Marlborough, town of	090148B	Feb. 5, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 19, 1974 and Dec. 3, 1976.	Do.
Florida:					
Hendry	Unincorporated areas	120107B	Aug. 27, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 21, 1978	Do.
Citrus	Inverness, city of	120348B	July 15, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Jan. 13, 1978	Do.
Taylor	Perry, city of	120303C	Jan. 30, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Mar. 15, 1974, June 4, 1976 and Mar. 11, 1977.	Do.
Gulf	Wewahitchka, city of	120100B	May 19, 1976, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Aug. 9, 1974 and Jan. 9, 1976.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Georgia: Liberty	Flemington, city of	130124B	Nov. 27, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Oct. 18, 1974 and Oct. 17, 1975.	Do.
Illinois:					
Whiteside	Fulton, city of	170690B	July 2, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	May 31, 1974 and Feb. 14, 1975.	Do.
Scott	Naples, village of	170609B	Mar. 6, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Apr. 2, 1976 and Jan. 9, 1974.	Do.
Indiana:					
Warrick	Newburgh, town of	180276B	Jan. 12, 1973, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Nov. 2, 1973 and June 11, 1976.	Do.
Warrick	Unincorporated areas	180418B	Apr. 11, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Mar. 24, 1978	Do.
Iowa:					
Crawford	Denison, city of	190096C	Mar. 19, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	May 10, 1974, Feb. 6, 1976 and Dec. 24, 1976.	Do.
Mills	Glenwood, city of	190203B	Dec. 5, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 28, 1974 and Dec. 5, 1975.	Do.
Shelby	Kirkman, city of	190250A	June 9, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Aug. 22, 1975	Do.
Massachusetts:					
Plymouth	Bridgewater, town of	250260B	Nov. 28, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 19, 1974 and Sept. 24, 1976.	Do.
Worcester	Templeton, town of	250339B	Aug. 5, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Aug. 2, 1974 and Sept. 10, 1976.	Do.
Michigan:					
Shiawassee	Caledonia, township of	260300A	July 3, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Jan. 3, 1975	Do.
Calhoun	Marengo, township of	260563A	May 30, 1979, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Sept. 19, 1975	Do.
Clinton	Watertown, charter township of	260291B	Apr. 16, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Oct. 18, 1974 and May 28, 1976.	Do.
Minnesota:					
Hennepin	Brooklyn Park, city of	270152B	Feb. 5, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Apr. 12, 1974 and July 25, 1975.	Do.
Faribault	Unincorporated areas	270669B	Nov. 1, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 22, 1977	Do.
Anoka	Lino Lakes, city of	270015B	Apr. 30, 1976, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Dec. 13, 1974 and May 28, 1976.	Do.
Rock	Luverne, city of	270411B	July 1, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Feb. 15, 1974 and May 28, 1976.	Do.
Washington	Unincorporated areas	270499B	Apr. 30, 1971, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 3, 1977	Do.
Missouri: Pemiscot	....do	290779B	Apr. 8, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Apr. 14, 1981	Do.
New Jersey:					
Middlesex	Cranbury, township of	340258B	June 12, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	May 10, 1974 and Dec. 27, 1974.	Do.
Bergen	Rockleigh, borough of	340071A	Jan. 20, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Jan. 3, 1975	Do.
New Hamsphire: Rockingham	Portsmouth, city of	330139B	July 10, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 19, 1974 and July 23, 1976.	Do.
New York: Monroe	Rush, town of	360432B	July 25, 1973, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Mar. 8, 1974 and July 9, 1976.	Do.
Ohio:					
Licking	Granville, village of	390330B	June 6, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 7, 1974 and May 28, 1976.	Do.
Do	Johnstown, village of	390334B	June 24, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Apr. 12, 1974 and Apr. 2, 1976.	Do.
Oregon:					
Linn	Tangent, city of	410147B	Sept. 5, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	June 25, 1976 and June 6, 1978.	Do.
Pennsylvania:					
Beaver	Beaver Falls, city of	420105B	Dec. 12, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Feb. 22, 1974 and Feb. 20, 1976.	Do.
Do	Big Beaver, borough of	422307B	Aug. 7, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Jan. 31, 1975 and Dec. 26, 1975.	Do.
Chester	Coatesville, city of	420274B	Dec. 26, 1974, emergency; May 17, 1982, regular; May 17, 1982, suspended.	May 31, 1974 and Apr. 30, 1976.	Do.
Montgomery	Upper Salford, township of	421918A	May 24, 1976, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Dec. 6, 1974	Do.
Tennessee:					
Wilson	Mt. Juliet, city of	470290A	July 8, 1976 emergency; May 17, 1982, regular; May 17, 1982, suspended.	July 18, 1975	Do.
Texas:					
Tarrant	Dalworthington Gardens, town of	481013A	July 21, 1977 emergency; May 17, 1982, regular; May 17, 1982, suspended.	Aug. 6, 1976	Do.
Webb	Laredo, city of	480651B	Aug. 7, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended.	Feb. 4, 1977	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11676 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6291]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Associate Director, State and Local Programs and Support is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without a map.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is $.25 per $100 per coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverge. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notices stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.8 List of Communities with No Special Flood Hazard Areas.

State	County and community name	Date of conversion to regular program
Arkansas	Lonoke, town of Austin.	Apr. 15, 1982.
Arkansas	Perry, town of Houston.	Do.
Arkansas	Pope, town of Pottsville.	Do.
Arkansas	Faulkner, town of Wooster.	Do.
Oklahoma	Custer, town of Arapaho.	Do.
Oklahoma	Pawnee, city of Cleveland.	Do.
Oklahoma	Comanche, town of Indiahoma.	Do.
Texas	Crosby, city of Ralls.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: April 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11915 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6290]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The rescission date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The list includes that date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn.

(For definitions see 44 CFR Part 59 et seq.)

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695
46 FR 20176
46 FR 26776
46 FR 46810
47 FR 3121
47 FR 18869

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46810
47 FR 3121

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name No.	County	Hazard ID date	Rescission date	Reason
AR	Town of Austin, 050383 (E)	Lonore	4-18-75	April 15, 1982	2
AR	Town of Houston, 050257 (E)	Perry	4-19-75	do	2
AR	Town of Pottsville, 050277 (E)	Pope	4-25-75	do	2
AR	Town of Wooster, 050302	Faulkner	8-22-75	do	2
MN	City of Goodhue, 270142	Goodhue	5-24-74	do	2
NY	Town of Red House, 361366	Cattaraugus	2-26-75	do	2
OK	Town of Arapaho, 400342 (E)	Custer	12-17-76	do	2
OK	City of Cleveland, 400162 (E)	Pawnee	12-05-75	do	2
OK	Town of Indiahoma, 400287 (E)	Comanche	11-05-76	do	2
PA	Township of Lincoln, 421693	Huntingdon	6-22-79	do	4
TX	City of Rails, 480161 (E)	Crosby	4-09-76	do	2

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: April 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11907 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Novato, Calif., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Novato, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Novato, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0216.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 060178 Panel 0002A, published on October 6, 1980, in 45 FR 66118, indicates that Lot 26, Popular Terrace, Novato, California, recorded as Document No. 61384 in Book 3476, Page 448, in the Office of the Recorder, Marin County, California, is within the Special Flood Hazard Area.

Map No. H & I 060178 Panel 0002A is hereby corrected to reflect that the existing structure located on the above mentioned property is not within the Special Flood Hazard Area identified on January 19, 1978. This structure is in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11908 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. 5909]

Letter of Map Amendment for the Village of Schaumburg, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Schaumburg, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Schaumburg, Illinois, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170158, Panel No. 0005C, published on October 6, 1980, in 45 FR 66075, indicates that Unit No. 13, known as Building No. 933, Woodfield Lake Office Court Condominium Phase 2, Village of Schaumburg, Cook County, Illinois, recorded as Document No. 26069112, in the Office of the Recorder of Deeds of Cook County, Illinois, is located within the Special Flood Hazard Area.

Map No. 170158, Panel No. 0005C, is hereby corrected to reflect that the above-mentioned structure is not within the Special Flood Hazard Area identified on January 16, 1981. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11909 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–6139]

Letter of Map Amendment for the City of Trenton, Michigan, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical

review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that a certain structure is within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is within the Special Flood Hazard Area, mandates the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT:
Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Map amendments listed below are in accordance with S70.7(b):

Map No. 260244, Panel No. 0001B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structure located on Lot No. 47, Church Land Co.'s Detroit River Estates Subdivision, City of Trenton, Wayne County, Michigan, as recorded in Liber 49 of Plats, Page 9, in the Office of the Register of Deeds of Wayne County, Michigan, is not located within the Special Flood Hazard Area.

Map No. 260244, Panel No. 0001B, is hereby corrected to reflect that the residential structure located on the above-mentioned property is within the Special Flood Hazard Area identified on August 17, 1981. The structure is in Zone A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support))

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11910 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of St. Louis Park, Minnesota, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of St. Louis Park, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of St. Louis Park, Minnesota, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for the structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT:
Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 270184A, Panel No. 04, published on October 6, 1980, in 45 FR 66084, indicates that the existing residential structures located on Lots Nos. 1 through 20, Block 1, Shamrock 3rd Addition, City of St. Louis Park, Hennepin County, Minnesota, recorded as Document No. 1444471, in the Office of the Registrar of Titles of Hennepin County, Minnesota, are located within the Special Flood Hazard Area.

Map No. H&I 270184A, Panel No. 04, is hereby corrected to reflect that the existing residential structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on June 1, 1977. The structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11911 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Woodland, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Woodland, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Woodland, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060426 Panel 0005B, published on October 6, 1980, in 45 FR 66119, indicates that Parcel One of Parcel Map No. 2948 for Cache Creek Farms, Inc., a Redivision of Lots 37, 38, and 39, "Woodland Industrial Park, No. 2", Woodland, California, as recorded in Book 5 of Parcel Maps, Page 40, in the Office of the Recorder, Yolo County, California, is within the Special Flood Hazard Area.

Map No. H & I 060426 Panel 0005B is hereby corrected to reflect that the existing structures located on the above mentioned property are not within the Special Flood Hazard Area identified on October 13, 1981. These structures are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of housing and urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11918 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 70

[Docket No. FEMA–6237]

Letter of Map Amendment for Pasco County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pasco County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pasco County, Florida, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120230, Panel 0185 B published on January 25, 1982 in 47 FR 3355 indicates that the Pointe West Condominiums, Pasco County, Florida, as recorded in Plat Book 12, Pages 9 through 11, 25 through 27, 40, 41 and 87 through 90, and Plat Book 13, Pages 19 through 21, 50, 51, 68 and 69 in the Office of the Clerk of Pasco County, Florida are within the Special Flood Hazard Area.

Map Number H & I 120230, Panel 0185 B is hereby corrected to reflect that the buildings on the above-mentioned property are not within the Special Flood Hazard Area identified on November 4, 1977. Buildings 43, 45 through 47, 136 through 141, 161 through 163 of the "A-B" Units, and Building 44 of the "G" Units are located in Zone B, and Buildings 1 through 42, 44, 48, 49, 51 through 128, 130 through 135, 142 through 160, and 164 through 166 of the "A-B" Units, Buildings 1 through 15, 17 through 24, 29 through 43, and 45 through 48 of the "G" Units, and Buildings 1 through 5 of the Model Homes are in Zone C. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11919 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5977]

Letter of Map Amendment for the Village of Hazel Crest, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Hazel Crest, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Hazel Crest, Illinois, that portions of a certain property are not within the Special Flood Hazard Area.

This map amendment, by establishing that portions of the subject property are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those portions as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agency or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No 170102, Panel No. 0002D, published on January 23, 1981, in 46 FR 7352, indicates that portions of a parcel of land, located in the West Half of the Southeast Quarter of Section 35, Township 36 North, Range 13 East of the Third Principal Meridian, Village of Hazel Crest, Cook County, Illinois, recorded as Documents Nos. 21530498 and LR 2565952, in the Office of the Recorder of Deeds of Cook County, Illinois, are located within the Special Flood Hazard Area.

Map No. 170102, Panel No. 0002D, is hereby corrected to reflect that the portions of the above-mentioned property that are presently outside the limits of the regulatory floodway of the West Branch Cherry Creek and are at or above 665.0 feet National Geodetic Vertical Datum (NGVD) at the south property line and 663.0 feet NGVD at a point approximately 50-feet downstream of the south property line and 662.0 feet NGVD at the north property line as shown on Topographic Survey Drawing No. 69–08, dated September 14, 1974, prepared by Joseph A. Schudt and Associates, are not within the Speicial Flood Hazard Area identified on December 2, 1980. The portions of the property which are presently outside the regulatory floodway and at or above the above-mentioned elevations are in Zone B and Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January. 28, 1969 (33 FR 17804, November. 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: March. 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11916 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6173]

Letter of Map Amendment for the City of Riverview, Michigan, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Riverview, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Riverview, Michigan, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260240, Panel No. 0005C, published on October 26, 1981, in 46 FR 52113, indicates that Lot No. 13 and Lots Nos. 21 through 30, Penn Villas, City of Riverview, Wayne County, Michigan, as recorded in Liber 68 of Plats, Page 62, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

Map No. 260240, Panel No. 0005C, is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Hazard Area identified on September 16, 1981. The lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11917 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6139]

Letter of Map Amendment for the City of Trenton, Michigan, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acqusition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0003B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lots Nos. 11 and 12, Beverly-Lynn Subdivision, also known as 1595 and 1591 Glen Lane, City of Trenton, Wayne County, Michigan, as recorded in Liber 90, Page 47, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on August 17, 1981. The residential structure located on Lot No. 11 is in Zone B. The residential structure located on Lot No. 12 is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11920 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6139]

Letter of Map Amendment for the City of Trenton, Michigan Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for these structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620, toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0003B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lots Nos. 187 and 189, Brookview Park Subdivision No. 3, City of Trenton, Wayne County, Michigan, as recorded in Liber 83, Page 36, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the above-mentioned residential structures are not within the the Special Flood Hazard Area identified on August 17, 1981. The residential structure located on Lot No. 187, is in Zone B. The residential structure located on Lot No. 189, is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11921 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 70

[Docket No. FEMA–6139]

Letter of Map Amendment for the City of Trenton, Michigan, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that a certain structure is within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is within the Special Flood Hazard Area, mandates the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION:

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0003B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lot No. 13,Trenton Acres Subdivision No. 1, City of Trenton, Wayne County, Michigan, as recorded in Liber 73 of Plats, Page 28, in the Office of the Register of Deeds of Wayne County, Michigan, is not located within the Special Flood Hazard Area.

Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structure located on the above-mentioned property is within the Special Flood Hazard Area identified on August 17, 1981. The structure is in Zone A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: March 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11923 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of St. Louis Park, Minnesota, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of St. Louis Park, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of St. Louis Park, Minnesota, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Food Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 270184A, Panel No. 04, published on October 6, 1980, in 45 FR 66084, indicates that Lot No. 1, Block 2, Meadow Tree, City of St. Louis Park, Hennepin County, Minnesota, recorded as Document No. 1297623, in the Office of the Registrar of Titles of Hennepin County, Minnesota, is located within the Special Flood Hazard Area.

Map No. H&I 270184A, Panel No. 04, is hereby corrected to reflect that the residential structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on June 1, 1977. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11924 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-6173]

Letter of Map Amendment for City of Spearfish, South Dakota Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Spearfish. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Spearfish, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 460046 Panel 0001B, published on October 26, 1981, in 46 FR 52113, indicates that the existing residence, garage, utility building and storage shed located on Lot B of Outlot 1, Ramsdell's Addition, Spearfish, South Dakota, recorded as Instrument Number 245473 in Book 398, Page 326, in the Office of the Register of Deeds, Lawrence County, South Dakota, are within the Special Flood Hazard Area.

Map No. H & I 460046 Panel 0001B is hereby corrected to reflect that the existing residence, garage, utility building, and storage shed located on the above mentioned property are not within the Special Flood Hazard Area identified on September 2, 1981. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a

substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11925 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Port Arthur, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Port Arthur, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Port Arthur, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0216.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485499B Panel 05, published on October 6, 1980, in 45 FR 66099, indicates that Peak Subdivision, Montrose Addition, and Montrose Addition No. 2, Port Arthur, Texas, as recorded in Volume 5, Page 59; Volume 7, Page 69; and Volume 10, Page 20, respectively, in the Office of the Clerk, Jefferson County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 485499B Panel 05 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on October 8, 1976. This property is in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-11927 Filed 4-30-82; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Harris County, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480287 Panel 0300C, published on October 6, 1980, in 45 FR 66098, indicates that a 11.7940 acre tract of land out of the W.C.R.R. Company Survey, Abstract 907, Harris County, Texas, as recorded in File No. H245907, Film Code No. 001–95–0823 through 001–95–0828, in the office of the County Clerk, Harris County, Texas, is within the Special Flood Hazard Area.

Map No. H & I 480287 Panel 0300C is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on February 24, 1981. This property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11922 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Harris County, Texas; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Harris County, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480287 Panel 0200C, published on October 6, 1980, in 45 FR 66098, indicates that a 94.259 acre tract of land in the Joseph Farwell Survey, Abstract 262, Harris County, Texas, being a portion of the Deed, as recorded in Film Code Numbers 126–94–1066 through 126–94–1076, in the Office of the Clerk, Harris County, Texas is within the Special Flood Hazard Area.

Map No. H & I 480287 Panel 0200C is hereby corrected to reflect that the above mentioned property, with the exception of the area designated as Harris County Flood Control Drainage Easement, No. G255595, is not within the Special Flood Hazard Area identified on February 24, 1981. This property is in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plain.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: April 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–11926 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 205

General Administration—Public Assistance Programs; Disclosure of Information for Public Audits

AGENCY: Social Security Administration, HHS.

ACTION: Interim final rule.

SUMMARY: This regulation permits disclosure for audit purposes of information concerning AFDC applicants or recipients to any government entity authorized by law to conduct such audits or similar activity. This regulation reflects the provision of section 403(a) of the Social Security Disability Amendments of 1980 (Pub. L. 96–265) which was effective on September 1, 1980.

DATES: Effective May 3, 1982. We will consider any comments received on or

before (enter 60 days after publication). After considering the comments, we will publish a final regulation.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Family Assistance, Social Security Administration, Room B-428, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20201, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Hamilton, Office of Family Assistance, Office of Policy, Social Security Administration, Transpoint Building, 2100 Second Street, SW. Washington, D.C. 20024; telephone (202) 245-2015.

SUPPLEMENTARY INFORMATION: Section 403(a) of the Social Security Disability Amendments of 1980 (Pub. L. 96-265) amends section 402(a)(9) of the Social Security Act to provide another reason for disclosure of information concerning applicants for and recipients of financial assistance under State title IV-A plans. Under this new law, disclosure is now permitted for purposes of any audit conducted by any governmental entity authorized by law to conduct such audits or similar activity. To reflect this change, we are ameding 45 CFR 205.50 by revising clause (C) of paragraph (a)(1)(i) and relocating the revised material in clause (D) of paragraph (a)(1)(i) and in clause (iii) of paragraph (a)(1) to make it easier to read. The basic provision on disclosure for audit purposes is in the new clause (E) of paragraph (a)(1). Disclosure of information to any other committee or legislative body that identifies ADFC applicants or recipients by names or addresses continues to be prohibited. We have also revised paragraph (c) to explain that disclosure for audit purposes is not a requirement of a State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act.

We are also taking this opportunity to clarify 45 CFR 205.50(a)(1)(iii), which prohibits the publication of lists of names of applicants and recipients, and 205.50(d) which implements the Jenner Amendment. This amendment, which is based on section 618 of the Revenue Act of 1951 (Pub. L. 183, 82nd Congress), provided for a limited exception to the confidentiality rules under section 402(a)(9) of the Social Security Act. Under this amendment, a State may permit public access to disbursement records of public assistance recipients if it is authorized under State law and the State law also prohibits the use of any list of names obtained through such access for commercial or political purposes. We are doing this by combining these provisions and redesignating them as a new clause (a)(1)(iv). This is only a technical change for purposes of clarity and does not make any change in Federal policy.

This new material does not apply to the adult assistance programs in Guam, Puerto Rico, and the Virgin Islands under title I, X, XIV, and XVI (AABD) of the Social Security Act.

Justification for Interim Regulations

The Social Security Administration finds that publication of a Notice of Proposed Rulemaking (NPRM) is "unnecessary" under the Administrative Procedure Act (5 U.S.C. 553(b)(B)). Since these interim regulations only update existing regulations to reflect the Social Security Disability Amendments of 1980 (Section 403 of Pub. L. 96-265) and since the Secretary has exercised no discretion in implementing, an NPRM would serve no useful purpose.

Regulatory Procedures

This regulation has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

We certify that this regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities because it affects only the disclosure of information for specific purposes. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

This regulation imposes no reporting/recordkeeping requirements requiring OMB clearance.

(Secs. 402, 411, 1102, and 1106(a) of the Social Security Act, as amended; 49 Stat. 627, as amended, 91 Stat. 1561, 49 Stat. 647, as amended, 53 Stat. 1398, as amended; 42 U.S.C. 602, 611, 1302, 1306(a) and sec. 403 of Pub. L. 96-265, 94 Stat. 462))

List of Subjects in 45 CFR Part 205

Administrative practice and procedure, Aid to Families with Dependent Children, Grant programs—social programs, Public assistance programs, Reporting requirements.

Dated: March 9, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: April 16, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 205.50 is amended by removing "and" in clause (B) of Paragraph (a)(1)(i), by revising clause (C) of paragraph (a)(1)(i), by adding clauses (i)(D), (i)(E), and (iii) to paragraph (a)(1), and by revising and redesignating the present clause (iii) of paragraph (a)(1) and paragraph (d) of this section as a new clause (iv) of paragraph (a)(1), to read as follows:

§ 205.50 Safeguarding information for the financial assistance programs.

(a) *State plan requirements.* * * *

(1) * * *

(i) * * *

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs.

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need.

(D) The certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94-12, the Tax Reduction Act of 1975 (see § 235.40 of this chapter).

(E) Any audit or similar activity, e.g., review of expenditure reports or financial review, conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity.

* * * * *

(iii) Disclosure of any information that identifies by name or address any applicant or recipient to any Federal, State, or local committee or legislative body other than in connection with any activity under paragraph (a)(1)(i)(E) of this section is prohibited.

(iv) Publication of lists or names of applicants and recipients will be prohibited. *Exception.* In respect to a State plan for financial assistance under title I, IVA, X, XIV, or XVI (AABD) of the Social Security Act, an exception to this restriction may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions

under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

2. Paragraph (c) of § 205.50 is amended in the first sentence by adding "with the exception of paragraphs (a)(1)(i) (D) and (E)", to read as follows:

* * * * *

(c) *State plan requirements for programs of financial assistance in Puerto Rico, the Virgin Islands, and Guam.* A State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section, with the exception of paragraphs (a)(1)(i) (D) and (E). * * *.

* * * * *

§ 205.50 [Amended]

3. Paragraph (d) of § 205.50 is removed and reserved.

[FR Doc. 82-12013 Filed 4-30-82; 8:45 am]
BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81, and 83

[Gen. Docket No. 81-822; FCC 82-175]

Addition of Gulf Intracoastal Waterway to the Authorized Service Area of Inland Waterways Communications Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adds the Gulf Intracoastal Waterway (GIWW) to the authorized service area of Inland Waterways Communications Systems providing marine communications in the 216–220 MHz band. This action was requested by Waterway Communications System, Inc. in the context of a separate proceeding. The intended effect is to permit maritime communications in the 216–220 MHz band to be expanded from the Mississippi River System to include the GIWW from Brownsville, Texas to the Florida Panhandle.

EFFECTIVE DATE: May 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio.

List of Subjects

47 CFR Part 81

Radio, Coast stations, Telephone.

List of Subjects

47 CFR Part 83

Radio, Ship stations, Telephone.

Report and Order

Proceeding Terminated

Adopted: April 14, 1982.
Released: April 22, 1982.

1. In this Report and Order we are adding the Gulf Intracoastal Waterway to the authorized service area of Inland Waterways Communications Systems operating in the 216–220 MHz band.

Background

2. In General Docket No. 80–1 the Commission consolidated a number of related requests to provide radio frequencies for an automated, integrated, interconnected marine communications system on the Mississippi River and connecting waterways. Primarily, these requests for an Inland Waterways Communications System (hereafter IWCS) had been from tug, towboat and barge operators who serve the Mississippi River transportation system. Essentially, these tug and barge operators complained that the existing ship-shore communications service on the rivers was not adequate to meet their needs.

3. With the benefit of considerable in-depth public comment on the *Notice* in that proceeding,[1] the Commission, in the subsequent *Report and Order*,[2] took the actions indicated in the paragraphs below.

4. In light of the record of strong support, the Commission affirmed its earlier tentative conclusion that a need existed for an automated, integrated, interconnected inland waterways communications system(s) on the Mississippi River and connecting waterways.

5. The Commission allocated the 216–220 MHz band for use by maritime communications systems on the Mississippi River System. Certain technical requirements were prescribed to prevent potential interference with reception on television channels 10 and 13. This allocation was viewed to be in the public interest because (1) it was consistent with the U.S. proposal adopted for Region 2 at the 1979 World Administrative Radio Conference (WARC) of the International Telecommunication Union, (2) sufficient spectrum was provided for such communications for the foreseeable future, (3) the propagation characteristics were favorable and the equipment and technology should be readily adaptable, and (4) of great importance to the maritime community, an IWCS can likely be implemented without significant delays.

6. In regard to system and equipment standards, the Commission concurred with the view of the majority of the commenters that detailed technical standards, particularly for nonvoice services, should not be adopted at this time. Therefore, the Commission amended the rules to provide a framework under which system development could commence, but which would not unduly hinder innovation and flexibility.

7. Additionally, an application (file No. W–P–C–2279) submitted by Waterway Communications Systems, Inc. (hereinafter Watercom) seeking a determination that an IWCS was needed and authority to operate such a system (initially utilizing four VHF maritime public correspondence frequencies) was dismissed without prejudice. In effect, the application had been superseded by the rulemaking proceeding.

8. A number of petitions were filed in response to the *Report and Order*. As relevant here, Watercom filed a Petition For Clarification which, among other things, argued that the Gulf Intracoastal Waterway (hereafter GIWW) is an integral part of the Mississippi River System and that it was erroneously omitted from the list of waterways defining the Mississippi River System. Therefore, Watercom requested that the Mississippi River System be redefined in the rules to include the GIWW.

9. The Commission denied Watercom's request.[3] The GIWW was not mentioned during the lengthy proceedings in General Docket No. 80–1. Neither the Commission nor any of the numerous commenters, including Watercom, specifically suggested that the GIWW was or ought to be included

[1] *Notice of Proposed Rule Making Order and Notice of Inquiry*, General Docket No. 80–1, FCC 80–2, 45 FR 3064. Three Errata were issued: mimeo 15497, 45 FR 6967; mimeo 15647, 45 FR 13477; mimeo 15775, 45 FR 17043.

[2] General Docket No. 80–1, released March 11, 1981, 84 FCC 2d 875, 46 FR 15690; an Errata was released April 29, 1981, mimeo 29348, 46 FR 26485; *aff'd sub nom. WJG Telephone Company, Inc.* v. *FCC*, No. 81–1461, (D.C. Cir. April 9, 1982).

[3] See, *Memorandum Opinion and Order*, Gen. Docket No. 80–1, adopted November 24, 1981, FCC 81–541, 46 FR 61879.

in a discussion of frequency allocations for an automated "inland" waterways communications system. The entire proceeding focused on the Mississippi River and connecting inland rivers. The Commission did not intend, nor was it believed interested parties considered, General Docket No. 80–1 to include some 1,100 miles of Gulf Coast in the Mississippi River System. Accordingly, the Commission felt that it would be fundamentally unfair to expand the area of IWCS service along the Gulf Coast approximately from Brownsville, Texas, to the St. Marks River on the Florida Panhandle without providing interested parties adequate notice and an opportunity to comment.

10. However, since substantial waterborne traffic flows between the GIWW and the Mississippi River System, the Commission indicated it would initiate a separate rulemaking proceeding proposing to expand the IWCS service area to include the GIWW. This would provide the public adequate notice and an opportunity to comment on the merits of such an expansion.

Notice of Proposed Rulemaking

11. As promised in the referenced *Memorandum Opinion and Order*, the Commission released a *Notice of Proposed Rulemaking* on December 10, 1981 [4] proposing to amend the rules by adding the GIWW to the authorized service area of Inland Waterways Communications Systems described in Parts 2, 81 and 83. Since the GIWW connects with the lower Mississippi River and from a waterborne transportation point of view is an extremely important traffic interchange (only the Ohio River has a higher rate of traffic interchange with the Mississippi River), it was believed reasonable to include the GIWW within the authorized service area of an IWCS.

Comments

12. Comments were timely filed by the following organizations:

(a) The American Waterways Operators, Inc. (AWO), a national trade association representing approximately 300 towing and barge companies which operate in the coastal and inland waters;

(b) The Offshore Marine Service Association (OMSA), an association representing over 150 companies that operate nearly 4,000 vessels which provide support and transportation services to offshore industries;

(c) The National Ocean Industries Association (NOIA), a trade association with approximately 500 corporate members engaged in offshore and ocean oriented industries;

(d) The Central Committee on Telecommunications of the American Petroleum Institute (API), which is composed of representatives from 45 of the nation's leading petroleum and natural gas companies; and

(e) Waterway Communications System, Inc. (Watercom), an applicant for authority to operate an IWCS.

All five commenters strongly support the proposed rule amendment. In essence, the commenters indicate that the GIWW is an integral part of the Mississippi River transportation network because of the substantial volume of traffic travelling between the two waterways. Therefore, expansion of the IWCS service area along the GIWW is considered logical.

13. Watercom also notes that the GIWW, in addition to the waterway itself, consists of a multitude of bays, bayous, lakes, minor "feeder" canals, and tributaries. The Mississippi River south of New Orleans consists of similar wetland areas. Watercom submits that the defined IWCS service area should govern the location of coast station facilities, but that the rules should be clarified to clearly indicate that stations on board ships may operate wherever located within the coast station's service area. For example, ships on Lake Pontchartrain or the Houston ship canal should be allowed to use their IWCS equipment although they are not technically located on the navigable waters of the Mississippi River or the GIWW.

14. Additionally, API, whose members utilize frequency assignments in this band on a secondary basis for geophysical telemetry operations, believes the proposed use of the 216–220 MHz band is in the public interest because it will permit the coordinated assignment of frequencies (i.e., coordinated with IWCS operators) for telemetry operations.

Decision

15. We conclude that it is in the public interest to amend the rules by adding the GIWW to the authorized service area of Inland Waterways Communications Systems. All the commenters strongly endorsed the proposed rule amendment and noted the logic of expanding the IWCS service area to include this major traffic interchange with the Mississippi River System. Further, we concur with Watercom's suggestion that the rules be clarified to indicate that vessels operating in the vicinity of an IWCS station, although not technically navigating on a specifically identified waterway comprising the Mississippi River System or GIWW, may use their IWCS equipment. It is not intended that vessels navigated on adjacent lakes, bays, feeder canals and the like, be prohibited from utilizing IWCS communications. It should be noted, however, that since such expansion of the IWCS service area may impact Mexico, coordination of assignments and imposition of conditions to protect operations of that administration may be necessary. Furthermore, domestic expansion of the waterway areas in which IWCS equipment may be operated is in part conditioned by the provisions of footnote US 229.

16. Therefore, we are amending §§ 2.106, 81.913 and 83.1100 to add the Gulf Intracoastal Waterway to the authorized service area of Inland Waterways Communications Systems. As requested, we are also amending §§ 81.913 and 83.1100 to clarify the service area available to stations on board vessels.

17. These rules will make 80 channels in the 216–220 MHz band available for assignment to Inland Waterways Communications Systems for ship-shore communications along the Gulf Intracoastal Waterway. If an IWCS is ultimately constructed along the GIWW, it will provide the maritime community with another means to fulfull its ship-shore communications needs in that area. In most cases, these rules will only provide a basis for marginal improvement in the efficiency of vessels participating in an IWCS or a marginal decrease in the traffic handled by existing coast stations operating along the GIWW. Therefore, we have determined that sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding, because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

18. For further information of this proceeding, contact Robert H. McNamara at (202) 632–7175.

19. Accordingly, it is ordered, that under the authority contained in sections 4(i) and 303 (d) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (d) and (r), the Commission's rules are amended as set forth in the attached Appendix, effective May 28, 1982.

20. It is further ordered, That this proceeding is terminated.

[4] *Notice of Proposed Rulemaking*, Gen. Docket No. 81–822, FCC 81–546, 46 FR 60653.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as followed:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106, footnote NG121 is revised to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

NG121 The maritime mobile use of this band is limited to operation along the Mississippi River and connecting waterways, and the Gulf Intracoastal Waterway.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

§ 81.913 [Amended]

In § 81.913, paragraph (a) is revised by adding in the second sentence ", and the Gulf Intracoastal Waterway" after the words "and Yazoo rivers", and by adding the sentence "Vessels on waters adjacent to any of the above described waterways may communicate with any IWCS station within its service area.", to the end of the paragraph.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.1100 [Amended]

Section 83.1100 is revised by adding in the second sentence ", and the Gulf Intracoastal Waterway" after the words "and Yazoo rivers"; and by adding the sentence "Vessels on waters adjacent to any of the above described waterways may communicate with any IWCS station within its service area.", to the end of the paragraph.

[FR Doc. 82-11899 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 61

[CC Docket No. 82-122; FCC 82-158]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

AGENCY: Federal Communications Commission.

ACTION: Interim guidelines and temporary waiver of rules.

SUMMARY: This Interim Order, issued pursuant to the Record Carrier Competition Act of 1981 (RCCA), establishes interconnection guidelines for the domestic and international record carriers. This action is taken within the time period established by RCCA and as a result of the parties' failure to reach a negotiated settlement. Parties are directed to file technical agreement and revise tariffs so as to implement interconnection of separate systems. The interconnection establishes a "universal" network for both domestic and international record communications.

DATES: Effective from 8:00 a.m. on April 28, 1982, until 5:30 p.m. on April 30, 1982, the initial filing of the interconnection tariff provisions in § 61.38 are deferred and in §§ 61.16, 61.54, 61.55(e), 61.58, 61.59, 61.71, 61.74, 61.94, and 61.112 are waived. Technical agreement to be filed on April 23, 1982. Revised tariffs to be filed by April 28 and May 3, 1982. Comments and replies on shared bearer circuit issue to be filed on June 4, and July 1, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, (202) 632-7265.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

In the matter of interconnection arrangements between and among the domestic and international record carriers, CC Docket No. 82-122.

Interim Order

Adopted. April 1, 1982:

Released: April 8, 1982.

I. Background and Legislation

1. On March 3, 1982, (47 FR 10863; March 12, 1982), we issued a Notice of Proposed Rulemaking (NPRM) seeking comments on the appropriate arrangements that should be prescribed to effectuate interconnection between and among the domestic and international record carriers.[1] The NPRM was issued pursuant to the Record Carrier Competition Act of 1981 (the Act)[2] and as a result of the record carriers' failure to reach a negotiated interconnection agreement.[3] In this order we describe the timetable for interconnection negotiations established by the Act, the negotiations monitored by the Commission, the carriers' networks, and the interconnection proposals submitted prior to February 23, 1982. We also summarize the tentative conclusions found in the NPRM and the comments and replies submitted in response to the NPRM. Lastly, we reach final conclusions on the various issues, prescribe an interim interconnection arrangement, and establish a timetable for implementing the interim arrangement.

2. The Act became law on December 29, 1981. It amends Section 222 of the Communications Act of 1934 to eliminate the statutory bar on the provision of international record services by WU. In addition to setting aside a long standing barrier to increased competition in the international record market, the Act directs the Commission, in Section 222(c)(1)(A)(i), to "require each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purpose of this section." To this end Section 222(c)(3)(A) requires the Commission to convene, monitor and preside over interconnection negotiations between and among the domestic and international record carriers (IRCs).

3. The legislation requires the Commission to convene a meeting between the "primary existing IRCs" and the domestic "record carrier" within 15 days of enactment for the purpose of negotiating an interconnection agreement. The Act provides that if the domestic record carrier subject to the interconnection requirement (WU) and a majority of the primary existing IRCs do not reach an agreement within 45 days of the first meeting date, then the Commission is to prescribe an interconnection agreement no later than

---

[1] Interconnection Arrangements Between and Among the Domestic and International Record Carriers, FCC 82-102 (released March 3, 1982).

[2] Pub. L. 97-130, 95 Stat. 1687. The Act, which totally amends Section 222, appears as Appendix A in the NPRM.

[3] The Western Union Telegraph Company (WU) and Graphnet, Inc. (Graphnet) participated in the interconnection negotiations as domestic record carriers. ITT World Communications, Inc. (ITT), RCA Global Communications Inc. (RCA), Western Union International, Inc. (WUI), FTC Communications, Inc. (FTC) and TRT Telecommunications Corporation (TRT) participated as primary existing international record carriers (IRCs).

90 days after the initial interconnection meeting. However, if the domestic record carrier and a majority of the primary existing IRCs subsequently reach agreement before the issuance of an interconnection order by the Commission, then the Commission need not issue its order and the parties' agreement would take effect. The provisions of revised Section 222 requiring an interconnection agreement "sunset" after three years. Any extension of the interconnection arrangements after three years would be evaluated by the Commission under Section 201 of the Communications Act.

II. The Negotiations

4. The initial interconnection meeting was held on January 8, 1982. Subsequent public meetings were held on January 20, 25, and 29 and February 4, 8, 12, 18, 22, and 23, 1982. Additionally, the parties established a technical committee to resolve various engineering problems. During the negotiations the parties presented proposals relating to interconnection costs, rates, locations, technical requirements, billing procedures and access schemes. These proposals appear generally in File No. I–S–P–82–002. The parties also offered various interpretations of the Act and exchanged system capability information.

5. The initial 45 day period ended on February 22, 1982. The failure of the parties to reach negotiated agreement by that date resulted in the issuance of the NPRM. Since the release of the NPRM the parties have continued to negotiate but have failed to enter into an agreement. This Interim Order is adopted as a result of the parties' inability to reach an interconnection accord and will be issued within the 90 day period established in the Act.[4]

III. Existing Networks, Rates, Interconnection Arrangements and Access

6. WU currently offers domestic telex and TWX (sometimes referred to as telex II) service over an integrated switched network.[5] The IRCs currently provide the U.S. portion of international record service between varous points in the continental United States and overseas locations. WU's telex customers pay a distance insensitive (postalized) rate of 34.75¢ per minute for an intra-network (non-interconnected) transmission. WU's TWX customers pay a postalized rate of 43¢ per minute for an intra-network transmission. Customers directly connected to an IRC network are charged a postalized rate for outbound international transmissions from any point in the U.S. which varies for each overseas destination. Inter-network (interconnected) transmissions currently result in the payment of two postalized charges, usually referred to as an end-on-end rate. Thus, a WU telex or TWX customer accessing an IRC switch for an outbound international transmission pays the WU domestic postalized rate plus the IRC international postalized rate. An IRC customer directly accessing the IRC switch pays only the IRC postalized rate. For inbound international telex traffic the foreign correspondent sets the collection rate, collects from its customer and pays the interconnecting IRC pursuant to settlement and accounting agreements.[6] The IRC then delivers the call to its customer (no charge involved) or hands the call off to a domestic carrier for delivery to its customer at that carrier's domestic transmission rate (34.75¢ for WU) which is paid by the IRC.

7. WU offers only domestic service. The IRCs now offer international and domestic service.[7] WU and the IRCs presently interconnect only for the delivery/acceptance of international inbound/outbound traffic. There is no WU–IRC interconnection for domestic service. There are interconnection and transiting arrangements among the IRCs for the handing off of outbound international traffic in cases where an IRC lacks an operating agreement to serve a particular overseas point. Graphnet provides limited domestic and international services and has contracted with the IRCs to deliver international inbound telegram messages. Graphnet also interconnects with both WU and the IRCs for the provision of domestic and international services.

8. WU and IRC intra-network calls can be completed by employing a single stage dialing (access) procedure. A customer is already "plugged in" to a carrier's network and reaches another party on the same network by dialing that customer's number. Inter-network calls between the WU and IRC systems require coordination between two distinct networks and generally require a two stage dialing procedure. In the first stage the customer would access the second network by dialing the second network's access code. In the second stage the customer would transmit the called party's number to the second carrier and that carrier would route the call to the desired party. Thus, for an outbound international call, a WU customer would access an IRC (a three digit number, 10X, would be dialed) as the first stage and then transmit to the IRC as the second stage the country code, the number of the called party and any special transmission instructions.

IV. Parties' Proposals

9. In the NPRM we described the initial RCA proposal which was generally endorsed by the other IRCs. For interconnected domestic traffic, RCA proposed that the originating carrier set the collection rate, bill the customer, collect the tariffed charge from the customer and pay the terminating carrier an interconnection fee. RCA proposed a 20¢ per minute telex accounting rate and a 50/50 telex settlement rate. Thus, for telex service the terminating carrier would receive 10¢ per minute for the use of its service of facilities. Utilizing a telex rate of 35¢ per minute, the originating carrier would retain 25¢ per minute. For international outbound telex traffic employing more than one U.S. carrier, RCA proposed that the carrier over whose network or

---

[4] The 90 day period established in Section 222(c)(3)(B) will end on April 8, 1982.

[5] Telex and TWX are both switched network services. A telex subscriber has the ability to dial any other subscriber on the telex network to establish direct, real time, two-way communications in the typewritten or data mode. A TWX subscriber has a similar ability to dial any other TWX subscriber. Although the two services employ different codes and are transmitted at different speeds, telex and TWX subscribers may "talk" to each other via WU's Infomaster computer. Telex is available worldwide and is oriented toward message use. TWX is available only in Canada and the U.S. and is well suited for low speed data transmission.

[6] Before a U.S. carrier can operate a direct international service to a particular overseas point, it must enter into an operating agreement with the foreign telecommunications administration. The agreement usually indicates the terms and conditions under which the carrier may interconnect and gain access to the foreign nation's domestic telecommunications network. The parties establish an accounting rate (a figure for each unit of service which the carriers use to pay for the other's service) and a settlement rate (division of the accounting rate, ordinarily 50/50). After inbound and outbound traffic volumes are totalled, the carriers calculate the net traffic yields and the amount due or owed pursuant to the accounting and settlement rates. The settlement rate includes specific currency conversion levels to facilitate a final accounting. While a U.S. carrier's rate to the public (the collection rate) is established by that carrier and may vary, all carriers providing service to the same overseas point have identical accounting and settlement rates with the foreign administration to prevent "whipsawing" by that foreign administration. See Uniform Settlement Rates on Parallel International Communications Routes, 66 F.C.C. 2d 359, (1977), and 84 F.C.C. 2d 121 (1980).

[7] The five primary existing IRCs were authorized to provide wholly domestic non-voice services on December 17, 1981. RCA Global Communications, Inc. et al., 88 F.C.C. 2d 905 (1982). The tariffs of three of the IRCs for these services went into effect on March 17, 1982.

facilities the transmission is initiated receive 25¢ per minute, the amount equal to that retained by the originating carrier for a domestic interconnected transmission. The carrier to whom the transmission is handed off for international carriage and delivery to a foreign correspondent would be the originating carrier and establish the through collection rate, bill the customer, collect from the customer, participate in the accounting/settlement procedures with the overseas entity and pay the interconnecting domestic carrier the 25¢ per minute interconnection charge. Interconnection between U.S. carriers for the transmission of outbound telex traffic would occur if the customer desired the second carrier to be responsible for the international segment of the transmission or if the initiating carrier lacked an operating agreement with the foreign correspondent involved. For international inbound telex traffic employing more than one U.S. carrier, RCA proposed that the U.S. carrier receiving the traffic from the overseas entity participate in the international accounting/settlement procedures. The carrier delivering the traffic to the called party would receive 10¢ per minute, the amount allocated to the terminating carrier for a domestic interconnected transmission. Interconnection between U.S. carriers for the transmission of inbound telex traffic would occur if the transmission recipient was not on the first carrier's network or if the foreign customer desired the second carrier to be responsible for the domestic segment of the transmission.

10. The thrust of WU's response to RCA's proposal was that a terminating carrier was entitled to recoup its costs from the originating carrier and that, for WU, no appreciable or identifiable cost savings existed for transmissions that did not both originate and terminate on its network. WU stated that its existing tariffs, 34.75¢ per minute for telex and 43¢ per minute for TWX, covered its costs to: (1) Originate a domestic call; (2) terminate a domestic call; (3) originate an international outbound call; (4) terminate an international inbound call; or (5) originate and terminate a domestic call. WU therefore proposed that it receive its currently tariffed charge for providing any interconnection service or facility. WU also proposed that the domestic carrier set the through rate for international outbound transmission, bill the customer, collect from the customer and pay the international carrier that carrier's costs.

11. Shortly before the end of the initial 45 day negotiating period, WU and ITT presented new interconnection proposals. The major feature of WU's comprehensive proposal was an offer to accept a 15 percent discount from its tariffed rate for terminating an interconnected *domestic* transmission. A 15 percent discount (5.21¢ per minute for telex) would result in a payment by the originating carrier to the terminating carrier of 29.54¢ (34.75¢ minus 5.21¢) per minute for telex. In response to WU's proposal, ITT presented a new interconnection plan. This proposal increased the payout initially proposed by RCA to the terminating domestic carrier. For an interconnected *domestic* telex transmission, ITT proposed a 35¢ per minute accounting rate and a 50/50 settlement rate. This would result in a payout to the terminating carrier of 17.5¢ per minute. As in the RCA proposal, the originating carrier would be free to competitively tariff its rate. For an interconnected international *inbound* telex transmission, ITT proposed the institution of a graduated discount formula. Under this formula the discount accepted by WU for effectuating domestic delivery would increase from zero to 45% (up to 15.64¢ per minute for telex) as WU acquired operating agreements and penetrated the direct international *outbound* telex market. WU's penetration would be measured in cumulative international minutes over the three year duration of the agreement.

V. Tentative Conclusions

12. In the NPRM we indicated that any interconnection order imposed on the carriers would include guidelines for both domestic and international record communications. We also stated that any interconnection order would, to the maximum extent possible, preserve service quality to the public, maximize the ability of market forces to govern the variety and price of available services and facilities, and create incentives for the entry of the IRCs into the domestic market and of WU into the international market. The four major areas in which we considered reaching tentative conclusions are described below.

13. We tentatively concluded that Section 222(c)(1)(B) required parity in the type and quality of interconnection provided between a carrier's domestic and international segments on the one hand, and between such separate segments and other carriers except where: (1) Parity could only be achieved through an unreasonably expensive system modification; (2) parity could not be achieved due to equipment unavailability or technological impossibility; or (3) parity could only be obtained through an unreasonable degradation of service. We indicated that such equality in type and quality of interconnection, which we termed general equality, would preserve service quality and promote system efficiency. We viewed this standard of equality to be reasonable in light of the interconnection arrangement's three year duration.

14. In the NPRM we reached several tentative conclusions regarding the determination of which carrier, in an interconnected situation, should establish the tariffed rate, bill and collect from the customer, and make an equitable allocation of revenues with the other U.S. carrier. For a non-interconnected (intra-network) domestic transmission we noted that a carrier both originates and terminates the call. The carrier provides all the facilities, exercises full control over the service, calculates the costs, establishes the tariffed rate, bills its customer and collects the rate from that customer. For an interconnected (inter-network) domestic transmission we tentatively concluded that the carrier providing direct service and access to the calling party is the originating carrier and, in addition to performing the originating carrier functions described above, would pay the terminating carrier that carrier's costs. For an inbound international transmission the foreign correspondent acts as the originating carrier. If only one U.S. carrier is involved in accepting and delivering an inbound international transmission, then no interconnection occurs between U.S. carriers and the accepting carrier will settle with the foreign correspondent. If two U.S. carriers are required to effectuate delivery to the called party, then the U.S. international carrier will interconnect with a U.S. domestic carrier. The U.S. international carrier settles with the foreign correspondent and pays the other U.S. carrier that carrier's costs. We tentatively concluded that the above arrangements, which are currently practiced by the negotiating parties, were reasonable and should be continued.

15. For outbound international transmissions we noted the existence of end-on-end rates, the IRCs' bundled (domestic and international carriage) rates and the perceived marketing advantage obtained by the "originating carrier" for this type of traffic. We tentatively concluded for outbound international calls that the international service provider should act as the originating carrier. Thus, the international carrier would tariff and bill the through rates, collect from the customer and pay the interconnected

domestic carrier that carrier's costs. In the NPRM we indicated that our preference for this approach was based on several factors. We recognized the important role played by the IRCs in the international record market as the procurers of operating agreements, the perception of users that they are generally selecting an IRC rather than WU for outbound service, and certain technical and billing problems which may arise if WU is the originating carrier. We noted that the international carrier for outbound traffic has traditionally been the entity which possesses an operating agreement with a foreign administration setting out the terms and conditions for international interconnection. The foreign administration negotiates settlement and accounting rates with the IRCs, looks to the IRCs to settle any disputes, and coordinates with the IRCs in the establishment of internationally acceptable operating standards and tariff procedures. Users view international traffic as the responsibility of the international service provider of their choice. Thus, in a sense, users perceive WU as the necessary conduit for the domestic haul to their chosen IRC. Finally, certain problems seem to surround WU's proposal as to its ability to serve as the IRCs' collection and billing agent. Questions arise as to whether WU: (1) Could correctly bill a customer's non-real time store-and-forward traffic, multiple transmissions and some specially routed/instructed calls; (2) should introduce additional switches into a network to merely duplicate existing monitoring functions; and (3) should be given access to arguably proprietary IRC customer information. These problems apparently would not exist if the billing was done by the IRCs as is presently the practice.

16. The third major issue raised by the negotiating parties concerned the establishment of a non-discriminatory and cost-based formula for the equitable allocation of revenues derived from interconnected transmissions. We noted in the NPRM that both Section 222(c)(2) and the Committee Report indicate that Congress sought to insure that: (1) The terminating carrier would recoup its costs through the allocation of revenues; and (2) the originating carrier would be free to recover its costs by setting a rate to the public that is sufficient to pay the terminating carrier that carrier's cost in addition to covering its own costs.[8] We also noted, because of the anticipated traffic flows between WU and IRC subscribers, that the lower the terminating carrier's interconnection charge the more competitive the IRCs could become in the domestic record market.

17. We said in the NPRM that there were at least three interconnection situations in which a carrier would be entitled to recoup its costs from another carrier: (1) The terminating carrier for a domestic inter-network transmission; (2) the second or delivering U.S. carrier for an international inbound inter-network transmission; and (3) the initial or domestic carrier for an international outbound inter-network transmission. Although the negotiating parties failed to reach an agreement as to a fixed cost figure or to a costing methodology, it was generally accepted that all three costs described above would be approximately the same.

18. The determination of carrier costs was and remains the major unresolved issue in the negotiations. WU stated during the negotiations that its current postalized rate covers its fully averaged and allocated costs for any originating, terminating, or originating and terminating transmission. The IRCs, pointing to language in the Committee Report, argued that there are certain cost savings which are inherent in carrier-to-carrier interconnection (as opposed to customer-to-customer interconnections), and that some suitable discount for carrier-to-carrier interconnection should become part of the agreement. The IRCs stated that entering the WU network at the top of that system's switching hierarchy should result in a class of calls for which WU's costs of carriage to the called parties are less than its current average cost.[9] The IRCs concluded that this class of less costly calls should not be aggregated into WU's cost averaging methodology but should rather be entitled to its own lower rate.

19. The question of whether there are cost savings resulting from WU–IRC interconnection which justify a discount below WU's publicly tariffed rate of 34.75 cents per minute for telex calls and 43 cents per minute for TWX calls is the subject of the current evidentiary hearing in Phase II of Docket 78–97.[10] In the NPRM we emphasized that a final determination of this issue must await final Commission action in Phase II.[11] However, we stated that an interim solution to the issue of a discount for WU–IRC interconnected services will be made here.[12] We therefore made no tentative conclusion on the discount issue but did invite the submission of cost/discount data.

20. The fourth area in which the parties could not reach a consensus involved the pro rata traffic distribution requirement of Section 222 (c)(1)(A)(ii)(I). We indicated in the NPRM that Section 222(c)(1)(A)(ii)(I) recognizes that a foreign administration may decide not to enter into operating agreements with all U.S. carriers desiring to provide through international service. Thus, this section requires a carrier receiving international outbound traffic from another carrier to route a pro rata share of its international inbound traffic to that carrier for domestic delivery. We noted the following language from the Committee Report:

> In other words, if a carrier's level of return traffic is increased due to an increased level of outbound traffic generated by another U.S. international carrier, then this benefit should be passed along to the carrier that generated the increased level of traffic.[13]

21. In the NPRM we stated that the purposes of this section are to facilitate entry into the domestic and international marketplaces and to decrease the competitive disadvantage a carrier without operating agreements has with respect to a carrier with operating agreements. We therefore tentatively concluded that this section

---

[8] Energy and Commerce Committee Report of the House of Representatives, Report No. 97–356, 97th Cong. 1st Sess. (Dec. 3, 1981) at page 11. (Hereinafter referred to as Committee Report.)

[9] WU now routes a transmission from a calling party up its network hierarchy to a PFE and then back down its network hierarchy to the called party. The IRCs propose to interconnect at the PFEs. Thus, WU would accept the transmission at the PFE and route the message to the called party. The IRCs argue that since they will not employ one transmission leg, WU's costs are reduced and that this inherent savings or discount must be passed on to them. The IRCs also allege lower administrative, marketing, maintenance, conversion and switching costs.

[10] See Western Union Telegraph Company, 67 FCC 2d 1420 (1978), (Public Telex/TWX Order), 66 FCC 2d 98 (1978) (IRC Telex/TWX Order). See also FCC 82D–14, released March 10, 1982, (Initial Decision by ALJ in Phase I).

[11] By order released April 30, 1981, the Common Carrier Bureau denied petitions to reject WU's postalized (distance-insensitive) telex and TWX rates and allowed them to become effective. Western Union Telegraph Company, Mimeo No. 000552. On March 11, 1982, we denied applications for review of that action and removed from Phase II of CC Docket No. 78–97 the issue of the lawfulness of the postalized rate structure. We left undisturbed the remaining issues in Phase II of specific rate levels, cross-subsidization, rates of return and rate-averaging practices. Western Union Telegraph Company, FCC 82–121. The Phase II hearings, however, are now suspended pending the outcome of the instant proceeding. Western Union Telegraph Company, FCC 82–91 (adopted February 17, 1982).

[12] The Act clearly contemplates an interim solution. Section 222 (c)(3)(B) requires the Commission to "issue an interim or final order" should the parties fail to reach an agreement among themselves which is consistent with the purposes of the Act.

[13] Committee Report, page 11.

should be interpreted to include all types of record communications services except as excluded by Section 222(c)(1)(A)(ii)(II) and to require an allocation system to be established which fully rewards the carrier generating the handed off traffic. We made no conclusions in the NPRM as to the details of such a traffic allocation arrangement.

22. Sections 222(c)(1)(A) (i) and (ii) were read by Graphnet to require an international carrier to make bearer circuits available to a domestic carrier on a shared basis.[14] Graphnet, noting its inability to acquire essential foreign operating agreements which would permit it to interconnect its own lines with foreign correspondents, proposed to "piggyback" its channels onto actively working circuits already operating under agreements with foreign administrations. Through this arrangement Graphnet and other similarly situated carriers could overcome the refusal of the foreign correspondents to deal directly with them while allegedly not interfering with or jeopardizing the arrangements already secured by the existing IRCs.

23. During the negotiations the IRCs objected to Graphnet's position that the right of mandatory facilities interconnection included the right to share access in overseas transmission lines. The IRCs expressed a willingnesss to interconnect with Graphnet and other carriers at the IRC switching centers and at rates which are presently tariffed. The IRCs stated that interconnection at their switches would be the only way to properly monitor and account for all transmissions and prevent inbound IRC traffic from being unnecessarily routed to Graphnet over the bearer circuit. More than one IRC claimed that foreign correspondents would object to any new carrier participation. Others indicated that the foreign correspondent would likely be indifferent to which carrier participates on the U.S. side of the traffic flow so long as it did not impede or complicate the foreign carrier's traffic management functions or increase its costs.

24. In the NPRM we noted that the clear intent of Congress is to increase competition in the international marketplace and to prevent operating agreements with foreign correspondents from "restrict(ing) the ability of other United States carriers to send or receive traffic with that administration on a non-discriminatory basis," or "to impede competition among United States record carriers".[15] However, we indicated that part of Graphnet's statutory justification was based on a section that was eliminated in the Act's final form. We made no tentative conclusion in the NPRM as to Graphnet's statutory right to share international facilities with a carrier possessing overseas circuits and sought comments on Graphnet's interpretation of the Act, the technical limitations the IRCs claimed would prevent them from monitoring the extent of Graphnet's bearer circuit usage, methods to verify unused IRC circuits and allocate unused circuits among carriers.[16]

VI. CC Docket No. 78–97

25. On March 10, 1982, an initial decision in CC Docket No. 78–97 was released. This initial decision relates to WU's telex and TWX rates and is relied on by the IRCs in their filings. We therefore summarize here the docket proceeding and the Administrative Law Judge's initial decision. On December 1, 1977, WU filed prospective changes to its public domestic telex (Tariff FCC No. 240) and TWX (Tariff FCC No. 258) tariffs. WU proposed to: (1) Reduce the number of rate usage bands for telex; (2) reduce the number of mileage bands for TWX; (3) change the usage rates for these services; and (4) increase the TWX remote extension charges. On December 2, 1977, WU filed rates and regulations under WU Tariff FCC Nos. 268 and 269 for telex and TWX services furnished by WU to the IRCs. These tariffs proposed to replace the contracts which previously governed interconnection between WU and the IRCs with the higher public rates filed on December 1, 1977. These tariff changes, which would substantially increase the IRCs' interconnecting costs, were opposed by the IRCs.[17]

26. On March 17, 1978, the Commission initiated an investigation of WU's new public telex/TWX charges under CC Docket 78–97. This Docket was initiated to determine: (1) Whether the revisions were unjust and unreasonable within the meaning of Section 201(b); (2) whether the revisions were unjust or unreasonably discriminatory, or gave any undue preference or advantage to any persons within the meaning of Section 202(a); and (3) if such provisions were found to be unlawful whether the Commission should prescribe provisions pursuant to Section 205, and if so, what should be prescribed. In a subsequent order the Commission decided to enlarged CC Docket No. 78–97 to resolve the controversy of whether there are any cost differences between the telex and TWX services provided to the public and the IRCs which are of such magnitude as to render unreasonable WU's cost averaging for the public and the IRCs. On June 30, 1978 WU filed a general rate increase for many of its services including telex and TWX. The Commission determined that these telex and TWX increases fell within the ongoing Docket 78–97 and included them in the investigation. In sum, WU's averaged costs and increased telex and TWX rates, which made no rate distinction between service to WU's public subscribers and service to other carriers, were set for investigation.

27. On May 1, 1981, WU's postalized tariff revisions became effective for both the public and the IRCs. These tariff modifications resulted in Docket 78–97 being bifurcated into Phase I and Phase II. In Phase I the lawfulness of WU's nonpostalized tariffs (pre-May 1, 1981) was investigated. Phase II, which is ongoing, investigates the rate level of WU's existing postalized tariffs. The initial decision in Phase I was released on March 10, 1982.[18] This decision has not yet been reviewed by the Commission. No initial decision has been releasd relating to Phase II.

28. The Administrative Law Judge's initial decision Phase I makes three general findings. First, that WU's rate structure was unreasonable in that it discriminated against short-haul users (para. 74, 49) and in favor of long-haul users. Second, that the earnings for Telex/TWX were used to subsidize practically every other service WU offered (para. 67). And third, that there were substantial cost savings in

[14] Bearer circuits are voice-grade lines, the channels of which are shared by two or more IRCs for convenience, cost savings, or efficiency. Carriers sharing bearer circuits route traffic through their own switches to a multiplexor which consolidates separate channels without interfering with the carrier's ability to provide direct service to overseas points. Graphnet claims that its access to bearer circuits is a necessity in order for it to enter the competitive international marketplace as envisioned by Congress.

[15] Committee Report at 12–13.

[16] Graphnet also argued that in cases where U.S. carriers or entities act as the overseas correspondent, or possess sole control over the lines and facilities for access to an overseas point, our ordering bearer circuit access would be consistent with the purpose of the Communications Act. We invited comments on this Graphnet position. We also indicated that where a foreign correspondent indicates a willingness to directly interface through bearer circuits with a U.S. domestic carrier, with or without a formal operating agreement, we would expect a U.S. international carrier to share bearer circuits with the U.S. domestic carrier if excess capacity existed or could be obtained.

[17] The IRCs interconnect the majority of their international traffic with WU in New York City. The IRCs are high volume short-haul users. WU's tariff revisions increased the rates to short-haul users and decreased the rates to long-haul users.

[18] Western Union Telegraph Company, FCC 82D-14.

providing service to the IRCs as compared with providing service to subscribers because domestic (public) and interntional (IRC) Telex/TWX services were provided differently (para. 86). The Administrative Law Judge found switching, trunking and time-of-day service savings.

29. Not surprisingly, the IRCs point to this initial decision in their comments and replies to support their position that carrier-to-carrier interconnection will result in cost savings. The IRCs emphasize that these savings, approximately 20–25%, will also be found to exist in the postalized rate inquiry (Phase II).

VII. Comments and Replies

A. Introduction

30. In response to the NPRM comments and replies were filed by RCA, ITT, WUI, TRT, FTC, Graphnet, WU and Consortium Communications International, Inc. (CCI).[19]

31. The thrust of the pleadings submitted by the IRCs is that Congress' intent in amending Section 222 was to introduce additional competition in both the international and domestic record markets. The IRCs indicate that additional competition in the international market, as a result of the removal of the statutory prohibition on the provision of direct international service by WU, only awaits Commission approval of WU's recently filed application to provide direct overseas service.[20] The IRCs appear to view WU's entry into the international market as both inevitable and assuredly successful. The IRCs emphasize that the achievement of Congress' second goal, augmented domestic competition, requires the prescription of an interconnection arrangement which permits real price and quality competition. The IRCs further empahsize that, due to WU's long entrenched position in the domestic record market, competition will occur in the domestic market only if both the IRCs' intra-network and inter-network rates are competitive with WU's intra-network rate.

32. The IRCs anticipate that the preponderance of interconnected domestic traffic will originate with an IRC and terminate with WU. Therefore, the IRCs contend, the dynamics of the WU/IRC interconnection relationship is that the lower the termination or interconnection charge the greater the possibility of real domestic competition as envisioned by Congress. In short, without a substantial carrier-to-carrier discount no real competition will be sustainable.

33. WU maintains its position that no significant cost savings exist in handling interconnected traffic and that no discount is therefore warranted for interconnection with its network. WU emphasizes that the recently released initial decision in Phase I of Docket 78–97 is only a recommended decision and should not be given any weight by the Commission at this time.

34. Graphnet and CCI allege a statutory right to share bearer circuits with the IRCs. Graphnet also proposes a highly controversial scheme to allocate traffic on a pro rata basis. These carriers further support the IRC position that cost savings are inherent in carrier-to-carrier interconnections.

35. The parties' comments on the major issues identified in the NPRM and on further issues identified by the parties are summarized below. The topics summarized, carrier by carrier, are in the order discussed in the NPRM: (1) Interconnection of equal type and quality; (2) originating/terminating carrier determination; (3) cost allocation; and (4) pro rata traffic distribution and shared bearer circuits. We also summarize other miscellaneous points raised by the parties.

B. ITT

36. ITT supports the Commission's tentative conclusion that general equality in type and quality of interconnection would serve the public interest. ITT views this standard as: (1) Not requiring the introduction of dummy access digits by the IRCs for access by their subscribers to their own overseas networks; (2) requiring WU provision of three digit TWX access for its customers to access an IRC switch; and (3) mandating interconnection at the DES sites on a basis comparable to that provided by WU for WU's international traffic. ITT indicates a willingness to accept a phased-in approach for the provision of direct and equal DES interconnection for its international services. Finally, ITT supports the Commission's tentative conclusion that the originating carrier for interconnected international outbound transmissions should be the international service provider. ITT indicates that this position is consistent with traditional practices and the intent of the Act.

37. Like the other IRCs, ITT emphasizes the importance, need and justification of a carrier-to-carrier discount. ITT points to the Act, the Committee Report and the initial decision in Phase I of Docket 78–97 to support its contention that transmission and administrative cost savings are inherent in carrier-to-carrier interconnections. It recommends that the most reasonable division of revenues between the IRCs and WU for the exchange of interconnected traffic is an even split of the originating carrier's public rate. This division of revenues would apply to interconnected domestic, interconnected international outbound and interconnected international inbound transmissions. Alternatively, ITT requests that an interim discount for the IRCs of at least 25% below WU's public rates be prescribed.

38. ITT states that the pro rata share language of Section 222(c)(1)(A)(ii), which requires a pro rata allocation of inbound traffic between domestic and international carriers in order to reward interconnected domestic carriers for generating outbound traffic, is a legal nullity since no possible division of traffic can be implemented at the theoretical midpoint between the United States and an overseas point. ITT maintains that Graphnet's inbound traffic allocation plan would create significant administrative problems, inefficiently route traffic, be financially unfair to the IRCs, and frustrate competition for the delivery of inbound cablegrams. ITT views Graphnet's shared bearer circuit proposal as unworkable and as simply not contemplated by the statute. ITT states that such an arrangement cannot be implemented without the consent of overseas administrations. It indicates that RCA's new transiting proposal, except for the mandatory U.S. carrier routing requirement, is a useful compromise on this issue.[21]

C. WUI

39. WUI supports the Commission's tentative conclusion that Section 222(c)(1)(B) should not be interpreted to require service degradation. WUI proposes a dialing access scheme for domestic and international transmissions. For domestic access, WUI proposes single stage access for both intra-network and inter-network calls in which interconnected domestic calls might require the dialing of one or two more digits than intra-network domestic calls. For international access, a carrier would be able to provide intra-network single stage dialing to overseas

[19] CCI provides store-and-forward telex service as a reseller between New York City and various overseas points.

[20] WU filed an application (File No. I–T–C–82–142) with the Commission on March 9, 1982, to extend its services to overseas points. The application appeared on public notice on March 17, 1982.

[21] RCA's transiting offer, a response to Graphnet's bearer circuit proposal, is described in paragraph 47.

locations. Interconnected transmissions to overseas points would be routed by either one or two stage dialing, whichever the initiating (domestic) carrier preferred.[22] WUI also expects WU TWX customers to be able to access an IRC international switch through a three digit access code. WUI, like the other IRCs, emphasizes that unequal technical and traffic mix arrangements at the four DES sites will adversely impact on the relative quality of the services it will be able to offer customers. WUI supports the Commission's tentative conclusion that the international service provider should continue to tariff and bill through rates for international transmissions.

40. WUI states that the Commission has an affirmative obligation to take the necessary steps to assure the development of effective competition in the domestic record market. WUI indicates that adoption of WU's cost allocation proposals will frustrate the procompetitive goals of the Act. It emphasizes that WU's costing argument, that it costs as much to originate, terminate, or originate and terminate a call, is illogical and plainly wrong. Like the other IRCs, WUI emphasizes that competition can only be sustained by prescribing substantial interconnection discounts. In general support of this position WUI points to the initial decision in Docket 78–97, language in the Committee Report and prior inter-network agreements for international traffic which included carrier-to-carrier discounts. For domestic interconnection WUI proposes an accounting rate of 35¢ for telex and 43¢ for TWX to be divided equally between the originating and terminating carrier. Since the costs to deliver international inbound transmissions or to initiate international outbound transmissions approximate the costs to terminate a domestic transmission, WUI suggests that the same financial arrangements that it proposes for domestic interconnection be utilized for all three interconnection situations. It is emphasized by WUI that the discount determination in Docket 78–97 is now our best evidence. WUI also emphasizes that international segment costs are irrelevant since the international rate will be determined by competitive forces.

41. As for the pro rata return flow provision, Section 222(c)(1)(A)(ii), WUI seeks an interpretation limiting its application to inbound telegraph messages. Application of this section to telex traffic could negate an overseas customer's choice of carrier. WUI states that Graphnet's pro rata allocation proposal will require the unnecessary introduction of an additional U.S. carrier, impair service quality and require foreign correspondents to modify existing switches. WUI indicates that it would be more appropriate for Graphnet to simply obtain an operating agreement with a foreign correspondent. As to Graphnet's shared bearer circuit position, WUI indicates that it has no support in the Act or the legislative history. WUI does, however, show a willingness to lease capacity to Graphnet if the foreign correspondent desires such an arrangement.

D. RCA

42. RCA, like the other IRCs, states that equality in type and quality of interconnection should require WU to interconnect with other carriers at all points within WU's domestic network where WU's international switches are interconnected. RCA views direct DES interconnection as necessary to prevent a lessening of quality of service to customers and proposes that universal interconnection directly into the DES system be phased-in. RCA also suggests that each carrier should acquire, install and be responsible for providing its own multiplexing and switching equipment to effectuate interconnection and that all carriers should share the cost of interconnecting channels.

43. On the issue of originating carrier determination, RCA supports the Commission's tentative conclusion that the originating carrier for domestic calls should set the rate, bill the customer and collect from the customer. RCA also concurs in our tentative conclusion that the overseas service provider should perform these functions for international outbound transmissions as well as pay the initiating carrier an appropriate charge for the use of its services.

44. RCA contends that the Act requires establishment of a fair and equitable formula for the division of charges. RCA recognizes the eventual importance of a final decision in Phase II of Docket 78–97, but admonishes the Commission to establish an interim interconnection discount to enhance domestic competition. RCA proposes the adoption of a termination charge for both domestic and international carriage of no greater than 18¢ per minute for telex and 19.85¢ per minute for TWX. It finds support for such a discount in the initial decision in Docket 78–97, the submitted views of a communications consultant, and the Act's legislative history. Unlike the other IRCs, RCA proposes that these terminating charges should not be strictly applied to the initiating (domestic) carrier for international outbound transmissions. It maintains that the costs to initiate a call are greater than the costs to terminate a call. The performance of many customer related services (information, operator assistance, etc.) by the initiating carrier warrants a slightly higher interconnection payment to this carrier than to the terminating carrier. Like the other IRCs, RCA argues that the international segment costs are irrelevant since Congress, in permitting WU to provide international service, indicated that international rates would be competitively determined.

45. RCA views the pro rata distribution requirement as incapable of administration unless the applicability is limited to telegrams. Even then it envisions problems arising from such an interpretation relating to: (1) The establishment of an allocation arrangement; (2) the measurement of traffic; (3) the degree of increased inbound traffic flow attributable to outbound traffic generated by the domestic carrier over and above normal growth; and (4) the existing contracts with domestic carriers for the delivery of unrouted inbound telegrams.

46. RCA states that the Commission should reject Graphnet's request to prescribe the sharing of bearer circuits. RCA argues that the Act creates no statutory right to share bearer circuits and that any sharing would raise operational problems, potentially harm the business relationships between the international carriers and foreign correspondents, inefficiently utilize facilities, and create monitoring, repair and settlement difficulties. RCA also argues that Graphnet's traffic distribution proposal violates the Act. First, RCA states that the proposal to establish a shared revenue pool goes beyond the Act since such a pool would include revenues from services not defined as record communications services. Second, RCA argues that Graphnet has ignored the routing exemption contained in the Act, thus extending its traffic division scheme to IRC routed traffic. As to the sharing of bearer circuits, RCA contends that: (1) The sharing of bearer circuits is more a partnership type of arrangement than a conventional interconnection arrangement and is therefore outside of the Act; (2) the Act contemplates carriers interconnecting only at places where a carrier's separate segments interconnect; and (3) interconnection means nothing more than access to a

[22] WUI believes that for customer convenience, the IRCs would prefer to retain the two stage 10X dialing procedure. WUI also believes that WU would prefer to initiate single stage access to the WU international switch for the IRCs' customers.

system through a switch rather than through an unmonitored mulitplexor.

47. In response to Graphnet's arguments, RCA proposes that domestic carriers employ IRC facilities for transiting purposes rather than to share bearer circuits. It indicates that mandatory transiting requirements with U.S. carriers would promote market entry, efficiently use facilities, and provide direct service to a particular overseas point. RCA recommends instituting transiting arrangments that would permit the domestic carrier, the carrier without the operating agreement, to establish the through rate, bill its customer and collect that rate from its customer. Under this proposal the domestic carrier would pay the international carrier the settlement charge required by the foreign correspondent plus 50% of the remaining retained charge or 30¢ per minute, whichever is greater. RCA maintains that this transiting proposal would ordinarily result in the retention of more revenues by the carrier without the operating agreement than is now the case for transiting arrangements.

E. TRT

48. TRT supports the Commission's tentative conclusion that Section 222(c)(1)(B) requires general rather than absolute equality. However, it emphasizes that the IRCs must have the option of interconnecting at the same point on WU's domestic network as WU's own international switches will be interconnected. TRT views interconnection with WU at the four DES sites via high-speed transmission lines for both domestic and international traffic in the same manner as WU will interconnect its separate segments as an absolutely essential element of equal interconnection. TRT views such interconnection as technically possible and statutorily required for the provision of high quality service. TRT proposes that inter-carrier trunk costs be shared equally, that each carrier be responsible for equipment on its own premises, and that no inter-carrier access or port charges be imposed.

49. As for subscriber selection procedures, TRT recommends that for domestic calls we prescribe: (1) Single stage selection by all carriers; (2) the use of a three digit access code for WU interconnected calls; (3) the use of a one or two digit access code for IRC and Graphnet interconnected calls; (4) no change in WU's existing dialing procedures for intra-network calls; and (5) three digit TWX access by WU customers to IRC subscribers (no dummy digits). For international calls TRT proposes that: (1) WU provide a three digit access code (IOX) and two stage selection for its telex and TWX customers desiring to employ the international services of another carrier; (2) the IRCs and Graphnet insititute three digit access codes for interconnected international calls; and (3) the IRCs be permitted to continue their single stage direct international access for their intra-network customers. TRT also supports the Commission's tentative conclusion as to the determination of the originating carrier for domestic and international interconnected transmissions.

50. TRT emphasizes that mandatory interconnection of all domestic and international record carriers under terms and conditions which foster competition is the underlying intent of the Act. TRT states that successful IRC entry into the domestic record market will only occur if the IRC's inter-network and intra-network services can compete in price with WU's intra-network services. It agrees with the Commission's position that a final determination of costs must be made in Docket 78–97. TRT contends, however, that sufficient information and data exists to prescribe an interim discount. TRT points to testimony submitted in Phase I of Docket 78–97 and the Phase I decision itself. It also presents an additional costing statement by a communications consultant. TRT proposes that accounting rates for both domestic and international inter-network calls be established based on the published rates of the dominant domestic carrier for domestic subscriber-to-subscriber calls. The accounting rate would be divided equally to reflect the equal functions provided by the carriers. Thus, WU's current telex (34.75¢ per minute) and TWX (43¢ per minute) rates would be split evenly between any two interconnecting carriers for domestic, international inbound and international outbound service. TRT also states that domestic segment costs are the only costs which are relevant under the Act and that therefore international segment costs need not be reviewed.

51. TRT finds the pro rata traffic distribution provision, Section 222(c)(1)(A)(ii), as extremely difficult to decipher. While the pro-competitive intent of Congress is relatively clear, TRT states that the proportional allocation of traffic required by the statute is not under the control of U.S. carriers. It therefore recommends that the Commission initiate a separate inquiry looking toward the implementation of Section 222(c)(1)(A)(ii) in a practical, reasonable and lawful manner. In response to Graphnet's pro rata traffic allocation, TRT indicates that this proposal is unsupported by the statute and would require costly and unnecessary switching/transmission modifications. TRT states that the sharing of bearer circuits is commonly done by carriers with operating agreements. However, TRT indicates that there is no reference to bearer circuits in the Act and contends that the Act does not specifically require the sharing of bearer circuits. TRT further states that the sharing of bearer circuits should be approved by the foreign correspondent and that Graphnet should negotiate bearer circuit access as well as settlement arrangements with the foreign administrations. Finally, TRT generally supports RCA's new transiting proposal but indicates that the prescription of transiting rates need not be done here.

F. FTC

52. FTC appears to interpret Section 222(c)(1)(B) as requiring absolute equality in type and quality of inter-carrier interconnection. FTC particularly states that three digit TWX access by WU customers to the IRCs' networks must be provided by WU if such three digit access is provided by WU for its own customers accessing WU's international switch. FTC agrees with the Commission's tentative conclusion that for interconnected domestic traffic the originating carrier should set the collection rate, bill and collect the costs of the call, and pay the terminating carrier that carrier's costs. FTC also supports the Commission's tentative conclusion that the international service provider should act as the originating carrier for interconnected international outbound transmissions.

53. On the issue of cost allocation FTC emphasizes the importance of establishing an interim telex interconnection charge sufficiently low to enable the development of real competition in the domestic record market. FTC proposes to "split the difference" between WU's 34.75¢ per minute telex rate and the IRCs' 17.5¢ per minute proposal. FTC calculates the termination rate to be 26¢ per minute for telex and 32¢ per minute for TWX, figures which FTC states correspond to the 25% cost savings accepted by the Administrative Law Judge in reaching an initial decision in Phase I of Docket 78–97. To encourage cooperation and expeditious resolution of Phase II in Docket 78–97, FTC recommends escrowing part of the discount.

54. FTC states that Section 222(c)(1)(A)(ii), the pro rata traffic distribution provision, presents great practical difficulties in interpretation and implementation. FTC indicates that the allocation of the international inbound leg of a transmission, which is required by the actual language of the statute, is plainly impossible because the foreign administration allocates this traffic and no switch exists in mid-ocean to reallocate this traffic. FTC recommends that we request Congress to provide further clarification of this clause.

G. Miscellaneous IRC Positions

55. The IRCs also presented a variety of miscellaneous requests. One or more of the IRCs indicated that: (1) Docket 78–97 should be expanded to include a review of WU's domestic interconnection costs; (2) the existing formula governing the routing of unrouted outbound telegram traffic should remain in effect; (3) the domestic segment of international calls should be billed on the basis of international rather than domestic minutes;[23] (4) IRC enhanced service features, such as store-and-forward service, are part of their international offering and ought not be accessible to customers for use in conjunction with WU's future international service;[24] (5) prepublication review of customer directories ought be provided to ensure accuracy and equal treatment; (6) interconnection arrangements should be embodied in contracts rather than tariffs; and (7) all carriers should exchange billing data on a non-discriminating, cost-free basis.[25]

56. The last major miscellaneous point raised by the IRCs regards the separate domestic/international segment requirement. FTC disagrees with our tentative conclusion that all five IRCs, including FTC, must separate their international and domestic operations pursuant to Section 222(c)(1)(B) of the Act. FTC is the smallest of the primary existing IRCs. It argues that it falls under the exception in Section 222(c)(1)(B) which provides that carriers that do not have a significant share of the market for record communications services are not required to separate their operations. FTC states that it has less than 1% of the record market. Additionally, it points out that references to carriers with significant market shares in the Congressional debates exclude any mention of FTC while expressly listing WU and the four other IRCs. FTC also argues that failure to exclude it from this requirement would render the exemption clause meaningless, an undesirable result in analyzing statutory language. Finally, FTC states that being able to influence marketing decisions of other carriers or being the major service provider to a handful of small nations is not indicative of market share.

57. No other carrier agrees with FTC's position. WUI, ITT and TRT argue that FTC: (1) Is not the smallest carrier to twenty-one overseas points; (2) is actually the largest carrier to nine points; (3) has market power and takes marketing initiatives which must be matched; (4) has negotiated significant traffic routing contracts; and (5) was the first IRC to apply for transatlantic voice-only leased channels. These carriers emphasize that FTC is a potent competitive force and that the separate segment requirement would place no significant burden on FTC or its customers.

H. WU

58. While comprehensively addressing all subjects raised during the negotiations, WU emphasizes its concern that the central issue of this proceeding, interconnection costs, will now be resolved consistent with the initial decision in Phase I of Docket 78–97. WU argues that any reliance on the initial decision would be premature since it is only a recommended decision, has no current force or effect, will be appealed and will, in the final analysis, be found to be an "aberration" by the Commission. WU also emphasizes its concern that the proceeding has focused on the domestic segment of an inter-carrier service without an equally rigorous investigation of the international segment costs. WU contends that the Act contemplates Commission prescription of interconnected rates based on relative costs. This entails scrutiny of carrier costs for both domestic and international segments. WU's positions on the various issues and responses to the IRCs and Graphnet are summarized below.

59. WU concurs with all carriers that interconnection of equal type and quality requires a fully interconnected network with general equivalency in terms of dialing stages and digits. WU interprets the Congressional mandate as requiring a carrier to provide other carrier's customers the same access it provides its own customers, except where engineering capabilities or cost factors militate otherwise. It indicates that the TWX network is engineered as a closed ten digit system. IRC subscribers must therefore dial a full complement of ten digits to reach WU TWX customers. WU argues that all customers tied into a particular carrier, including those connected via high speed dedicated tie-lines, should have the right to route their messages to other carriers. WU proposes that each carrier provide half of the facilities needed to connect its network with that of each other carrier including the necessary port devices. WU recommends that the IRCs interconnect with WU at all four DES sites but at only one PFE per DES site. WU states that this arrangement would not adversely affect carriage efficiency and would save substantial costs. If WU is called upon to furnish the entire local facilities, it proposes a monthly charge of $5.00 per trunk. For international calls WU proposes to maintain the status quo by interconnecting at the three existing IRC gateway sites with the proviso that it will permit a mixture of inbound international and IRC-originated domestic traffic where necessary.

60. WU agrees with the IRCs that the "originating carrier" should tariff a service and pay the "terminating carrier" its costs. The parties also agree that for a purely domestic interconnected transmission or an interconnected international inbound transmission the determination of the originating and terminating carrier is relatively straight forward. However, WU disagrees with our tentative conclusion that the IRCs should be considered the originating carrier for interconnected international outbound calls. WU alleges that when its network is first accesed for an outbound international call it is the originating carrier. As such it is entitled to set the rate and settle with the U.S. international carrier for its payout to foreign administrations plus the U.S. international carrier's costs. WU estimates the U.S. international service provider's costs to be approximately 25–50 cents per minute. WU rejects the Commission's tentative conclusion that the IRCs should perform the originating carrier functions merely because they procure operating agreements, have traditionally held themselves out as international carriers, bill their customers and collect from their customers. WU argues that it must be

[23] At the present time WU is reimbursed on charges for the actual time its network is utilized for international calls. This includes all set-up and transmission time regardless of whether the call is completed, not completed or delayed.

[24] The IRCs emphasize that store-and-forward is a service rather than a facility, and that the interconnection requirement extends only to facilities.

[25] At the present time the IRCs pay WU for billing data relating to international calls initiated by WU subscribers.

deemed the originating carrier since the calling subscriber's terminal is first connected to it. Claiming that the IRCs' relationships with foreign administrations have nothing to do with the rates set for the American public, WU assures us that it can efficiently extract the necessary billing information from its switches, file tariffs which reflect the international segment rates for each IRC, and resolve any other administrative or technical problems which may arise.

61. WU raises several points on the issue of foremost concern to all of the parties: the monies due or a discount given for interconnected calls. First, WU argues that a call initiated on an IRC network cannot be treated any differently than a regular subscriber call. The configuration of WU's DES network and the network's "intersite connectivity" make illogical the creation of a new class of calls from calls that "look the same" to its network as all other calls. Secondly, WU contends that calls initiated or terminated on an IRC network which interconnect with the WU network generate no cost savings. WU attacks as inaccurate the IRCs' assertion that carrier-to-carrier interconnections produce discounts justifying savings which do not exist for subscriber-to-subscriber interconnections. WU contends that the statement in the Committee Report indicating that cost savings are inherent in carrier-to-carrier interconnections is not binding on the Commission, is merely an *a priori* assumption, and reflects a misunderstanding of its network. WU states that its publicly tariffed telex and TWX rates continue to constitute the best indicia of cost-based interconnected service. WU emphatically rejects the IRC transmission train argument. In fact, it declares that the single transmission train calls generated by an IRC can utilize substantially more facilities than the average customer initiated call and therefore generate higher costs. WU indicates that this occurs when, as in the case of IRC handed off calls, it must provide lengthy termination service to hinterland points.

62. WU rejects the RCA 20¢ accounting rate proposal and the various modifications to that proposal made by the IRCs. WU states that the recently filed IRC interconnection tariffs, which feature a 20¢ accounting rate, are not cost-based. WU further indicates that little traffic will be interconnected under this tariff and what will be handed off will be equally divided among the participating IRCs. WU cautions the Commission against utilizing this accounting rate proposal in its prescription. WU states that its costs are 34.75¢, not 10¢, per minute for telex and that the flow of WU–IRC interconnected traffic will not create a "wash" situation where the accounting rate is rendered unimportant by near equal traffic flows. WU emphasizes that no cost savings exist for calls interconnected with the IRCs and that the prescription of a noncost-based discount merely to assist the IRCs' entry into the domestic market would violate the Act.

63. WU asserts that appropriate revenue allocation, as required by the statute, include the IRCs' revenues from international traffic. WU also argues that IRC costs should be subject to the same scrutiny as WU's rates have been in Docket 78–97. WU requests the Commission to evaluate the IRCs' costs and to expand Docket 78–97 if necessary. WU points to our Audit, the ITT rate case and special IRC contracts as evidence of the IRCs' costs and excessive profits.

64. WU's final major statement on the issue of cost savings is directed to our use of or reliance on the initial decision in Phase I of Docket 78–97. WU reminds us that the initial decision is only a recommended decision, has no force or effect at the present time, and will be appealed. WU also assures us that on review we will find the initial decision to be in error.

65. WU construes Section 222(c)(1)(A)(ii), the pro rata provision, as applying only to telegram traffic. WU states that addressing only the international portion of inbound traffic, as proposed by Graphnet, would render the statute an operational nullity. WU states that telex and private line calls are transmitted to the U.S. international carrier chosen by the sending party or foreign correspondent and are thereby excluded under the statute from the pro rata calculation. WU contends that each IRC must distribute incoming telegrams for domestic delivery to all domestic carriers in the same proportion as outbound traffic received from each domestic carrier on a country by country basis. WU argues that the distribution of traffic should cover all inbound telegrams regardless of whether the foreign correspondent or sender has designated (routed) the message via a particular IRC. WU states that the IRCs get credit from the foreign correspondent in terms of how it will route inbound U.S. traffic on the basis of the entire volume of traffic the IRC carries, even if the message originated on WU's network. Equity requires, under the circumstances, the application of the pro rata distribution plan for all telegrams regardless of foreign administration allocational decisions.

66. WU confirms its ability to carry international outbound store-and-forward calls and to handle all necessary billing functions. On international outbound calls where WU's network is initially accessed for subsequent processing and carriage by an IRC, WU proposes that the transmission be divided into two separate call components: First, a domestic call via WU to the store-and-forward computer of the customer's choice; and second, a separate call or series of calls that originate from the store-and-forward computer. Since this communications stream can easily be divided into two discrete calls, a question arises whether the store-and-forward carrier is entitled to a revenue allocation for its reception of the domestic call. WU argues that the store-and-forward carrier is entitled to no additional compensation since it performs no termination function as the switching it must provide is related to the final international delivery segment.

67. WU proposes to commence interconnection with the IRCs as soon as their domestic telex tariffs become effective. Interconnection at the DES sites will commence as soon as the necessary equipment and facilities can be made available. WU also proposes that interconnection between it and the IRCs for WU international carriage should await the effectiveness of WU's international tariffs. WU concludes its comments with a proposition for arranging modifications to the Commission's prescription. WU proposes that the Commission should entertain any modification proposal if two or more parties to the proceeding apply in writing and give notice to all other parties. The proposal would become effective after thirty days if no party opposed the modification and the Commission did not object.

I. Graphnet and CCI

68. The primary concerns of Graphnet and CCI are securing universal interconnection, acquiring shared bearer circuits, and ensuring proper application of the Act's complicated pro rata traffic distribution provision. Graphnet argues that cost-based access to bearer circuits is an integral part of the IRC obligation to provide "full interconnection with any facility" under Section 222(c)(1)(A)(i). CCI states that telex resellers are common carriers and are also entitled to enjoy the benefits of full interconnection.

69. Graphnet and CCI argue that their right to direct access to bearer circuitry survived any statutory deletions since the deleted language was generally redundant. Graphnet and CCI indicate that cable-head channel allocation will create no difficult traffic mangement (billing and monitoring) problems, will not adversely impact on the IRCs or the foreign correspondents, and will not effect the negotiation and settlement obligations of the IRCs. Graphnet states that it will cooperate with the IRCs in monitoring traffic flows, routing traffic, installing switches and establishing an indemnity agreement. In response to various transiting proposals, Graphnet indicates that access to IRC facilities under existing transiting tariffs is no substitute, financially, for sharing bearer circuits. Finally, the IRC objections are characterized as a smoke screen to protect IRC financial interests.

70. Graphnet focuses on both the IRC and WU costs of services and attempts to calculate the appropriate rates for carrier-to-carrier services. Graphnet notes that the Act expressly prohibits cross subsidization and that Congress found inherent savings to exist in carrier-to-carrier interconnections. Graphnet initiates its assessment of WU's costs by asserting that a 6–7 cent reduction in WU's current telex and TWX rates should be prescribed to eliminate cross subsidies from WU's inter-network to intra-network service. Graphnet calculates that WU's intra-network rate should be 45.7 cents per minute with terminating services priced at 21.1 cents and originating services priced at 24.6 cents. Graphnet proposes that since the cost of terminating and originating an inter-network call is significantly less than the full tariffed rate the Commission should prescribe an interim solution. Graphnet proposes that WU receive 50% of its own intra-network rate (17.5¢) starting at the time it receives international operational authority. Graphnet argues that this is a reasonable approximation of the cost of call termination until such time as WU returns to the Commission to seek a new tariff structure which more accurately reflects true costs.

71. Graphnet and CCI interpret the Act's pro rata share provision, Section 222(c)(1)(A)(ii), as providing the vital mechanism to establish themselves and similarly situate carriers as full fledged competitors of the IRCs, notwithstanding the absence of operating agreements or the ownership of overseas transmission capacity. Graphnet reads this provision as rewarding international carriers for routing traffic through other international carriers. It contends that the generating carrier is entitled to a proportional share of the international traffic on the return leg from, as the statute provides, "points outside the United States * * * (to) points of entry in the United States * * *" Graphnet emphasizes that the return flow provision applies only to a carrier offering international service through another carrier via bearer circuits or transiting arrangements, neither of which require operating agreements.[26]

72. Graphnet emphasizes that the legislative intent, to reward the international service provider without an operating agreement for handing off traffic that it cannot carry directly to a particular overseas point, supports its interpretation of this complex provision. It states that Section 222(c)(1)(A)(ii) was designed to solve a particular problem: Congress' concern that new IRCs without operating agreements would be deprived of return traffic even if they succeeded in developing an outbound international traffic flow.

73. Graphnet integrates bearer circuit access with the pro rata clause to insure a communications path to and from a foreign nation and to secure a means by which it can receive the proportional return traffic flow due it. Graphnet's proposal is to receive its pro rata share of the international inbound traffic directly from the IRCs and then to deliver that traffic to the called parties either directly or through domestic interconnection. Graphnet contends that the IRCs are capable of diverting the requisite percentage of traffic without any administrative problems and service degradation, and with only a slight delay caused by the operation of an additional switch. Graphnet emphasizes that cost-based bearer circuit access will create no major operational or financial problems and expresses a willingness to route traffic through an IRC switch if necessary. Graphnet also states that this traffic should be directly routed to it without any compensation flowing to the connecting IRC other than a cost-based charge for the facility.

VIII. Discussion

74. We have analyzed the Act, the Committee Report and the extensive filings presented by all the interested parties. We believe the interim prescription formulated here within the relatively short time period established by Congress is consistent with the Act and is a reasonable exercise of our broad prescription powers under the Act. This Interim Order permits market forces to determine the variety and price of available services, and creates incentives for the parties to vigorously enter new markets. Below we discuss and reach conclusions as to equality of interconnection in type and quality, originating/terminating carrier determinations, cost allocation, pro rata service allocation, bearer circuits, transiting arrangements and a variety of miscellaneous issues. We also establish implementation guidelines and solicit additional comments on several issues.

A. Equal in Type and Quality

75. Section 222(c)(1)(B) requires a carrier which provides both domestic and international record communications services and which has a significant share of the market for such services to operate as if its domestic and international offerings were separate and to interconnect with other carriers in a manner which is equal in type and quality to the interconnection between its separate segments. The section also indicates that this equal interconnection must be made available at the same rates and upon the same terms and conditions. This section has generated two major controversies. First, how to apply this requirement to dialing stages, dialed digits, access codes, interconnection locations and network engineering. Second, whether FTC has a significant share of the market. These two issues are resolved below.

76. In the NPRM we indicated that this section requires equality except in those cases where: (1) Parity could only be achieved through an unreasonably expensive system modification; (2) parity could not be achieved due to technological impossibility or equipment unavailability; or (3) parity could only be obtained through an unreasonable degradation of service. We tentatively concluded that a statutory interpretation which would lead to the inclusion of unnecessary dialing stages or digits, the discontinuance of a convenient or desirable service, or the routing of messages in more circuitous routes or through unnecessary switches was generally not required by the Act. While this broad tentative conclusion was endorsed by most of the parties, there was no unanimity as to the applicability of the equality requirement to particular practices or technical features.

77. In this interim order we affirm our tentative conclusion that unless one of the three factors listed above can be shown to exist, a carrier will be expected to provide equal interconnection. We do not believe that

[26] Any carrier, except WU during the moratorium period, could benefit from this section.

the statute lends itself to any other interpretation. We find that interconnection generally equal in type and quality is required for all aspects of inter-network connections. This includes dialing stages, the number of digits dialed, telex and TWX access codes, interconnection locations, and technical switching/transmission arrangements. We emphasize, however, that this interconnection standard does not require identical interconnection in all aspects. Congress' intent, and we believe the goal of the parties, is to enhance service quality, foster the efficient use of facilities, and establish the groundwork for fair competition. In view of the existence of differently designed and configured networks, we are only prescribing generally equal or comparable interconnection.

78. We note that most of the interconnection arrangements which the carriers will institute as a result of this order raised no significant problems during the negotiations. For domestic service each carrier will provide single stage access with additional digits, if necessary, kept to a minimum (no more than three). For international service, a carrier will provide its customers with access to another carrier comparable to the access it provides to its own service. If WU maintains its present two stage, IOX dialing selection process for its customers accessing an IRC, then it must institute this process for its customers to reach its own international switch. WU must also retain the existing IRC access codes and assign Graphnet an access code. If an IRC desires to maintain its intra-network single stage access, then it must make this process available to its customers to reach WU's future international switch. (We recognize that single stage WU access by an IRC customer may require additional digit dialing.)

79. We anticipate that the costs of interconnection will be shared, with each carrier being responsible for its own facilities and connections. We believe that facility access to store-and-forward services and the issue of billable minutes for international service (domestic or international) are best resolved under the equal in type and quality provision. We thus assure equal access while permitting the carriers to make the ultimate service decision.[27] Full interconnection equal in type and quality enables users, including customers that reach a carrier by high-speed facilities, to access all carriers and the services provided by all carriers.

80. We now turn to the second issue which arises under this section, the condition precedent that the separation requirement applies only to carriers with significant market shares. FTC argues that it does not satisfy the condition precedent and therefore need not operate as if its domestic and international segments were separate entities. This position is opposed by the other IRCs. We conclude that, although FTC is the major service provider to a small number of nations and its marketing initiatives may require competitive responses from various competitors, it does not possess a significant share of the record communications services market. This conclusion is consistent with the statements of the statute's floor managers and reflects FTC's market position.[28] Therefore, FTC need not comply with the separate segment requirement of Section 222(c)(1)(B). Upon reaching this conclusion we must note that a determination of market status may be modified over time as the underlying factors upon with such a determination is based change.[29]

B. Originating/Terminating Carrier Determination

81. In the NPRM we identified three instances in which carriers would interconnect their facilities for the provision of a through service. Interconnection would occur for domestic, international inbound and international outbound service. We indicated that determining which carrier would perform the originating and terminating functions was not controversial for interconnected domestic and international inbound service but was very contorversial for interconnected international outbound service. The pleadings submitted in response to the NPRM reflect no lessening of differences on this issue between the domestic (WU) and international (the IRCs) carriers. Each wants to perform the apparently lucrative functions associated with being the originating carrier: Rate setting, billing and collection.

82. We tenatively concluded in the NPRM that for interconnected wholly domestic transmissions the carrier on whose network the call was initiated would be the originating carrier. We also indicated that the terminating carrier would be the carrier on whose network the called party was located. We stated that the originating carrier would set the tariffed rate, bill and collect from the customer, and make an equitable allocation of revenues with the terminating carrier. This arrangement was acceptable to the parties and we conclude that it should be incorporated into this interim order.

83. In the NPRM we tentatively concluded that the existing arrangement for handling interconnectd international inbound transmission was reasonable and worthy of continuance. In this arrangement the U.S. international service provider hands off the call to a U.S. domestic service provider to effectuate delivery. The international carrier receives the appropriate payout from the foreign correspondent and pays the domestic carrier a delivery charge. The parties generally agree that this arrangement is acceptable and we conclude that it should be incorporated into this interim order.

84. With respect to the third instance of interconnection, interconnection for handling outbound international calls, we tentatively concluded in the NPRM that the U.S. international carrier would tariff through rates. In this role the U.S. international carrier will bill the customer for the entire through rate and compensate the domestic carrier using the cost allocation formula prescribed in the next section. In essence the U.S. international carrier will serve as the originating carrier for interconnected international outbound service.

85. The classification of a carrier as either "originating" or "terminating" makes the most sense when describing the routing of a wholly domestic call. These terms make little real sense when describing the roles assumed by U.S. carriers for interconnected international calls, both inbound and outbound. In fact, neither term is actually found in the Act although the Committee Report, as cited by the parties, indicates that the originating carrier will set a rate to the public and the terminating carrier will recover its costs from the originating carrier. We believe we have the discretion to designate either the international or domestic service provider to act as the originating carrier

[27] The domestic/international minute billing issue is further discussed and a utilization factor prescribed in paragraph 125.

[28] We do, however, reject FTC's statutory constructon argument. Requiring all five IRCs to separate their services would not render the provision meaningless. First, the section may apply to other existing carriers besides the five primary existing IRCs. Second, the section relates to a market undergoing significant restructuring and logically applies to both existing and future market shares.

[29] There seemed to be little question among the negotiating parties that Graphnet did not have a significant share of the market for record communications services. We do not have sufficient data on this point to reach a reasoned decision. We shall therefore not require Graphnet to separate its domestic and international segments. However, we do invite comments on this determination.

for interconnected international outbound service.

86. We are not persuaded by WU's pleadings to modify our tentative conclusion set forth in the NPRM. Contrary to WU's contention that we are standing the statute on its head, our conclusion recognizes that the international service provider is the chosen carrier for overseas transmissions, originates the overseas segment of the call, possesses the operating agreement, negotiates settlement and accounting rates, and coordinates operating standards. We also view this arrangement as creating an additional incentive for WU to acquire operating agreements and to vigorously enter the international market if and when it is so authorized.

C. Cost Allocation

87. Section 222(c)(2) requires the establishment of "a nondiscriminatory formula for the equitable allocation of revenues" derived from interconnected transmissions. The section also requires that, to the extent possible, the "equitable allocation of revenues be based upon the costs of the record communications service or facility employed * * *." Interconnection between U.S. carriers involves the use of two carriers' networks for the provision of a joint and through service. One U.S. carrier in an interconnected situation receives payment from a customer or foreign correspondent.[30] The second U.S. carrier in an interconneted situation receives payment from the first U.S. carrier. The question raised by this section of the Act is what are the second carrier's costs.

88. It is clear from the pleadings that the parties perceive that WU will be placed in the role, more often than not, of the U.S. carrier entitled to recoup its costs from another U.S. carrier. WU argues that its costs are covered by its tariffed rates (34.75¢ per minute for telex and 43¢ per minute for TWX) and that it should receive compensation consistent with these rates. WU emphasizes that no savings exist for carrier-to-carrier interconnection. In short, that it costs as much to provide subscriber-to-subscriber service as it does to provide carrier-to-carrier service. The IRCs, Graphnet and CCI emphasize that carrier-to-carrier routing produces savings that do not exist for subscriber-to-subscriber service and that these savings decrease the "costs" an interconnected carrier is entitled to recoup.

89. In the NPRM we stated that a final determination on the issue of costs must await the final decision in Phase II of Docket 78–97. We also indicated that an interim rate/cost decision would be made in this order. In the NPRM we noted the existence of a lawful WU tariff which provided for no carrier-to-carrier discount, the language of the Phase I designation order, and the separated trial staff's Proposed Findings of Fact and Conclusions of Law. We therefore placed the burden of persuasion on the IRCs.

90. In resonse to the NPRM the IRCs make several arguments that cost savings are inherent in carrier-to-carrier interconnections and that these savings should be passed on to the "originating" carrier. First, the IRCs contend that: (1) Congress' clear intent was to facilitate market entry and foster competition in the domestic market; (2) competition with WU, the dominant domestic carrier, can only occur if the IRCs' intra-network and inter-network rates are comparable to WU's intra-network rates; and (3) no rate competition will be sustainable without the prescription of a discount. Therefore, the IRCs conclude that we must prescribe a discount large enough to enable competition to develop. Second, the IRCs argue that a substantial discount for interconnected service is warranted on cost grounds. The IRCs point to operational savings which approach 50% of WU's tariffed rate. The IRCs contend that significant administrative and transmission train savings exist and should be passed on to the traffic originator. Third, the IRCs state that Congress recognized the existence of cost savings.[31] Finally, the IRCs emphasize that the Commission's best evidence on this issue is the initial decision in Phase I of Docket 78–97: that cost savings do exist for carrier-to-carrier interconnection. The IRCs request the Commission to utilize the findings of an impartial Administrative Law Judge who based his decision on an extensive record.

91. WU, in response to the filings made by the IRCs, Graphnet and CCI argues: (1) That any discount must be cost-based; (2) that no cost savings exist for handling interconnected calls; and (3) that therefore no discount should be prescribed. First, WU interprets Section 222(c)(2) to prohibit the institution of any discount that is not cost-based. Second, it argues that its tariffs fully average the costs of all types of calls and that the disaggregration of a new class of calls is unwarranted. WU also presents data supporting the validity of its existing "no discount" tariff. Third, WU characterizes the Committee Report language referred to by the IRCs as merely an *a priori* assumption, deserving of no weight. Finally, WU emphasizes that the initial decision is in error, will be appealed, has no current force or effect and therefore should not be relied on here by the Commission.

92. The issue of prescribing an interim discount presents us with a very difficult problem. This Commission has not yet determined whether there is or is not a cost savings in carrier-to-carrier as opposed to carrier-to-customer interconnection. Our resolution of this matter must await our final decision in Phase II of Docket No. 78–97. Nevertheless, the idea that some cost savings do exist cannot be rejected out of hand and it may not be implausible to suggest that carrier-to-carrier interconnection would involve possible savings in transmission costs, sales, administrative expenses or other areas which would justify a discount. Although we have not yet had the opportunity to review the initial decision in Phase I of Docket 78–97, the ALJ did find that a substantial discount was warranted. Perhaps most important, as already noted, the Committee Report determined "that there are certain cost savings which are inherent in carrier-to-carrier interconnections * * *" and that "some suitable discount" should become part of any new carrier-to-carrier interconnection arrangement. We cannot, as WU suggests, ignore this important evidence of legislative intent.

93. Given our reading of the intent of Congress in this matter and based upon the information available to us at this point, we have decided to prescribe a 15% discount from a carrier's publicly tariffed intra-network rate which will apply to all carriers when performing interconnected "terminating" functions.[32] Specifically, this discount will apply to: (1) Terminating interconnected domestic calls; (2) initiating and handing off to a second U.S. carrier international outbound calls; and (3) accepting for delivery from another U.S. carrier international inbound calls. For WU, the major "terminating" carrier, we calculate

[30] A carrier charges subscribers tariffed rates for originating domestic and international outbound calls. A carrier receives a settlement charge from a foreign correspondent for accepting and arranging delivery of an international inbound transmission.

[31] The Committee Report, at page 11, states: "The Committee does recognize that there are certain cost savings which are inherent in carrier-to-carrier interconnections (as opposed to customer-to-customer interconnections), and that some suitable discount for carrier-to-carrier interconnection will become part of the arrangement."

[32] Of course, no carrier is frozen into a terminating or originating position. This determination is dependent on the carrier's role for each interconnected call.

under present tariffs this discount to be 5.21¢ per minute for telex and 6.45¢ per minute for TWX. This results in an interconnected telex rate of 29.54¢ per minute (34.75¢—5.21¢) and an interconnected TWX rate of 36.55¢ per minute (43.0¢—6.45¢).[33]

94. We would emphasize that our prescription here is for an interim period only and in no way limits or prejudges any action we may take in any existing or future phase of Docket 78-97. We make no final conclusion as to whether cost savings exist for calls "terminating" on WU's or the IRCs' networks. We believe that the overriding intent of Congress in Section 222 was to increase competition in the international and domestic record markets. The requirement of a discount where no cost savings exist would discourage the IRCs from building their own domestic facilities and from entering domestic markets as full competitors. We cannot believe that Congress intended this result or that it intended us to require a discount in the absence of any real evidence of cost savings for carrier-to-carrier interconnection. Accordingly, our view is that if we find in Phase II of Docket 78-97 that carrier-to-carrier interconnection involves no cost savings over carrier-to-customer interconnection the discount must be eliminated.

D. Outbound Interconnection Arrangements—Transiting Traffic

95. As part of our efforts to stimulate competition on the international record market, we have recently authorized several new carriers (Graphnet, for example) to provide overseas service. Unfortunately, these carriers have been unable (with minor exceptions) to provide such service because they have been unable to obtain the necessary operating agreements with foreign countries. In the Committee Report concern was expressed over "the apparent unwillingness of foreign PTT administrations to interconnect with new U.S. international record carriers" (p. 10).

96. The unwillingness of foreign administrations to grant U.S. carriers operating authority has indeed been a serious problem. Even established IRCs have not always been able to obtain operating agreements with all the foreign administrations to which they route or from which they receive traffic. In order to carry such traffic, the IRCs have entered into "transiting agreements" with other IRCs, (or in same cases with foreign carriers) which possess the necessary operating authority to deliver traffic to or receive traffic from the country of origin or destination, which could at least provide assistance in the intermediate routing of traffic.[34] For example, TRT does not have an operating agreement with Japan. If TRT is requested by its customer to deliver a message to Japan, the carrier would hand off the message to a second IRC (ITT, WUI or RCA) which has an operating agreement enabling it to deliver the message to the Japanese administration.

97. If an IRC receives an outbound telex message from a customer on its own system requesting delivery to an overseas point for which it has no operating agreement, it must forward the call to another IRC for carriage to its destination. Under existing tariffs the originating IRC (the carrier without the operating agreement) will receive a discount of 12 cents per minute from the transiting IRC's rate to its own customers. Since the rates charged by the different IRCs are almost always the same, under present circumstances the originating IRC will bill the customer the entire charge for the message and then hand over to the transiting carrier all the money received except for 12 cents per minute. The 12 cents per minute retained by the originating international carrier in a transiting situation must cover all the administrative costs associated with handling the message as well as the physical costs of routing the message to the transiting IRC possessed of a foreign operating agreement.

98. From the perspective of the originating outbound carrier, this hardly appears to be a very generous arrangement. On the contrary, the revenue split appears to reflect the greater bargaining power of carriers that have obtained the necessary foreign operating agreements enabling them to carry international traffic to overseas destinations. Given the revenue split involved here, it is hardly surprising that foreign operating agreements should be so highly prized.

99. We believe that it was the intent of Congress in passing the new Section 222 to redress the imbalance between those carriers which have managed to enter into agreements with foreign operating authorities and those carriers which have not.

100. The 12 cents presently retained by the outbound originating IRC is hardly sufficient to accomplish this purpose. Although reliable cost information in this area is, as stated by WU, difficult to come by, it is unlikely that 12 cents covers the originating international carrier's cost in most cases and that, even if it did, the 12 cents would still leave the lion's share of the profits for carrying the traffic with the transiting carrier possessing a foreign operating agreement.

101. To remedy this situation, we will require that where IRCs interconnect to handle outbound transiting telex traffic, the originating outbound IRC will first pay the transiting IRC an amount equal to the payout to the foreign administration. Second, the originating outbound IRC will pay the transiting IRC an additional sum under the following formula. The transiting IRC will receive ½ of the initiating carrier's domestic rate plus ½ of its own international rate after subtracting out the amount already received for the foreign administration. However, in no case will the originating IRC be left with less than the domestic portion of the charge. The originating IRC will be responsible for paying the domestic charge.

102. For example, let us assume that the initiating IRC's domestic charge is 29¢ per minute, the transiting IRC's international charge for an outbound telex message to a particular overseas point is $1.65 per minute, and that the payout to the foreign PTT is 69 cents. After the foreign payout the remainder under the formula is $1.25 (29¢ + $1.65 − 69¢). The originating IRC, regardless of its own collection rate, will pay the 69 cent payout plus half of the $1.25, or 62.5 cents. The originating IRC would retain the remaining 62.5 cents (assuming it matched the transiting IRC's rate) but would have to pay for domestic haul out of this amount. If the domestic call was carried over WU's telex system, the originating IRC would pay WU's discounted telex charge of 29.54 cents and retain the remaining 32.96 cents. If the originating IRC performed the domestic haul itself, it would keep the entire 62.5 cents.

103. For an outbound telex message to Japan, a 50/50 split would not leave the originating IRC international carrier with sufficient revenues to pay for the domestic call in all cases. At the present time the IRC rate for telex service to Japan is $2.23. After a payout to the Japanese administration of $1.81 per minute, the U.S. carriers are left with 42 cents to be divided among them. If a telex message to Japan originated on Western Union's telex system and was

[33] We also prescribe that complete traffic and financial records be maintained so that a full accounting may occur upon the final resolution of Phase II. With the institution of appropriate accounting orders we view FTC's escrow proposal as unnecessary.

[34] In Docket 21005 we ordered the IRCs to provide interconnection upon request. To this date, only ITT and RCA have had such requests. Prior to Docket 21005 interconnection for transiting traffic was a matter within the discretion of the particular IRC. See Interface of the International Telex Service, 76 FCC 2d 61 (1980).

then transferred to an originating IRC which had to deliver it to a second IRC for carriage to Japan, a split which gave the originating IRC one-half of the 42 cents (21 cents) would be inadequate to cover the payout to Western Union. As noted above, under these circumstances the originating carrier will retain an amount sufficient to cover WU's charge of 29.54 cents.[35] Accordingly, both the originating carrier and the carrier with a foreign operating agreement would have to rely upon inbound traffic from Japan, if this route is to be profitable.

104. The interim split we have proposed here for international telex traffic would appear to be fair to both the international carrier without the operating agreement and the international carrier with the operating agreement. It is considerably more generous than the present 12 cents per minute share recovered by the originating international carriers. On the other hand it is not dissimilar to the split proposed by RCA (Comments, pp. 45–46) and endorsed by ITT (Reply, p. 31), the two carriers which have the most extensive foreign operating authority and which would likely handle most of the transiting traffic.[36] We note here that modifying the existing tariffs of an established routing mechanism which is both effective and efficient creates no technical, operational, monitoring, regulatory or international comity difficulties which may be associated with the use of bearer circuits by a carrier lacking an operating agreement.

E. Pro Rata Distribution of Inbound Traffic

105. Section 222(c)(1)(A)(ii) provides as follows:

(I) Subject to the provisions of subclause (II), if a request for interconnection under clause (i) is for the purpose of providing international record communications service, then the agreement entered into under clause (i) shall requre that the allocation of record communications service between points outside the United States and points of entry in the United States shall be based upon a pro rata share of record communications service between points of exit out of the United States and points outside the United States provided by the carrier making such request for interconnection.

(II) The requirement established in subclause (I) shall not apply in any case in which the customer requesting any record communications service between a point outside the United States and a point of entry in the United States has the option to specify the international record carrier which will provide such record communications service.

106. Congress intent in enacting this provision was to institute a traffic allocation scheme for inbound traffic that would reward a carrier without an operating agreement for generating and handing off traffic destined for overseas points. The Committee Report, at pages 10–11, states:

The Committee is concerned with the apparent unwillingness of foreign PTT administrations to interconnect with new U.S. international record carriers. These arrangements are, however, outside the scope of the jurisdiction of the Congress.

Nevertheless, the Committee has constructed a method by which a U.S. carrier without an operating agreement can interconnect with another U.S. carrier with such an agreement, consistent with international law, treaties, and regulations, and thereby provide outbound international service.

However, international traffic originating in a foreign country destined for a customer in the United States presents different problems. For example, many countries assign U.S. bound traffic among U.S. carriers according to the amount of traffic each U.S. carrier brings into that particular country. To the extent that such an arrangement benefits the carrier with an interconnection agreement (because of an increase in traffic resulting from the use of its facilities by the interconnecting carrier lacking such an agreement) the Committee believes that this benefit should accrue to the responsible carrier, *i.e.*, the carrier generating the outbound traffic. In other words, if a carrier's level of return traffic is increased due to an increased level of outbound traffic generated by another U.S. international record carrier, then this benefit should be passed along to the carrier that generated the increased level of traffic.

The Committee believes that in these situations, no free market exists, since traffic is assigned by the monopoly PTT. In order to correct this deficiency in a free market, the Committee has included a requirement that where countries assign U.S. bound traffic in this manner, a proportionate share be allocated by the U.S. carrier with the foreign agreement to the carrier responsible for the increased allocation.

The Committee intends that this provision will only affect the distribution of traffic between the point of interconnection with a foreign correspondent and the point of entry into the United States, that is, the purely international segment of these circuits.

107. The means of accomplishing the Congressional intent here are perhaps less clear than the intent itself. Obviously, we cannot accept the argument raised by ITT that the statute is meaningless and incapable of implementation. Further, we believe that neither the initiation of a separate proceeding on the implementation of this section as recommended by TRT nor the seeking of the additional guidance of Congress as suggested by FTC are compatible with Congress intent that full interconnection arrangements be initiated as soon as possible.

108. It is incumbent upon this Commission to discern the intent of Congress with respect to the pro rata return flow provision contained in Section 222(c)(1)(A)(ii). Moreover, this Commission has a duty to apply this provision in a fashion consistent with the overall purposes of the statute. In this regard Congress has mandated that this Commission shall "* * * promote the development of fully competitive * * * international markets." Section 222(b)(1). We affirm our conclusion set forth in the NPRM that the purposes of this section are to facilitate entry into the domestic and international marketplaces and to decrease the competitive disadvantage a carrier without an operating agreement has with respect to a carrier with operating agreements. Moreover, we affirm our tentative conclusion that this provision requires an allocation system to be established which fully rewards the carrier generating the handed off traffic. The legislative history makes clear that the purpose of the return flow provision is to counter the inhibiting effect on competition among U.S. international record carriers caused by the restrictive practices of foreign countries with respect to inbound international traffic.

109. The fact that international networks are currently configured in a certain manner and that many foreign countries control the routing of inbound international traffic does not render the pro rata flow provision void of statutory interpretation or lawful application or otherwise dependent on use of bearer circuits. We would acknowledge that the statutory language requiring a pro rata "allocation of record communications service" does not readily lend itself to a precise understanding as to how it might be implemented. This is especially so if one takes solely a network operations view with foreign control over inbound U.S. international traffic distribution. Nevertheless, Congress specifically instructed the Commission to "issue an interim or final order which establishes a just, fair, reasonable, and nondiscriminatory agreement" which addresses the pro rata return flow provision. Section 222(c)(3)(B)(i)(II).

[35] Thus, the total payment to the transiting carrier would be $1.81 plus (42 cents − 29.54 cents) or $1.9348 at present rates.

[36] This 50/50 split is intended to be the floor for the international divisions. As such, this prescription would not prohibit the transiting carrier from establishing divisions which are more favorable to the originating carrier. However, such an offering by the transiting carrier must be tariffed and applied equitably to all originating carriers. Additionally, we will not require the mandatory use of U.S. transiting carriers as proposed by RCA. We view such a requirement as anticompetitive.

Accordingly, it is incumbent upon this Commission to prescribe, at a minimum, an interim pro rata allocation mechanism that ameliorates the competitive disadvantages that confront international record carriers lacking foreign agreements.

110. We do not interpret the pro rata return flow provision as necessitating the actual physical distribution of traffic at midocean so that it can be divided among the different IRCs in proportion to their outbound traffic. While such physical distribution of traffic may eventually evolve, it is not essential to implementing the pro rata flow provision. We believe that we can best accomplish the intent of Congress here by dividing the economic benefit that carriers are entitled to receive for inbound international traffic, so that a carrier, which would otherwise be foreclosed from actually handling inbound international traffic due to the lack of a foreign agreement, may participate in the economic benefits associated with the carriage of such traffic. The legislative history supports this approach and makes clear that the carrier which generates an increased level of traffic for another international record carrier should receive the "benefits" that flow from this increase. (Committee Report at 11.)

111. In order to prescribe an appropriate formula we must first determine that traffic to which the revenue allocation applies. We will require that an originating outbound carrier lacking a foreign agreement be allocated revenues for the same pro rata share of inbound traffic as it delivered for outbound carriage. A pro rata allocation shall be calculated based on the billing unit set forth in the respective tariffs of the international carrier possessing a foreign agreement. Telex, for example, is billed on a per minute basis, while some PMS is billed on a per word basis. The pro rata allocation shall be calculated on a country-by-country, service-by-service (telex, TWX, telegram, etc.) basis.

112. The service subject to the pro rata allocation shall include all record communications services. In reaching this conclusion, we reject petitioners' suggestions that the pro rata allocation is limited solely to telegram service and we affirm our tentative conclusion of the NPRM. Section 222(c)(1)(A)(ii) requires the pro rata allocation of record communications service. Section 222(a)(3) defines "record communications service" as broader than mere telegram service. There is nothing in either of these subsections, or the legislative history indicating that the pro rata allocation should be limited to telegram service. We note, however, that Section 222(c)(1)(A)(ii)(II) specifically excludes from the pro rata return flow provision that traffic for which "* * * the customer * * * has the option to specify the international record carrier which will provide such record communications service." It is our understanding, however, that the minority of countries allow customer choice in routing.

113. In implementing the pro rata return flow provision a fundamental requirement is that a carrier entitled to the benefits of a pro rata allocation has the right to effectuate delivery not only to its own customers but also to any other addressee for which direct delivery by that carrier is possible. Accordingly, an inbound carrier with an operating agreement must route traffic which is the subject of a pro rata allocation to such carriers for domestic delivery. This will ensure that carriers receiving a pro rata allocation are also able to participate in the inbound domestic delivery function and thereby collect revenues attributable to providing the domestic haul portion. Thus for inbound telex messages, for example, a carrier that receives the benefits of a pro rata allocation is entitled to effectuate delivery of a telex message addressed to its own customer.

114. The second task in prescribing a pro rata formula is the allocation of revenues between the inbound carrier with the operating agreement and the carrier entitled to benefit from pro rata allocation. We conclude that this allocation should follow the transiting arrangement prescribed for outbound traffic. Thus, the payout received from the foreign administration shall be allocated one-half to the originating inbound carrier with the operating agreement and one-half to the carrier entitled to receive the benefits of the pro rata allocation. The carrier entitled to receive the pro rata allocation is responsible for payment (out of its allocation) to the appropriate carrier for the domestic delivery of the traffic. In the event, however, that a situation may arise where the domestic delivery charge exceeds the amount of money allocated to the carrier entitled to receive the pro rata allocation under the 50/50 split, the inbound carrier shall pay to the carrier receiving the pro rata allocation at least the domestic haul charge. The terminating inbound carrier will receive only the domestic terminating charge for that traffic it handles which exceeds its pro rata allocation. Finally, we conclude that the inbound carrier and the carrier entitled to receive a pro rata allocation shall settle with each other on a quarterly basis.

115. Under this approach a carrier entitled to benefits from the pro rata return flow provision will receive increased revenues for shortfall in inbound international traffic which is attributable to its inability to obtain a foreign operating agreement. Moreover, under our interim prescription such a carrier would be allocated revenues for its proportional share of inbound traffic even where it does not physically handle such traffic. When direct delivery of pro rata traffic cannot be effectuated by the carrier entitled to the pro rata traffic distribution, the carrier with the operating agreement may elect to effectuate delivery to the called party. In these cases the IRC with the operating agreement will make the same proportionate payment to the carrier entitled to the pro rata traffic less the sum necessary to pay for domestic delivery. This permits a call to be routed directly to the called party without involving an extra U.S. carrier and an additional U.S. switch. At the same time it permits the international carrier without the operating agreement to receive a reasonable allocation of revenues as envisioned by Congress. This we believe will ameliorate some of the disadvantages associated with not being able to obtain an operating agreement with a foreign country. We emphasize that our revenue allocation prescription is interim in nature and one which must necessarily change as circumstances warrant.

F. Bearer Circuit Access

116. Graphnet addresses the pro rata provision in detail and suggests that the only efficient and economical manner for allocating international traffic under the pro rata section is through the utilization of bearer circuits.[37] Graphnet argues that Section 222(c)(1)(A)(i), which provides for "full interconnection with any facility," includes the sharing of bearer circuits. Graphnet notes that the sharing of bearer circuits is an accepted industry practice among carriers with operating agreements. It contends that Congress intended to expand this facility arrangement to carriers without operating agreements. Such interconnection, it is argued by

[37] Bearer circuits are voice-grade lines, the channels of which are shared by two or more carriers for convenience, cost or efficiency reasons. Typically, a voice-grade line is divided into bearer channels or circuits at a multiplexor. The traffic of the carrier without the operating agreement is routed directly into the multiplexor without passing through the switch of the carrier with the operating agreement.

Graphnet, best fulfills Congress' intent to facilitate market entry and negate the effect of a foreign correspondent's refusal to enter into an operating agreement.

117. In support of this interpretation of the pro rata provision, Graphnet points to the following language of the Committee Report at page 12:

> As explained elsewhere, the Committee has created a mechanism whereby a new entrant may invoke its interconnection rights under this bill and establish a circuit (bearer or otherwise) to a foreign country by means of another carrier's facilities.

118. WU and the IRCs oppose Graphnet's pro rata traffic distribution proposal, particularly the suggestion that we prescribe access to bearer circuits on a shared basis. These carriers argue that the statute does not contemplate the sharing of bearer circuits and that such an arrangement would create serious administrative and operational problems. Our analysis of the bearer circuit argument follows.

119. Interconnection of two networks for the provision of a through service traditionally occurs at a switch and takes the form of a transiting arrangement or a handing off of calls. Bearer circuit access is not a traditional type of interconnection. We note that bearer circuit access is not clearly mandated by the Act. We also note that the reference to bearer circuits in the Committee Report is associated with a provision no longer in the Act and may be read to apply only among carriers with operating agreements. We therefore cannot conclude at this time that bearer circuits must be made available as a matter of law. Moreover, we do not believe it likely that Congress would require bearer circuit access without extensive discussion of this controversial and difficult arrangement in the Committee Report. While not required by statute, we do not preclude the prescription of an interconnection arrangement requiring bearer circuit access if we find that such access is in the public interest.

120. At the present time we view the operational, administrative and regulatory problems surrounding the use of bearer circuits by carriers lacking operating agreements as substantial. The inclusion of a non-recognized carrier in the use of a circuit will complicate repair, maintenance and testing procedures. Technical problems may not be resolved as quickly as they are now if the foreign correspondent does not know who to contact or if the U.S. carrier with the operating agreement must continually act as the other U.S. carrier's go-between in these matters. For inbound traffic a foreign correspondent may not recognize the carrier's numbering plan and opt not to load traffic on the shared circuits. Alternatively, traffic destined for the U.S. carrier with the operating agreement may be routed to the carrier sharing the bearer circuits. This routing degrades service by causing delays and putting at risk a call's eventual delivery. For outbound traffic a foreign correspondent may refuse to accept the traffic on a shared bearer circuit originated by a carrier without an operating agreement. Thus it is clear that a foreign correspondent's lack of cooperation may seriously impact on the utility of bearer circuit access.

121. The inability to accurately monitor all outbound and inbound calls (in terms of minutes or words) for international accounting and settlement requirements is the major administrative disadvantage to the sharing of bearer circuits. Without accurate call monitoring the U.S. carrier with the foreign operating agreement will not be able to verify the traffic data presented by the foreign correspondent. Even if supplied traffic data by the other U.S. carrier, the U.S. carrier with the operating agreement would have unverified data. The verification of this data may require the implementation of unwieldly and expensive auditing procedures. Such a monitoring system could require the installation of additional switches and the maintenance of extensive records. This solution may be viewed as inefficient and likely to lead to carrier disagreements. Additionally, bearer circuit access itself may increase IRC administrative costs as well as require major switching and trunking expenditures.

122. The prescription of bearer circuit access could easily increase our regulatory involvement in a carrier's operations. We envision the Commission as possibly refereeing bearer circuit controversies regarding availability, allocation, conveyance and retrieval. We foresee questions arising such as: (1) Are bearer circuits available, and if so how many; (2) which carrier should be permitted to share one or more bearer circuits if demand exceeds supply; (3) what form of ownership interest (IRU, lease, shared-cost * * *) would a bearer circuit acquisition take; (4) could a carrier retrieve a bearer circuit for its own use; and (5) could a bearer circuit be conveyed between carriers without operating agreements.

123. All of these potential problems may make technical, operational and administrative coordination between the carrier with the operating agreement and the carrier sharing bearer circuits quite difficult. We therefore will not prescribe the sharing of bearer circuits as part of this interim order. However, the pro rata allocation formula and the new transiting requirements should provide the level of compensation to carriers lacking operating agreements intended by Congress. We view this outcome, rather than the manner in which it is achieved, as being the important concern of Congress. Nevertheless, we recognize the issue of shared bearer circuit access to be most complex and seek additional comments on this arrangment. Comments may also be submitted on Graphnet's proposal to include private line service, a non-metered offering, in a shared bearer circuit. We believe that if such access can be implemented in a manner which substantially ameliorates the problems described above then, on balance, bearer circuit access could be prescribed. In the NPRM we indicated that shared bearer circuit access might be appropriate where the foreign correspondent expresses a willingness to interface in this manner. We continue to believe that such a willingness would substantially obviate the problems noted above. We also believe that these problems may be similarly obviated in those instances where the IRC, or an entity affiliated with the IRC, acts as the foreign correspondent.

G. Miscellaneous Issues

124. The parties raised a number of miscellaneous issues, most of which we have incorporated into our discussion of the major issues. Other tangential issues need not be disposed of in this expedited proceeding. Thus, we view issues such as prepublication of directory information and customer billing data access as not requiring our present consideration. Also, we view requests to enlarge the issues in Phase II of Docket 78–97 as appropriately considered not within the context of this proceeding.

125. We will address four miscellaneous issues. First, as indicated in the NPRM, we expect carriers to route calls as directed by senders. Honorable routing increases in importance as more routing options develop. Second, as indicated in the NPRM, we believe that the existing formula for the routing of unrouted outbound telegrams should remain in effect for the one year statutory period. Third, Western Union and the IRCs did not agree on whether domestic or international minutes would be used to calculate sums due for the domestic segment of international calls.

Because of the holding time required to complete international calls and the existence of noncompleted calls, the number of domestic telex minutes for international outbound is greater than the number of billed international telex minutes. In the past, Western Union has estimated the holding time factor to be 1.5 while ITT has stated that the factor could be reduced to 1.0.[38] On an interim basis pending the submission of actual studies or a carrier agreement, a carrier providing the domestic segment of an international call may, as indicated in paragraph 79, base its count on the domestic minutes. We shall prescribe here the utilization of an averaging factor of 1.3 domestic minutes per each international minute. If a carrier chooses to count the domestic segment of an interconnected call on international minutes, no factor is required. Fourth, as to existing contracts between carriers, Section 4 of the Act "grandfathers" any otherwise lawful contracts relating to the distribution of outbound record traffic entered into before June 23, 1981. Such contracts for the routing of outbound traffic will be included in the pro rata calculation. We note that the clause does not "grandfather" contracts for the delivery of inbound record communications services.

126. As part of this agreement we require all interconnection arrangements between underlying carriers to be set forth under general schedules of regulations and rates to be filed by each carrier under tariff. This will assist in assuring that all carriers are treated on a nondiscriminatory basis in obtaining desired services. Underlying carriers furnishing domestic service will be required to file tariffs for interconnection with other common carriers reflecting the rates and regulations for (1) the terminating segment of a totally domestic call and (2) the domestic segment of inbound and outbound international calls. Underlying carriers furnishing international service and having operating agreements with overseas administrations will be required to file tariffs consistent with Section 222(c)(1)(A) for interconnection with other common carriers reflecting the rates and regulations for the carriage of international inbound and outbound record communications service.

127. We will also establish a specific schedule for the filings needed to implement the Act. As stated in FTC Communications, Inc., Mimeo No. 2834 (adopted March 17, 1982), all IRCs providing domestic telex service are required to amend their international and/or domestic tariffs within 5 days of the release of this order to fully unbundle the domestic haul if they are subject to Sec. 222(c)(1)(B). Because there may be technical matters which require further negotiation, we will allow the carriers fifteen days from the release date to conclude and submit any arrangements not inconsistent with this order. Interconnection tariffs in compliance with this order and the Act are to be filed within twenty days of the release date. Revised customer tariffs shall be filed no later than 25 days after the release date. International tariffs of record carriers which also provide domestic service must show the domestic charge for each interconnected domestic carrier, the international charge, and the total end-to-end charge, and must otherwise comply with Section 222(a)(1)(b) of the Act.

128. Accordingly, it is ordered, that WU, ITT, RCA, WUI, FTC, and TRT should implement this agreement by filing interconnection tariffs no later than twenty days after the release date of this order, to be effective on not more than 15 days' notice.

129. It is further ordered, that ITT, RCA, and WUI shall file modifications to their international and/or domestic telex tariff which fully unbundle the rates for the domestic haul from the international portion in compliance with Section 222(c)(1)(B) of the Act as amended. These revisions are to be filed no later than five days from the date of release of this order to be effective on not more than 15 days' notice.

130. It is further ordered, that the filing of data required by § 61.38 of the Commission's Rules for filings necessary to implement paragraphs 128 and 129 IS DEFERRED until such time as it may be required by the Chief, Common Carrier Bureau.

131. It is further ordered, that §§ 61.16, 61.54, 61.55(e), 61.58, 61.59, 61.71, 61.74, 61.94, and 61.112 of the Commission's rules are waived to the extent necessary to implement paragraphs 128 and 129 above.

132. It is further ordered, that consistent with Sections 4(i), 4(j), 201, 202, 205, 222 and 403 of the Communications Act of 1934, as amended, and Section 553(b) of the Administrative Procedure Act, the rulemaking in this matter is continued and interested parties may file comments on Graphnet's market share and the bearer circuit access issue on or before June 4, 1982. Replies shall be filed on or before July 1, 1982. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the order. For purposes of this rulemaking procedure, members of the public are advised that restrictive *ex parte* rulemaking provisions will continue to apply.

133. It is further ordered that, in accordance with the provisions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

134. It is further ordered that this order be printed in the **Federal Register**.

135. Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354) it is certified, That Section 603 and 604 of that Act do not apply because this prescription will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b) (1980 Supp.). The primary economic impact of this order will be upon carriers, not users.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-10562 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

[38] ITT World Communications Inc. 73 FCC 2d 709, 717 (1979).

---

47 CFR Part 73

[BC Docket No. 81-784; RM-3956]

FM Broadcast Station in Russellville, Alabama; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 249A to Russellville, Alabama, as its first FM assignment, in response to a petition filed by Michael R. Freeland.

DATE: Effective June 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: April 20, 1982.

Released: April 27, 1982.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 60023, published December 8, 1981, proposing the assignment of Channel 249A to Russellville, Alabama. The *Notice* was issued in response to a petition filed by Michael R. Freeland (petitioner). Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Russellville (population 7,814),[1] seat of Franklin County (population 23,933), is located approximately 136 kilometers (85 miles) northwest of Birmingham, Alabama. It is served by daytime-only AM Stations WKAX and WWWR.

3. In comments to the proposal, petitioner resubmitted the information in his petition which justified an FM assignment to Russellville. He also restated his intention to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 249A to Russellville, Alabama, since it would provide that community with an opportunity for its first FM broadcast service. The transmitter site is restricted to 5.6 kilometers (3.5 miles) east of the city to avoid short-spacing to Station WOOR (Channel 248), Oxford, Mississippi.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective June 28, 1982, the FM Table of Assignments (§ 73.202(b) of the rules), is amended with respect to the following community:

City	Channel No.
Russellville, Ala	249A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

[1] Population figures are taken from the 1980 U.S. Census.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-11903 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-770; RM-3957]

FM Broadcast Station in Ironton, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 224A to Ironton, Missouri, in response to a petition filed by Mid-America Communications, Inc. The assignment could provide Ironton with a first local FM service.

DATE: Effective June 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: April 20, 1982.

Released: April 27, 1982.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 46 FR 56836, published November 19, 1981, in response to a petition filed by Mid-America Communications, Inc. ("petitioner"), proposing the assignment of Channel 224A to Ironton, Missouri, as that community's first FM allocation. Supporting comments were filed by petitioner in which it reaffirmed its intention to file for the channel, if assigned.

2. Ironton (population 1,743),[1] the seat of Iron County (population 11,084), is located approximately 112 kilometers (70 miles) south of St. Louis, Missouri. It is currently served by daytime-only AM Station KPIA.

3. In determining the need for a first FM assignment to the community, the *Notice* revealed that the Ironton area is surrounded by mountainous terrain, which severely restricts the degree of available FM reception. Further, the nearest station providing nighttime service is FM Station KTJJ, which is located 20 miles distant in Farmington, Missouri. However, petitioner asserted that even that signal is difficult to receive with any degree of clarity in some segments of the community. In conclusion, petitioner stated that the proposed facility would fill an important community need for nighttime coverage of weather data, sporting events, and news.

4. In view of the above, we believe the public interest would be served by assignment of Channel 224A to Ironton, Missouri. An interest has been shown for its use and such assignment would provide the community with a first FM and local nighttime aural broadcast service. The transmitter site is restricted to an area 4.5 kilometers (2.8 miles) south of Ironton to avoid short-spacing to Station WIL-FM (Channel 222), St. Louis, Missouri.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective June 28, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to Ironton, Missouri, as follows:

City	Channel No.
Ironton, Mo	224A

6. It is further ordered, that this proceeding is terminated.

7. For futher information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-11904 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-813; RM-3971]

FM Broadcast Station Great Falls, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C FM Channel 291 for Channel 292A at Great Falls, Montana, and modifies the Class A license for Station KOOZ(FM),

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

in response to a petition filed by Sun River Broadcasting, Inc. The assignment would provide Great Falls with a fourth Class C FM station.

DATE: Effective June 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: April 20, 1982.

Released: April 28, 1982.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the notice of proposed rulemaking herein, 46 FR 59559, published December 7, 1981, proposing the substitution of Class C FM Channel 291 for Channel 292A at Great Falls, Montana, and modification of the license of FM Station KOOZ, Great Falls, to specify operation on Channel 291. The *Notice* was issued in response to a petition filed by Sun River Broadcasting, Inc. ("petitioner"), licensee of Station KOOZ(FM). Supporting comments were filed by petitioner. No oppositions to the proposal were received.

2. Great Falls (population 56,725), the seat of Cascade County (population 80,696), is located approximately 112 kilometers (70 miles) north of Helena, Montana. It is served by four full-time AM stations (KARR, KEIN, KMON, and KQDI); FM Stations KNUW (Channel 233); KAAK (Channel 255), and KOOZ (Channel 292A); and a construction permit for Station KLFM (Channel 225).

3. As the *Notice* indicated, petitioner's request is based on its desire to eradicate an existing intermixture situation in Great Falls stemming from the Commission's initial allocation plan for that community, whereby four channels were allocated, three of which were Class C channels, and the remaining a Class A. According to petitioner, it was the only functional FM station in Great Falls operating with Class A facilities at that time. During the past decade, the allotted Class C channels have become operational, and consequently, petitioner now finds the substitution necessary to enable its station to upgrade and provide coverage comparable to that of the other Great Falls stations.

4. The *Notice* set forth petitioner's preclusion study indicating that the assignment of Channel 291 to Great Falls would cause preclusion to occur on Channels 288A, 290, 291 and 292A. Petitioner listed those communities containing over 1,000 persons which would sustain preclusion as a result of the proposed assignment. Further, petitioner indicates that while most of the precluded area is already precluded by its existing operation, there are numerous channels available for assignment thereto.

5. The *Notice* also stated that petitioner's engineering study, using reasonable facilities to indicate the extent of FM service in the area, reflects that the location of the existing transmitters are in such close proximity to each other that the coverage pattern of the existing Class C stations and the proposal herein are essentially the same. Additionally, petitioner states that the coverage area of its proposed station with the nighttime AM facilities of the area indicate that there are no white or grey areas.

6. Petitioner has submitted sufficient information with respect to Great Falls which is persuasive as to its need to eliminate the current intermixture in the community. Additionally, we find the proposal has merit since no other city of comparable size would be precluded by the assignment. Therefore, we have determined that the public interest would be served by the substitution of Channel 291 for Channel 292A in Great Falls. In view of the failure of any other expression of interest in a Class C channel for Great Falls, the license for Station KOOZ is modified herein. *See, Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

7. Canadian concurrence in the assignment has been obtained.

8. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective June 28, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended as follows for the community listed:

City	Channel No.
Great Falls, Mont.	225, 233, 255, 291

9. It is further ordered, pursuant to the authority contained in section 316 of the Communications Act of 1934, as amended, that the license of FM Station KOOZ, Great Falls, Montana, is modified to specify operation on Channel 291, subject to the following provisions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's rules.

10. It is further ordered, That the Secretary shall send a copy of this Order by Certified Mail, Return Receipt Requested to: Sun River Broadcasting, Inc., 1026 Central Avenue, Great Falls, Montana 59403.

11. It is further ordered, That this proceeding is terminated.

12. For futher information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-11905 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-772; RM-3938]

FM Broadcast Station in Denton, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 256 to Denton, Texas, in response to a petition filed by New Century Broadcasting, Inc. The assignment could provide a second FM service to Denton.

DATE: Effective June 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio Broadcasting.

Adopted: April 20, 1982.

Released: April 27, 1982.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 58724, published December 3, 1981, which seeks the assignment of Class C FM Channel 256

to Denton, Texas, as its second commercial FM assignment. The *Notice* was issued in response to a petition filed by New Century Broadcasting, Inc. (petitioner). Supporting comments were filed by the petitioner, restating its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Denton (population 48,063),[1] seat of Denton County (population 143,126), is located approximately 56 kilometers (38 miles) northwest of Dallas. It is served by fulltime AM Station KDNT, FM Station KIXX (Channel 291) and noncommercial FM Station KNTU (Channel 201).

3. In its comments, petitioner incorporated by reference the information previously submitted, which demonstrated the need for an additional FM assignment to Denton. In the *Notice* we indicated that the assignment of Channel 256 to Denton would cause preclusion on Channels 255, 256 and 257 (the study was made for communities with a population in excess of 3,000). The petitioner was requested to submit a listing of communities affected by the proposal with a population greater than 1,000 and without local service. A listing of any alternative channels available to those communities was also requested. The information submitted shows that six communities[2] will be affected by the proposal. However, at least one alternate channel is available to each of the precluded communities.

4. The Commission believes that the petitioner has adequately demonstrated the need for a second commercial FM assignment to Denton, and the public interest would be served by assigning Channel 256 to that community. Since alternative channels are available to the precluded communities, we consider the preclusion impact insignificant. The transmitter site is restricted to 21.6 miles northwest of the city to meet spacing requirements to KTXU In Paris, Texas, KLVV in Dallas, Texas, and KPLX in Forth Worth, Texas.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, that effective June 28, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Denton, Tex	256,291

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792

(Secs. 4, 303, 48 stat., as amended 1068, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-11906 Filed 4-30-82; 8:45am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

[2] Texas: Crowell (population 1, 397), Jacksboro (population 3,554), Knox City (population 1,536) and Munday (population 1,627); *Oklahoma*: Healdton (population 2,279) and Wilson (population 1,566).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1, Amdt. 1-168; CGD 81-104]

Organization and Delegation of Powers and Duties; Discharge Review Board of the Coast Guard

AGENCY: Office of the Secretary, Transportation (DOT).

ACTION: Final rule.

SUMMARY: DOT revises the Secretary's reservation of authority to review the findings of the Coast Guard Discharge Review Board (DRB). This will enable the Commandant of the Coast Guard to review and take final action in all DRB proceedings except in those specific categories reserved to the Secretary.

DATE: This amendment becomes effective May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

Section 1553 of title 10, United States Code, requires the Secretary to establish a board to review discharges or dismissals (other than by sentence of a general court-martial) of former members of the Coast Guard. Currently, all findings of this board are reviewed, and final action is taken, by the General Counsel for the Secretary. The purpose of this amendment is to specify categories of proceedings which will be reviewed by the General Counsel, leaving the review and final action of all others to the Commandant of the Coast Guard. All actions taken by the Commandant on DRB proceedings prior to the effective date of this amendment are here ratified.

List of Subjects in 49 CFR Part 1

Authority delegations, Organization and functions.

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.44(m), subparagraph (10) is revised, and subparagraph (11) is removed, to read as follows:

§ 1.44 Reservations of authority.

The delegations of authority in §§ 1.45 through 1.67 do not extend to the following actions, authority for which is reserved to the Secretary or his delegatee within the Office of the Secretary:

* * * * *

(m) *Coast Guard.* The following powers relating to the Coast Guard:

* * * * *

(10) Establishing a Discharge Review Board under 10 U.S.C. 1553 and reviewing and taking final action on its findings in the following cases:

(i) Those cases in which a minority of the Board requests that their written opinion be forwarded to the Secretary for consideration;

(ii) Those cases selected by the Commandant to inform the Secretary of aspects of the Board's functions which may be of interest to the Secretary;

(iii) Any case in which the Secretary demonstrates an interest; and

(iv) Any case which the president of the Board believes is of significant interest to the Secretary.

(11) [Removed]

2. In § 1.57, paragraph (e) is revised to read as follows:

§ 1.57 Delegations to General Counsel.

The General Counsel is delegated authority to—

* * * * *

(e) Review and take final action on referrals of the findings of the Board for Correction of Military Records of the Coast Guard and the Coast Guard Discharge Review Board.

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)))

Issued in Washington, D.C., on April 26, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-11995 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

49 CFR Part 178

[Docket No. HM-176; Amdt. 178-71]

Specification and Usage Requirements for 3 AL Seamless Aluminum Cylinders

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; response to a petition for reconsideration.

SUMMARY: The purpose of this final rule is to revise recently adopted regulations which require scalping on starting stock materials, and a 250 micron grain size on starting materials used in the manufacturing process of seamless aluminum cylinders. These regulation were promulgated in a final rule issued under Docket HM-176, Specification and Usage Requirements for 3AL Seamless Aluminum Cylinders, published on December 24, 1981 (46 FR 62452).

The effect of this rule is to rescind the scalping requirements and change the means of stating grain size limitations. MTB believes that this revision to the final rule will remove an unnecessary burden to the manufacturers of 3AL cylinders by eliminating an additional manufacturing process, that is not necessary in all cases.

EFFECTIVE DATE: July 2, 1982. Compliance is authorized beginning May 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Chief, Technical Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590 (202-755-4906).

SUPPLEMENTARY INFORMATION: On December 24, 1981, MTB published the final rule on Specification and Usage Requirements for 3AL Seamless Aluminum Cylinders under Docket HM-176 (46 FR 62452) which established specification requirements for seamless aluminum cylinders made of prescribed alloys. The final rule eliminates the need for exemptions authorizing the use of over 3 million cylinders.

The Walter Kidde Company (Kidde) petitioned MTB to reconsider several provisions contained in Docket HM-176. A correction document to the rule, issued April 1, 1982 (47 FR 13816), addressed all but two of these provisions. The two unresolved issues, which relate to § 178.46-5, relate to the mandatory scalping requirement on starting stock that is produced by casting, and a 250 microns average requirement for grain size. However, between issuance of the notice of proposed rulemaking and the final rule, MTB was provided little information in support of the opposition to these requirements. MTB requested additional supporting data which was received from Kidde subsequent to the publication of the correction document (47 FR 13816). MTB has carefully reviewed the supporting data it received with regard to such factors as inverse segregation (chemical depletion near surface) and surface irregularities, the two primary reasons for requiring scalping. Kidde has introduced controls in the quality of starting material which produces acceptable cylinders without performing the scalping operation, and has established a definitive procurement specification for the direct cast starting stock to be used in the manufacture of the 3AL specification, in accordance with the specification requirements. This specific data is available for public review in the Docket. The descriptive and quantitative limits established in the Kidde procurement specifications provide an independent inspector with the means of determining acceptability under § 178.46-5(b) for materials that will not be scalped.

While the grain size limitation requirement under § 178.46-5(f) is generally considered to be an important factor for the starting material of DOT specification cylinders, MTB agrees that the present wording in the rule, "250 microns average", does not provide the means for ensuring consistency in determining compliance. Because of the variations in grain configurations and sizes, a great deal of subjectivitly is present in any judgment on the resultant "average" size; therefore, it is MTB's conclusion that a more appropriate wording should be based on "maximum" value even though it is not possible to designate a "maximum" grain size that would indicate a grain structure which would equate precisely to that obtained under the present criteria. However, a "500 micron maximum grain size" acceptance limit will assure about the same grain structure as is required by use of the present criteria. By specifying a maximum size in place of an average size, the acceptance level can be precisely determined, resulting in consistent control of grain size throughout the industry.

List of Subjects in 49 CFR Part 178

Hazardous materials transportation, packaging and containers.

Findings and Amendment

In consideration of the foregoing, MTB hereby grants the requested revisions requested in the Walter Kidde Company's petition for reconsideration of certain of the final rules issued under Docket HM-176.

PART 178—SHIPPING CONTAINERS SPECIFICATIONS

In consideration of the foregoing, Part 178 of Title 49 Code of Federal Regulations is amended as follows:

1. In § 178.46-5, paragraphs (a) and (f) are revised to read as follows:

§ 178.46-5 Authorized material and identification of material.

(a) Starting stock must be cast stock or traceable to cast stock.

* * * * *

(f) Cast stock must have uniform equiaxed grain structure not to exceed 500 microns maximum.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document (a) will not result in a "major rule" under the terms of Executive Order 12291; (b) is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034); and, (c) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evalutation and an environmental assessment are available for review in the docket.

Issued in Washington, D.C., on April 23, 1982.

Alan I. Roberts,

Acting Director, Materials Transportation Bureau.

[FR Doc. 82-11821 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-10; Notice 1]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: Pursuant to petitions filed by Michelin Tire Corporation (Michelin) and the European Tyre and Rim Technical Organisation (ETRTO), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding certain tire size designations to Table I of Appendix A of that standard. This amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: June 2, 1982, if no objections are received from commenters before that date.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are from 8 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John A. Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–0852).

SUPPLEMENTARY INFORMATION: According to agency practice, NHTSA responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure were published at 33 FR 14964, October 5, 1968, and were amended at 36 FR 8298, May 4, 1971; 36 FR 13601, July 22, 1971; and 39 FR 28980, August 13, 1974. Those guidelines provide that these final rules become effective June 2, 1982 if no comments are received objecting to the final rules during this 30-day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

Michelin petitioned to add two tire sizes to existing tables. Additionally, Michelin petitioned for the addition of a new tire table, and requested that six new tire sizes be included in that new table. ETRTO requested the addition of one new tire size to an existing table, and requested that a new table be established for a new tire size.

The bases for accepting or denying requests to add new tire size designations to the tire tables are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables and the appropriateness of the location within the tables of the requested tire size. The ten new sizes included in this notice meet these criteria. Accordingly, the Michelin and ETRTO petitions are granted, and ten new tire sizes are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedures.

NHTSA expects that this may be the last time it uses these abbreviated rulemaking procedures, because it has published a final rule deleting Table I from Appendix A of Standard 109 (46 FR 61473, December 17, 1981). That rule becomes effective June 15, 1982, at which time Table I will be deleted and no further petitions for additions will be necessary. The agency is presently considering several petitions for a reconsideration of that rule.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.109 New Pneumatic Tires—Passenger cars [Appendix amended].

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below, subject to the 30-day comment period outlined above:

1. Table I of Appendix A is amended by adding the following sizes and corresponding values to Tables I–H, I–QQ, I–RR, and I–AAB:

TABLE I.—H TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "R" TYPE RADIAL PLY TIRES

Tire size [1] designation	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175R16	920	980	1,040	1,100	1,160	1,210	1,260	1,310	1,360	1,400	1,450	1,490	1,540	5	33.49	7.00

[1] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I.—QQ TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55" SERIES ALL MILLIMETRIC RADIAL PLY TIRES FOR (TR OR JM RIMS)

Tire size [1] designation	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width [2] (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
200/55R390	790	845	895	940	990	1,030	1,075	1,115	1,155	1,195	1,235	1,270	1,310	150	801	204

[1] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I.—RR TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/65' SERIES ISO TYPE TIRES

Tire size [1] designation [3] [4]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) [4]									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P185/65R365	365	395	425	450	470	495	520	.....	.....	135	779	187

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.
[3] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[4] The designated cold inflation pressures may be increased to a maximum of 300kPa to meet special vehicle requirements.

TABLE I.—AAB TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR T'90' SERIES 60 LB/IN ² TIRES

Tire size[1] designation	Maximum tire loads (Pounds at 60 psi cold inflation pressure)									Test rim width (inches)	Minimum size factor (inches)	Section width[2] (inches)
T115/90R13					1225					3½	25.43	4.65

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

2. Table I of Appendix A is amended by adding two new tables, Tables I–AAC and I–AAD, with the following tire sizes included therein:

TABLE I.—AAC TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR T '110' SERIES 60 LB/IN ² TIRES

Tire size[1] designation	Maximum tire loads (pounds at 60 psi cold inflation pressure)									Test rim width (inches)	Minimum size factor (inches)	Section[2] width (inches)
T95/110R13				925						3	24.76	3.90
T95/110R14				990						3	25.79	3.90
T95/110R15				1035						3	26.77	3.90
T115/110R13				1280						3½	27.17	4.65
T115/110R14				1355						3½	28.19	4.65
T115/110R15				1430						3½	29.17	4.65

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I.—AAD TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "SERIES" "R" TYPE RADIALS

Tire size[1] designation	Maximum tire loads, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width[2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
215/80R16	1,290	1,380	1,460	1,540	1,620	1,690	1,770	1,830	1,900	1,970	2,030	2,090	2,150	6	37.38	8.50

[1] The letters "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."
[2] Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. When the comments are received, the docket supervisor will return the postcard by mail.

The agency has reviewed the impacts of this rule and determined that they are limited to permitting the introduction of the newly listed tire sizes by those manufacturers wishing to do so. The rule does not impose any regulatory burden on any manufacturer. The rule increases the availability of new tire sizes to the public. Accordingly, NHTSA has determined that this rule is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation regulatory policies and procedures. Further, the agency reviewed this amendment under the National Environmental Policy Act and determined that the rule will have no significant effects on the human environment.

The program official and attorney principally responsible for the development of this rule are John A. Diehl and Stephen Kratzke, respectively.

(Secs. 103, 119, 201, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 23, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–11693 Filed 4–30–82; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

General Rules of Practice; Ex Parte Communications

Cross Reference: For a document issued by the Federal Energy Regulatory Commission (FERC) terminating the applicability of the Interstate Commerce Commission's General Rules of Practice (49 CFR Part 1100) to oil pipeline matters, except for §§ 1100.43 through 1100.52 (modified procedures) and Appendix C (ex parte rules) see FR Doc. 82–11675 published in the Rules section of this issue. Section 705(a) of the Department of Energy Act provides that rules and regulations relating to functions transferred to the FERC shall continue in effect until modified by the FERC (42 U.S.C. 7295). Refer to the Table of Contents under Federal Energy Regulatory Commission for the correct page number.

Proposed Rules

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982.

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 ENERGY

10 CFR Part 205

Intent To Review Fee Structure for International Electric Power System Applications

AGENCY: Energy Department (DOE).

ACTION: Notice of intent.

SUMMARY: DOE gives notice that it intends to review its regulations regarding the collection of fees for applications under section 202(e) of the Federal Power Act (FPA) and Executive Order No. 10485, as amended. Regulations governing applications for electricity export authorizations and Presidential Permits (10 CFR 205.300 *et seq.*), which superseded the original regulations of the Federal Power Commission (FPC), were promulgated on October 28, 1980 (45 FR 71588). Although these regulations specify application procedures which are different than those under the regulations of the FPC, no changes were made at the time of promulgation in the application filing fee schedules used by the FPC. DOE now intends to review those fees for possible revision.

DATES: Comments will be received up until July 2, 1982.

ADDRESS: Comments should be addressed to: Public Hearing Management Office, Department of Energy, Room 7146, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Garet Bornstein (202) 252–1714.

SUPPLEMENTARY INFORMATION: .

I. Background

By this Notice, DOE announces its intention to review 10 CFR 205.309 (filing fee for electrical export authorization) and 10 CFR 205.326 (filing fee for Presidential Permit).

Section 202(e) of the FPA provides that any entity subject to DOE jurisdiction under Part II of the FPA, which intends to transmit electricity from the U.S. to a foreign country, also must have an export authorization issued by DOE. Executive Order 10485, as amended, requires that any entity which intends to construct or operate an electric power transmission line crossing an international border of the U.S. must have a Presidential Permit issued by the DOE.

Applications for export authorization are governed by regulations at 10 CFR 205.300 *et seq.*, while applications for Presidential Permits are governed by those at 10 CFR 205.320 *et seq.* Before these regulations were promulgated by DOE on October 28, 1980 (45 FR 71588), DOE used the regulations of the former FPC (18 CFR 32.20 *et seq.* and 18 CFR 32.50 *et seq.*), pursuant to section 705 of the DOE Act, due to the transfer of these functions from the FPC to DOE upon its creation on October 1, 1977. Although the new application regulations contain numerous procedural changes, DOE did not revise the fee schedule for applications for export authorizations and Presidential Permits. Instead, it adopted the same fee schedule which the FPC had used for these applications.

Currently, an applicant for an export authorization must pay a filing fee of $500.00 (10 CFR 205.309) and an applicant for a Presidential Permit must pay a filing fee of $150.00 (10 CFR 205.326). In DOE's opinion, these fees are nominal and probably do not reflect the actual cost of DOE's processing the application, as required by the Independent Offices Appropriation Act of 1952 (31 U.S.C. section 483a).

II. Legal Basis for Proposed Fee Schedule

The Independent Offices Appropriation Act of 1952, (65 Stat. 290, 31 U.S.C. section 483a) provides that:

> Any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses) * * * shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The U.S. Court of Appeals for the D.C. Circuit in *Electronic Industries Ass'n* v. *FCC*, 554 F.2d 1009, 1117 (D.C. Cir. 1976) held that agencies must justify the assessment of a fee (by identifying the particular service or benefit it reimburses) and calculate the fee on a cost basis. Consequently, DOE will endeavor in its review to:

1. Identify, in units as small and discrete as practical, the services to be reimbursed;
2. Exclude expenses incurred to serve an independent public interest; and
3. Identify and allocate the recoverable expenses on the basis of cost incurred for each unit of service.

The Court of Appeals for the D.C. Circuit noted in *Electronic Industries Assn's* that in designing a fee schedule, Federal agencies must identify units of the regulatory activities which provide a service:

> (W)e interpret the statute and the Supreme Court decisions to require an allocation of costs to the smallest unit that is practical. In most cases, we expect this unit will be the classes of carriers or applicants or guarantees or services which the (agency) has already singled out for separate treatment in its 1975 fee schedule.

In addition to meeting these requirements, DOE intends that any new fee system shall be clear and easily understood, so as to not place an added administrative burden on the applicant.

III. Written Comment Procedures

Interested persons may comment on this notice of intent by submitting data, views or arguments to the Public Hearing Management Office, on or before July 2, 1982. Each person submitting comments should indicate that the comments are being submitted in Docket No. ERA–R–80–03A and should give reasons, including any supporting data, for any recommendations. Comments also should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and five conformed copies should be filed with the Department of Energy Public

Hearing Management Office. Written comments will be placed in the DOE's public files and will be available for public inspection at the DOE Freedom of Information Reading Room, Room 1E-190, 1000 Independence Avenue, SW., Washington, D.C. during business hours.

Issued in Washington, D.C., April 23, 1982.

Rayburn Hanzlik,[1]

Administrator, Economic Regulatory Administration, Department of Energy.

[FR Doc. 82-11739 Filed 4-30-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The semiannual agenda of regulations provides information enabling the public to be more aware of, and more effectively participate in, FDIC's regulatory activity. The agenda summarizes outstanding proposed rulemaking actions, regulations under development and final rulemaking actions during the past six months, and identifies regulations undergoing periodic review.

ADDRESS: The FDIC invites interested persons to send comments on the semiannual agenda to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 500 17th Street, NW., Washington, D.C. 20429. Comments may also be hand delivered to Room 6108 at the same address between the hours of 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: William P. Carley, Project Specialist, Office of the Executive Secretary, telephone (202) 389-4352, or the staff person identified by the respective entry in the agenda.

SUPPLEMENTARY INFORMATION: Maintaining and improving the quality of its regulations is a principal goal of the FDIC. Participation by interested individuals and organizations, in the FDIC's view, can be invaluable to framing regulations which hold regulatory burdens to permissible minimums, allow for differences in the scale and resources of regulated entities, five full consideration to possible alternative regulatory approaches, and maintain clarity and understanding. Because periodic summaries of rulemaking actions give interested parties an opportunity to participate in the development of specific actions, the Board of Directors of the FDIC requires publication of semiannual agendas of regulations as one of several mutually supportive procedures prescribed in its "Statement of Policy for the Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979).

The requirement for publication of a semiannual agenda in FDIC's Statement of Policy is similar to the requirement in the Regulatory Flexibility Act (Sec. 3, Pub. L. No. 96-354, 94 Stat. 1166 (5 U.S.C. 602)). The significant differences between the two requirements to publish are that the Statement of Policy applies to all prospective regulatory actions and provides for publication in March and September; whereas, the Regulatory Flexibility Act deals only with prospective changes that could have a significant economic impact on a substantial number of small entities and provides for publication in April and October.

Inasmuch as an agenda which contains the information specified by the Statement of Policy will necessarily satisfy the disclosure requirements of the Regulatory Flexibility Act, the Board of Directors has postponed publication otherwise required by the Statement of Policy so that this single publication in April will fulfill the two requirements. Assessments made of the prospective regulatory actions show that none of the entries in the agenda will have a significant economic impact on a substantial number of small entities.

The agenda organizes entries under four headings: Section A—outstanding proposed regulations; Section B—regulations that may be proposed or issued during the next twelve months; Section C—final rulemaking actions taken since the last agenda was published (46 FR 53670, October 30, 1981); and Section D—regulations being reviewed.

The FDIC reminds all interested persons that they may petition for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary. Petitioners should include complete and concise statements of their interests in the subject matters and reasons why petitions should be granted.

SECTION A—PROPOSALS OUTSTANDING

Entries under this heading identify proposed regulations that have been published for comment and have not yet been promulgated in final form. It is FDIC's policy to withdraw any proposed regulation on which the Board of Directors has not taken final action within nine months from the date the regulation was last proposed.

1. Disclosure of Exempt Records by Corporation Personnel

The FDIC published proposed amendments to its regulations which would permit insured nonmember banks to disclose FDIC reports of examination to parent holding companies and majority shareholders without prior approval by the FDIC (46 FR 60827, December 14, 1981).

Comments on the proposal were due by February 12, 1982.

For further information, contact Pamela E. F. LeCren, Attorney, Legal Division, telephone (202) 389-4171.

2. Securities Transfer Agents

On April 26, 1982, the Board of Directors of the FDIC issued proposed amendments to regulations applicable to securities transfer agents that would provide procedures for voluntary deregistration by agents, increase the time allowed for amending registration statements due to changed circumstances, and clarify the regulation by adding definitions of certain terms. A sixty day comment period follows publication of the proposal in the **Federal Register.**

For further information, contact James L. Meador, Attorney, Legal Division, telephone (202) 389-4171.

3. Accrual Accounting

In response to a recommendation of the Federal Financial Institutions Examination Council, the FDIC published a proposed amendment to its regulations that would require all state nonmember commercial and savings banks to maintain their books and records of account on the accrual basis of accounting (47 FR 17264, April 21, 1982).

Comments on the proposal are due by June 21, 1982.

For further information, contact Felicite Macfarlane, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389-4141.

SECTION B—POTENTIAL ACTIONS

Entries under this heading describe regulatory actions that the staff is either

[1] In the recent reorganization of DOE, responsibility for Presidential Permits was transferred from ERA to the Office of Environmental Protection, Safety, and Emergency Preparedness. DOE is in the process of redelegating authority.

actively developing or anticipates developing for consideration by the Board of Directors. Entries are the result of evaluations of present circumstances; consequently, subsequent action may be taken on a matter that is not included or not taken on a matter that is included.

1. Applications

The staff is developing a proposal to reduce the information submitted by applying banks in their applications for branches, remote service facilities, and relocations. Banks would provide minimal information in letter form to supplement information already in FDIC's possession.

For further information, contact Katharine H. Haygood, Attorney, Legal Division, telephone (202) 389–4171.

2. Management Official Interlocks

The staff will submit proposed amendments to the Corporation's management official interlocks regulations to clarify and relax restrictions by limiting the extent to which the prohibitions apply to depository holding companies, broadening the situations in which an extension of time for loss of management officials is available, and clarifying the provision requiring termination of a grandfathered interlock due to a merger, acquisition or consolidation.

For further information, contact Pamela E. F. LeCren, Attorney, Legal Division, telephone (202) 389–4171.

3. Interest on Deposits

The Depository Institutions Deregulation Committee, an interagency rulemaking body, establishes maximum interest rates allowed on certain deposits. The staff of the FDIC will develop amendments to FDIC's regulations, whenever it becomes necessary to conform the regulations with actions of the Committee.

For further information about actions of the Depository Institutions Deregulation Committee, contact F. Douglas Birdzell, Counsel, Legal Division, or Joseph A. DiNuzzo, Attorney, Legal Division, telephone (202) 389–4171.

The staff will propose amendments to the regulations that would classify time deposits held by international banking facilities as "obligations other than deposits."

For further information, contact Robert E. Feldman, Attorney, Legal Division, telephone (202) 389–4171.

The staff is developing a regulation that would allow a mutual savings bank that converts into either a stock savings bank or a commercial bank to continue to pay the interest rate differential available to mutual savings banks on those accounts in existence at the time of the conversion.

For further information, contact Roger A. Hood, Assistant General Counsel or William R. Torres, Attorney, Legal Division, telephone (202) 389–4171.

4. Availability of Information

The staff is developing proposed amendments to the regulations on the disclosure of information pursuant to the Freedom of Information Act (5 U.S.C. 552). Substantive changes would include a revision of the fee schedule and delegation from the Board of Directors to (1) the General Counsel for determination of appeals of denials of initial requests and (2) the Executive Secretary for determinations of requests for waiver or reduction of fees.

For further information, contact Margaret M. Olsen, Assistant Executive Secretary, telephone (202) 389–4446.

5. Securities of Nonmember Insured Banks

The Securities Exchange Act of 1934 requires, in most instances, that the FDIC conform its regulations applicable to securities registered under the Act with regulations of the Securities and Exchange Commission. Accordingly, the staff may develop conforming regulations depending upon what, if any, rulemaking actions are taken by the Securities and Exchange Commission.

For further information, contact Gerald J. Gervino, Senior Attorney, Legal Division, telephone (202) 389–4171.

6. Adequacy of Bank Capital

In the interest of conforming the regulations with the FDIC's statement of policy on the adequacy of bank capital that was issued in December 1981, the staff will suggest that the regulations be amended by deleting existing provisions that refer to certain debt securities as part of a bank's capital structure.

For further information, contact Robert E. Feldman, Attorney, Legal Division, telephone (202) 389–4151.

7. Current Value Accounting for Saving Banks

The FDIC may propose regulations that would (1) require savings banks to account for receivables acquired after December 31, 1982, by periodically restating those assets to their current values, and (2) allow savings banks a one-time accounting option to restate their existing assets and liabilities to current values as of January 1, 1983.

For further information, contact Paul L. Sachtleben, Project Specialist, Division of Bank Supervision, telephone (202) 389–4141.

SECTION C—RULES PROMULGATED FROM OCTOBER 15, 1981, THROUGH APRIL 9, 1982

Entries under this heading identify final actions following publication of the semiannual agenda in October 1981.

1. Requests and Applications

The Board of Directors of the FDIC has delegated its authority to the Board of Review to act on requests for relief from reimbursement for certain violations of the Truth in Lending Act (47 FR 9810, March 8, 1982). Additionally, the Board delegated to the Director of the Division of Bank Supervision and to its regional directors authority to approve applications for deposit insurance, if certain criteria are met (47 FR 12943, March 26, 1982).

For further information, contact Ken A. Quincy, Division of Bank Supervision, telephone (202) 389–4141.

2. Rules of Practice and Procedures

The FDIC amended its rules for the conduct of administrative proceedings (46 FR 62812, December 29, 1981). The amendments implement the Equal Access to Justice Act by adding a new subpart to the Rules of Practice and enhance FDIC's procedures by amending preexisting subparts.

For further information on implementing the Equal Access to Justice Act, contact Brian D. Alprin, Attorney, Legal Division, telephone (202) 389–4151. On other matters, contact James L. Meador, Attorney, Legal Division, telephone, (202) 389–4171.

3. Interest Charges on Assessment Payments

The FDIC changed its regulations by requiring payment of compensation to the FDIC or banks for the loss of immediate use of funds (47 FR 943, January 8, 1982). The change amends the assessment regulations by requiring insured banks to pay interest to the FDIC on delinquent assessment payments and the FDIC to pay interest to banks on certain overpayments of assessments.

For further information, contact J. David Shaffer, Assessment Section Chief, Division of Accounting and Corporate Services, telephone (202) 389–4735, or Roger A. Hood, Assistant General Counsel, Legal Division, telephone (202) 389–4171.

4. Stock Savings Banks in Maine and Washington

The FDIC amended its regulations by classifying stock savings banks in Maine and Washington as mutual savings banks for the purpose of allowing those stock savings banks to avail themselves of the one-quarter of one-percent interest rate differential allowed mutual savings banks (46 FR 61067, December 15, 1981).

For further information, contact F. Douglas Birdzell, Counsel, Legal Division, telephone (202) 389–4171, or Fredric H. Karr, Attorney, Legal Division, telephone (202) 389–4171.

5. Capital Adequacy

The FDIC published a statement of policy which formalizes internal guidelines concerning the adequacy of banks' capital. (46 FR 62693, December 28, 1981). The statement promotes greater uniformity among FDIC regions and provides guidance to affected institutions.

For further information, contact James A. Sexton, Associate Director, Division of Bank Supervision, telephone (202) 389–4297.

6. Equal Credit Opportunity and Fair Housing

The FDIC and three other federal, financial regulatory agencies issued a joint statement of policy describing uniform standards for enforcing the Equal Credit Opportunity Act and the Fair Housing Act (46 FR 56500, November 17, 1981).

For further information, contact Peter M. Kravitz, Senior Attorney, Legal Division, telephone (202) 389–4171.

7. Interest Rate Hedges

The FDIC adopted and published a statement of policy that insured nonmember banks intending to take positions in interest rate futures contracts that specify delivery of certificates of deposit should do so in accordance with existing policy guidelines applicable to future and forward contracts on U.S. government and agency securities (46 FR 51301, October 19, 1981).

For further information, contact Sally Y. King, Financial Analyst, Division of Bank Supervision, telephone (202) 389–4606, or Paul L. Sachtleben, Project Specialist, Division of Bank Supervision, telephone (202) 389–4141.

8. Accounting for Purchased Intangibles

To clarify acceptable accounting procedures for the combination of two financial institutions, the Division of Bank Supervision issued guidelines applicable to the valuation of purchased core deposits (BL–5–82, March 5, 1982).

For further information, contact Paul L. Sachtleben, Project Specialist, Division of Bank Supervision, (202) 389–4141.

SECTION D—REGULATIONS UNDER REVIEW

The FDIC reviews each of its regulations at least every five years to determine whether the regulation should be continued, revised, or eliminated. During 1982, as described in the **Federal Register** for January 22, 1982 (47 FR 3127), the FDIC will review the following regulations: 12 CFR Part 309, Disclosure of Information; 12 CFR Part 311, Rules Governing Public Observation of Meetings of the Corporation's Board of Directors; 12 CFR Part 332, Powers Inconsistent with Purposes of Federal Deposit Insurance Law; 12 CFR Part 335, Securities of Nonmember Insured Banks; 12 CFR Part 338, Fair Housing; 12 CFR Part 345, Community Reinvestment; and 12 CFR Part 349, Reports of Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks.

By order of the Board of Directors, April 26, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–11968 Filed 4–30–82; 8:45 am]

BILLING CODE 6714–01–M

---

12 CFR Part 341

Registration of Securities Transfer Agents

AGENCY: Federal Depost Insurance Corporation.

ACTION: Proposed regulation.

SUMMARY: The Federal Deposit Insurance Corporation (the "FDIC") proposes to amend Part 341 of its rules and regulations. Part 341 provides for registration of insured nonmember banks, or subsidiaries of such banks, that act as transfer agents for qualifying securities under section 12 of the Securities Exchange Act of 1934 (the "Act"). The proposal would add a section dealing with deregistration of transfer agents, add a section containing definitions, allow 60 days instead of the current 21 days to amend registration after changed circumstances, and adopt a revised format for the part. The proposed changes are intended to integrate the regulation with a simplified Form TA–1 for registration, explicitly provide for deregistration, give registrants more time to file required amendments, and provide a clear format to accommodate these changes.

DATES: Comments on the proposal must be received on or before July 2, 1982.

ADDRESS: Interested persons are asked to submit written views, arguments or information regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John F. Harvey, Chief, Review Unit, Division of Bank Supervision, (202) 389–4295. or James L. Meador, Attorney, Legal Division, (202) 389–4171, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Registration under Part 341 must be accomplished before a bank can lawfully perform the functions of a transfer agent with respect to any security registered under section 12 of the Act.

In most cases, a bank is required to register as a transfer agent whenever it acts as a transfer agent and/or registrar of certain securities:

1. Securities issued by the bank: when the bank has $1 million or more assets *and* 500 or more stockholders.

2. Securities issued by the bank's parent company or an outside company: when the company has 500 or more stockholders *and* $1 million or more in assets.

3. Securities registered on a national securities exchange.

A description of the proposed changes to Part 341 follows.

Revised Form TA–1

The proposed amendments would integrate Part 341 and the new Form TA–1 for registration of transfer agents. The form has been revised and simplified by the FDIC in coordination with the Securities and Exchange Commission (the "SEC"), the Comptroller of the Currency and the Federal Reserve Board of Governors. The revised FDIC form has been approved for use by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The new form is on two pages, four pages less than the old form; instructions are on two pages, two pages less than instructions for the old form. Substantially all information required by the old form is required by the new form except for the following kinds of

information which have been deleted from TA–1:

1. Information regarding the types of business activities of the registrant;
2. Information regarding the registrant's insurance coverage;
3. Information regarding the registered securities that are transferred by the registrant;
4. Information regarding the volume of transfer activity or the registrant;
5. Whether the registrant is audited; and
6. A description of the registrant's internal policies and procedures for "reconciling differences (including clerical and posting errors and out-of-proof conditions) in its transfer agent operations" (TA–1, item 12, page 3).

FDIC has not published the form or instructions in the Code of Federal Regulations since August 19, 1980, because of their length and complexity. These objections are removed by the new form, which is available from the FDIC on request.

Textual Changes

Part 341 needs revision to reflect a change introduced by the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.* (1978)). Since September 14, 1979, foreign banks have been permitted to establish branches in the United States which accept insured deposits (12 U.S.C. 3104). Branches of foreign banks which are insured can register with the FDIC as securities transfer agents.* The current regulation refers only to State chartered banks that are not members of the Federal Reserve System. The proposal would delete reference to "State nonmember banks," and would refer instead to "insured nonmember banks."

Other minor changes in the language of the part for clarity also are proposed.

Definitions

Form TA–1 contains certain terminology such as "appropriate regulatory agency" and "Federal bank regulators" which may not be familiar to registrants and the public. For this reason, FDIC proposes to add a section to the regulation containing definitions of such terms which appear in Part 341 and Form TA–1.

Deregistration

Section 17A(c)(3)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)(3)(C)) provides that "(a) registered transfer agency may, upon such terms and conditions as the appropriate regulatory agency for such transfer agent deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of this section, withdraw from registration by filing a written notice of withdrawal with such appropriate regulatory agency." Part 341 is silent on the subject of deregistration although the SEC, the Comptroller of the Currency, the Federal Reserve Board, and the FDIC use substantially uniform forms or letters for this purpose. The forms are similiar or identical to SEC Form TA–W. Compare SEC Rule 249b.101 (17 CFR 249b.101). The proposed amendment would explicitly refer to procedure for deregistration and describe the terms and conditions where withdrawal from registration is appropriate or necessary.

Extension of Time for Filing Amendments to Registration

Many banks have been unable to amend Form TA–1 within the 21 days allowed under current § 341.2(c) (12 CFR 341.2(c)) after the occurence of an event which causes the information contained in the form to become inaccurate, misleading or incomplete. The proposed change is intended to give registered banks sufficient time to comply with the rule on filing amendments. Since investors whose securities are lost or stolen and issuers whose securities are handled by the registrant may have reasons to object to an extension of time to file amendments, FDIC is soliciting public comments on the proposed change.

New Format for Part 341

The proposed amendments would affect three sections of the part; sections on deregistration and definitions would be added, and amendments would be treated apart from registration. These changes would be for clarity, and would not affect registration, amendments to registration, or withdrawal from registration. The proposed format is designed to accommodate these changes.

Certification Under the Regulatory Flexibility Act

The Board of Directors certifies under 5 U.S.C. 605(b) that the amendments proposed here, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed changes to Part 341 would clarify existing agency procedures. The regulatory burdens of information gathering, recordkeeping, and reporting would be substantially reduced.

In the past, many registrants have needed professional help to complete the registration form. FDIC believes that in the future most banks will be able to register without such assistance. By making Part 341 and Form TA–1 simpler to use, FDIC seeks to lessen the economic impact of the regulation on small banks.

Paperwork Reduction Act

The Office of Management and Budget (the "OMB") has approved Form TA–1 as revised and FDIC's Request for Deregistration form in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(a)(3)). (OMB 3064–0026 and OMB 3064–0027, respectively.)

The proposed amendments would not impose new reporting or recordkeeping requirements on any person. The amendments used in conjunction with Form TA–1 would ease the information gathering and reporting burdens on registrants. Since the regulation requires reports to be filed for registration and withdrawal from registration, the proposed regulation also will be submitted to OMB for approval.

List of Subjects in 12 CFR Part 341

Banks, banking; Reporting Requirements; Securities.

For the reasons stated in the preamble, Part 341 of Chapter III of Title 12 of the Code of Federal Regulations is proposed to be revised and amended as follows:

PART 341—REGISTRATION OF SECURITIES TRANSFER AGENTS

Sec.

341.1 Scope.
341.2 Definitions.
341.3 Registration as Securities Transfer Agent.
341.4 Amendments to Registration.
341.5 Withdrawal from Registration.
341.6 Reports.

Authority: Secs. 2, 3, 17, 17A and 23(a), Securities Exchange Act of 1934, as amended (15 U.S.C. 78b, 78c, 78q, 78q–1 and 78w(a)).

§ 341.1 Scope.

This part is issued by the Federal Deposit Insurance Corporation (the "FDIC") under sections 2, 3(a)(34)(b), 17, 17A and 23(a) of the Securities Exchange Act of 1934 (the "Act"), as amended (15 U.S.C. 78b, 78c(a)(34)(B), 78q, 78q–1 and 78w(a)) and applies to all insured nonmember banks, or subsidiaries of such banks, that act as transfer agents for securities registered under section 12 of the Act (15 U.S.C. 78*l*), or for securities exempt from registration under subsections (g)(2)(B) or (g)(2)(G) of section 12 (15 U.S.C.

* FDIC is the appropriate regulatory agency for the insured banks (other than members of the Federal Reserve System) (15 U.S.C. 78c(a)(34)(B)(iii)).

781(g)(2)(B) and (G)] (securities of investment companies, including mutual funds, and insurance companies). Such securities are "qualifying securities" for purposes of this part.

§ 341.2 Definitions.

For the purpose of this part, including all forms and instructions promulgated for use in connection herewith, unless the context otherwise requires:

(a) The term "transfer agent" means any person who engages on behalf of an issuer of qualifying securities or on behalf of itself as an issuer of qualifying securities in (1) countersigning such securities upon issuance; (2) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (3) registering the transfer of such securities; (4) exchanging or converting such securities; or (5) transferring record ownership of securities by bookkeeping entry without physical issuance of such securities certificates. The term "transfer agent" includes any person who performs these functions as a co-transfer agent with respect to equity or debt issues, and any person who performs these functions as registrar or co-registrar with respect to debt issued by corporations.

Note.—The following examples are illustrative of the kinds of activities engaged in by transfer agents under this part.

(1) A transfer agent of stock or shares in a mutual fund maintains the records of shareholders and transfers stock from one shareholder to another by cancellation of the surrendered certificates and issuance of new certificates in the name of the new shareholder. A co-transfer agent also performs these functions.

(2) A registrar of stock or shares in a mutual fund monitors the issuance of such securities to prevent over-issuance of shares, affixing its signature of each stock certificate issued to signify its authorized issuance. A co-registrar also performs these functions.

(3) A registrar of corporate debt securities maintains the records of ownership of registered bonds; makes changes in such records; issues, transfers, and exchanges such certificates; and monitors the securities to prevent over-issuance of certificates. A co-registrar also performs these functions.

(b) The term "Act" means the Securities Exchange Act of 1934.

(c) The acronym "ARA" means the appropriate regulatory agency, as defined in section 3(a)(34)(B)(iii) of the Act.

(d) The phrase "Federal bank regulators" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(e) The term "Form TA–1" means the form and any attachments to that form, whether filed as a registration or an amendment to a registration.

(f) The term "registrant" means the entity on whose behalf Form TA–1 is filed.

(g) The acronym "SEC" means the Securities and Exchange Commission.

(h) The term "insured nonmember bank" means a bank whose deposits are insured by the Federal Deposit Insurance Corporation and that is not a member of the Federal Reserve System.

(i) The term "qualifying securities" means:

(1) Securities registered on a national securities exchange;

(2) Securities issued by a company or bank with 500 or more shareholders *and* $1 million or more in total assets, except for securities exempted from registration with the SEC by section 12(g)(2) (C, D, E, F and H) of the Act.

§ 341.3 Registration as securities transfer agent.

(a) *Requirement for registration.* Any insured nonmember bank which performs any of the functions of a transfer agent as decsribed in § 341.2(a) with respect to qualifying securities shall register with the FDIC in the manner indicated in this section.

(b) *Application to register as transfer agent.* An application for registration under section 17A(c) of the Act, of a transfer agent for which the FDIC is the approrpriate regulatory agency, as defined in section 3(a)(34)(B)(iii) of the Act, shall be filed with the FDIC at its Washington, D.C. headquarters on Form TA–1, in accordance with the instructions contained therein.

(c) *Effective date of registration.* Registration shall become effective 30 days after the date an application on Form TA–1 is filed unless the FDIC accelerates, denies, or postpones such registration in accordance with section 17A(c) of the Act. The effective date of such registration may be postponed by order for a period not to exceed 15 days. Postponement of registration for more than 15 days shall be after notice and opportunity for hearing. Form TA–1 is available upon request from the Review Unit, Division of Bank Supervision, FDIC, Washington, D.C. 20429.

§ 341.4 Amendments.

(a) Within 60 calendar days following the date on which any information reported at items 1–6 of Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

(b) The filing of an amendment to an application for registration as a transfer agent under § 341.3, which registration has not become effective, shall postpone the effective date of the registration for 30 days following the date on which the amendment is filed unless the FDIC accelerates, denies, or postpones the registration in accordance with section 17A(c) of the Act.

§ 341.5 Withdrawal from registration.

(a) *Notice of withdrawal from registration.* Any transfer agent registered under this part that ceases to engage in the functions of a transfer agent as defined in § 341.2(a) shall file a written notice of withdrawal from registration with the FDIC. A registered transfer agent that ceases to engage in one or more of the functions of transfer agent as defined in § 341.2(a), but continues to engage in another such function, shall not withdraw from registration.

(b) A notice of withdrawal shall be filed with the FDIC at its Washington, D.C. headquarters. Deregistration shall be effective upon receipt of notice of withdrawal by the FDIC. A request for Deregistration form is available from the Review Unit, Division of Bank Supervision, FDIC, Washington, D.C. 20429.

(c) If the FDIC finds that any registred transfer agent for which it is the ARA, is no longer in existence or has ceased to do business as a transfer agent, FDIC shall cancel or deny the registration by order of the Board of Directors.

(d) Registration of a trasfer agent with another ARA shall cancel registration of the transfer agent with FDIC.

§ 341.6 Reports.

Every registration or amendment filed under this section shall constitute a "report" or "application" within the meaning of sections 17, 17A(c), and 32(a) of the Act.

Dated: April 26, 1982.

By order of the Board of Directors.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-11993 Filed 4-30-82; 8:45 am]]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-02]

Rolls-Royce, Ltd., RB211-22B and -524 Series Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require incorporation of fan retention modifications on all Rolls-Royce, Ltd., RB211-22B and -524 series turbofan engines. The proposed AD is needed to prevent possible loss of the fan module following a fan shaft location bearing failure (low pressure (LP) location bearing) which could result in significant aircraft damage. There have been two previous LP location bearing failures which have resulted in loss of the fan module.

DATES: Comments must be received on or before May 30, 1982.

Proposed effective date June 30, 1982.

ADDRESSES: Send comments on the proposed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No., 12 New England Executive Park, Burlington, MA 01803.

The applicable Service Bulletins may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ.

Copies of the Service bulletins are contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: John E. Tigue, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7330.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that failures of LP location bearings in RB211-22B and -524 engines may result in fan shaft failure and subsequent loss of the fan module which may cause significant aircraft damage. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require incorporation of a fan retention device in Rolls-Royce RB211-22B and -524 model turbofan engines.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

ROLLS-ROYCE, LTD. Applies to Rolls-Royce, Ltd., RB211-22B and -524 turbofan model engines.

Compliance required as indicated unless already accomplished.

To preclude possible loss of the fan assembly, install the Rolls-Royce axial fan retention modification as specified in Rolls-Royce Service Bulletin 72-6574, dated February 19, 1982, or later revision approved by the FAA, applicable to RB211-22B, -524B-02, -524B-19, -524B-39, and -524C2-19 engines and as specified in Rolls-Royce Service Bulletin 72-6576, dated February 19, 1982, or later revision approved by the FAA, applicable to RB211-524B3-02, -524-B4-02, and -524D4-19 engines in accordance with the following schedule:

1. Center (fuselage mounted) engines on Lockheed L1011 aircraft by August 31, 1982.

2. Wing mounted engines on Lockheed L1011 and Boeing B747 aircraft by November 30, 1982.

All persons affected by this directive who have not already received the referenced service bulletins from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Regional Office.

Upon request of the operator, an FAA Maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carriers of B-747 and L-1011 aircraft in which the RB211 engines are installed, none of which are believed to be small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-02, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on April 20, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-11944 Filed 4-30-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PSDR-75A; Docket No. 38585]

Statements of General Policy; Hawaiian Joint Fares; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction to Supplemental Notice of Proposed Rulemaking.

SUMMARY: This notice corrects a printing error in the CAB's recent proposal to require certain airlines to provide interline service in Hawaii until the end of 1982. In order to give interested persons adequate time to comment on the corrected proposal, the comment period is extended 20 days.

DATES: Comment period closes June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: At its April 1, 1982 Sunshine Meeting, the Civil Aeronautics Board adopted a supplemental notice of proposed rulemaking (PSDR–75) concerning joint fares in Hawaii. In preparing PSDR–75 for publication, an incorrect version of page 4 was substituted and inadvertently printed in 47 FR 16795, April 20, 1982 and in the Board-printed copy. Because of this clerical error, the comment period is extended 20 days from June 4, 1982 to June 24, 1982. The correct version of the proposed rule change adopted by the Board reads as follows:

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.37 Joint fares.

Except for markets involving Alaska, an air carrier that agrees to interline with another air carrier in an interstate market is required to interline, upon request, with any other air carrier in that or any other interstate market. The carriers are free to negotiate the division and the joint fare level, as long as they make available a joint fare that does not exceed the sum of the actual local unrestricted fares for each carrier's portion of the interline routing. If the carriers are unable to agree, they shall make available a joint fare equal to that sum, and each carrier shall receive its actual local unrestricted fare. A carrier need not agree to the same joint fare and division with all carriers in a market.

Dated: April 27, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–11999 Filed 4–30–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 215, 235, 236 and 812

[Docket No. R–2–974]

Restriction on Use of Assisted Housing

AGENCY: Housing and Urban Development Department.

ACTION: Proposed rule.

SUMMARY: Parts 200, 215, 235, 236 and 12 are being amended to indicate that the Secretary is prohibited from making financial assistance under the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965 available for the benefit of any alien who is not a lawful resident of the United States pursuant to certain provisions of the Immigration and Nationality Act. The amendments implement section 214 of the Housing and Community Development Act of 190 as amended by section 329 of the Housing and Community Development Amendments of 191.

DATE: Comments due: June 2, 192.

ADDRESS: All comments from interested persons should be sent to the Rules Docket Clerk, Office of General Counsel Room 521, Deprtment of Housing and Urban Development 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading of the document. All comments will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

For Parts 215 and 236:

James J. Tahash, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 426–730.

For Part 235:

John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–6720.

For Part 12:

Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–540.

(These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 214 of the Housing and Community Development Act of 190 (42 U.S.C. 1436(a)) prohibited the Secretary from making financial assistance under the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965 available for the benefit of nonimmigrant student-aliens. An interim rule implementing section 214 was issued and became effective on November 17, 191 (46 FR 56421).

Section 329 of the Housing and Community Development Amendments of 191 amended section 214 in its entirety to prohibit the Secretary from making such financial assistance available for the benefit of any alien who is not within one of the following categories: Is lawfully admitted for permanent residence as an immigrant (excluding visitors, tourists, diplomats, and students who enter temporarily with no intention of abandoning residence in a foreign country); entered prior to June 30, 194, has continuously maintained residence, and is not ineligible for citizenship; is lawfully prsent and granted asylum; is lawfully present because permitted by the Attorney General for strictly public interest or emergent reasons; is lawfully present because deportation is withheld by the Attorney General; or is lawfully present as a result of being granted conditional entry before April 1, 190 because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity. Under section 214 as amended by section 329, no specific reference is made to nonimmigrant student-aliens but they are included within the category of aliens who are ineligible for such assistance.

To implement section 214, as amended by section 329, the following regulatory changes are proposed to be made:

1. In Part 200, §§ 200.10-200.13 are being added to provide that financial assistance under sections 235 and 236 of the National Housing Act and section 101 of the Housing and Urban Development Act of 1965 (rent supplement) may not be made for the benefit of ineligible aliens; to define citizen, eligible alien, ineligible alien, and verification consent form; and to specify documentation required to evidence citizenship or eligible alien status (the required documentation is similar to that specified in the Department of Agriculture regulations implementing the Food Stamp program); to require that failure to provide documentation or to consent to its verification shall result in denial or termination of assistance; and to indicate that documentary evidence and information in support of or to verify citizenship or alien status shall be deemed to have been submitted in confidence and shall be safe-guarded to restrict their use or disclosure.

2. In Part 215:

a. Section 215.1(i) is revoked to remove the definition of nonimmigrant student-alien.

b. Section 215.20(b)(2) is revised to provide that rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 may not be made for the benefit of ineligible aliens; to specify documentation required to evidence citizenship or eligible alien status, and to required that tenant-lessees and cooperative members made ineligible as a consequence of occupancy by an ineligible alien be given written notice of the termination of assistance at least 30 days prior to expiration of the current lease or occupancy agreement.

3. In Part 235:

a. Sections 235.5(g), 235.10(e), 235.325(c), and 235.375(a)(5) are revoked since they dealt with nonimmigrant student-aliens.

b. Sections 235.375(a)(1) and 235.375(e) are amended by deleting references to nonimmigrant student aliens.

c. Section 235.13 is added, to provide that all mortgagors and cooperative members, regardless of their ages, and all other persons 18 years of age who occupy the property or cooperative unit must be citizens or eligible aliens at the time of application for assistance, purchase of a cooperative unit, assumption of a mortgate, assignment of a mortgage to the Secretary, or request for reinstatement; and that mortgagees shall certify to the Secretary after review of documentary evidence that all such persons are eligible to receive assistance; and that commitments to insure mortgages will not be issued or renewed unless such certification has been made.

4. In Part 236:

a. Section 236.2(*l*), which refers to nonimmigrant student-aliens, is revoked.

b. Section 236.70 is amended as follows: Paragraph (a) is revised so as to delete the reference to nonimmigrant student-aliens, insert a reference to cooperative members and indicate that initial occupancy by ineligible aliens will not be permitted at less than fair market rents. Paragraph (d) is revised to provide that ineligible aliens are not entitled to the benefits of financial assistance under section 236 of the National Housing Act. The text of Paragraph (d) is similar to the text of § 215.20(b)(2), relating to rent supplement payments.

c. Section 236.710 is amended as follows: Paragraphs (a) and (b) are redesignated as paragraphs (a)(1) and (2). A new paragraph (b) is added to provide that rental assistance payments may not be made for the benefit of ineligible aliens, and paragraph (c), which refers to nonimmigrant student-aliens, is revoked.

5. In Part 812:

a. Section 812.1 is amended to state that Part 812 prohibits assistance under the United States Housing Act for the benefit of ineligible aliens.

b. Section 812.2(d) is amended to include within the definition of family the requirement that family members who are tenant-lessees, cooperative members or homebuyers, regardless of their ages, and other members of the family 18 years of age or older must be citizens or eligible aliens, with such status documented and subject to verification in accordance with new §§ 812.5 and 812.6.

c. Section 812.2(g) is amended by deleting the definition of nonimmigrant student-aliens and inserting instead a definition of eligible alien.

d. Paragraphs (h), (i) and (j) are added to define ineligible alien, citizen, and verification consent form.

e. New §§ 812.5 and 812.6 are added to specify documentation required to evidence citizen or eligible alien status (the documentation is similar to that specified in the Department of Agriculture regulations at 7 CFR Part 273 implementing the Food Stamp Program); to require that failure to provide documentation or consent to its verification shall result in denial or termination of assistance; and to indicate that documentary evidence and information in support of or to certify citizenship or eligible alien status shall be deemed to have been submitted in confidence and shall be safe-guarded to restrict their use or disclosure.

f. A new § 812.7 is added to provide that on or after (insert effective date of this rule) assistance under the United States Housing Act of 1937 may not be made for the benefit of any ineligible alien and to require that tenant-lessees and cooperative members and homebuyers made ineligible as a consequence of occupancy by an ineligible alien must be given written notice of the termination of assistance at least 30 days prior to expiration of the current term of the lease or occupancy agreement.

The regulatory changes proposed in this proceeding will supercede, in their entirety, the regulatory provisions adopted by the interim rule implementing the 1980 enactment regarding nonimmigrant student aliens. In this connection, the Department notes that two comments were received during the public comment period on the interim rule, both from housing authorities. Neither included any comment on a specific provision of the interim rule; one said that it was "long overdue," and the other criticized the Department for not implementing the broader prohibitions enacted in 1981 at the same time.

The regulatory changes proposed in this proceeding implement a statutory directive. The documentary requirements for establishing citizenship and alien status, which were not addressed in the interim rule pertaining to nonimmigrant student aliens, are based on existing requirements of the Food Stamp program and, on that basis, prior public comment regarding such requirements may not appear necessary. However, the requirements will be new to owners, mortgagees, and public housing authorities who will be called upon to administer them. In addition, this proceeding entails the exercise of Secretarial discretion in certain areas not specifically addressed in the legislation, particularly the impact of the eligibility limitations upon households which may include both eligible and ineligible members. For these reasons, the Secretary deems it appropriate and advisable to publish these regulatory changes as a proposed rule, thus affording an opportunity for prior public comment before the requirements are made effective. In view of the strong statutory mandate, however, the public comment period will be limited to 30 days in order that a final rule may be published without unnecessary delay.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 5218, 451 7th Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b), the undersigned hereby certifies that this

rule does not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance numbers are: 14.103, Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families; 14.105, Interest Reduction-Homes for Lower Income Families; 14.146, Low Income Housing-Assistance Program (Public Housing); 14.147, Low Income Housing-Homeownership Opportunities for Low-Income Families; 14.149, Rent Supplements-Rental Housing for Lower Income Families; and 14.156, Lower-Income Housing Assistance Program (Section 8).

This rule was not listed in the Department's most recent Semiannual Agenda of regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards.

24 CFR Part 215

Grant programs—housing and community development, Rent subsidies.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs–housing and community development.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 812

Low and moderate income housing.

Accordingly, 24 CFR Parts 200, 215, 235, 236 and 812 are proposed to be amended as follows:

PART 200—INTRODUCTION

Subpart G—Restrictions on Use of Assisted Housing

1. The Title of Subpart G is changed to read "Restrictions on Use of Assisted Housing" as set forth above.

2. Sections 200.180–200.183 are added to Subpart G, as follows:

§ 200.180 Restrictions on eligibility for assisted housing.

Financial assistance pursuant to section 235 of the National Housing Act (12 U.S.C. 1715z), section 236 of the National Housing Act (12 U.S.C. 1715z–1), or section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) may not be made for the benefit of any alien unless that alien is a resident of the United States and one of the following:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 1101(a)(20)), excluding, among others, alien visitors, toursts, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(b) An alien who entered the United States prior to June 30, 1948, or such subsequent date as enacted by law, has continuously maintained his/her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

(d) An alien who is lawfuly present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

(f) An alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

§ 200.181 Definitions.

As used in this subpart, the following words mean—

(a) *Citizen.* A citizen of the United States.

(b) *Eligible alien.* An alien who meets the requirements contained in § 200.180.

(c) *Ineligible alien.* An alien who does not meet the requirements contained in § 200.180.

(d) *Verification consent form.* A document prescribed by the Department which provides that (1) the form itself, (2) copies of citizenship or alien status documents or information contained therein, and (3) other documentary information furnished by or for any person claiming to be a citizen or eligible alien that is reasonable and necessary to verify such status, may be made available to the Department, which may release any or all such documents or information to other Federal, State or local government agencies, including the Social Security Administration and the Immigration and Naturalization Service, for verification purposes. Further, the form shall provide that any such government agency may release any information or documents relating to the verification of citizenship or alien status to the Department.

§ 200.182 Evidence of citizenship or eligible alien status

Applicants for assistance, and tenant-lessees and cooperative members receiving assistance pursuant to sections 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965, shall furnish documentary evidence of citizenship or eligible alien status and accompanying signed verification consent forms for themselves regardless of their ages, and for all other persons 18 years of age or older who will or do occupy the housing unit. Failure to provide documentary evidence and verification consent forms required by this section shall result in denial or termination of assistance in accordance with Parts 215, 235 and 236 of this title.

(a) *Citizenship status.* (1) Each person claiming to be a citizen shall produce the original or a certified copy of one of the following documents to evidence citizenship if such documentation has not been produced previously pursuant to this paragraph:

(i) U.S. Passport;

(ii) Birth Certificate;

(iii) Naturalization Certificate;

(iv) U.S. Citizenship Identification Card (INS form I–197);

(v) Commuter Status Card (INS form I–178);

(vi) Military Discharge Form (DD214); or

(vii) Selective Service Certificate of Registration (Form SSS2).

(2) If none of the above documents can be obtained and a person claiming to be a citizen can provide a reasonable explanation, the person may submit a signed collateral statement from a third party who can produce one of the above documents to demonstrate that he/she is a citizen, in which the third party under penalty of perjury swears that the person for whom documentation is unavailable is a citizen.

(b) *Eligible alien status.* (1) Each person claiming to be an eligible alien shall produce in original form one of the following documents to evidence eligible status:

(i) Form I–151, Alien Registration Receipt Card (for permanent resident aliens);

(ii) Form I–551, Alien Registration Receipt Card (for permanent resident aliens);

(iii) Form I–181B, Processed for I–551, Temporary Evidence of Lawful Admission for Permanent Residence (for permanent resident aliens);

(iv) Form AR–3a, Alien Registration Receipt Card (Issued during 1941–1949 for permanent resident aliens);

(v) Form I–94, Arrival-Departure Record (Annotated either "Section 207" or "Refugee," or "Section 208" or "Asylum");

(vi) Form I–94, Arrival-Departure Record—Parole Edition (Annotated "Section 212(d)(5)," or "Conditional Entry" or "Section 203(a)(7)"); or

(vii) Form I–94, Arrival-Departure Record (Annotated Section 243(h)).

(2) The following documents may not be considered evidence of eligible alien status:

(i) Form I–94, Arrival-Departure Record: Annotated with any codes "A" through "L" for Non-Immigrants (for temporary resident aliens);

(ii) Form I–95A, Crewman's Landing Permits (for alien visitors);

(iii) Form I–144, Mexican Border Visitors Permit;

(iv) Form I–185, Nonresident Alien Canadian Border Crossing Card;

(v) Form I–186, Nonresident Alien Mexican Border Crossing Card;

(vi) Unnumbered form, Nonresident Alien Canadian Border Crossing Identification Card; or

(vii) Any Foreign issued Visa.

§ 200.183 Records.

(a) *Documentation at certification or recertification of income eligibility.* Documentation required by § 200.182 by or for persons described therein shall be furnished to the owner or mortgagee, as appropriate, upon any certification or recertification of income eligibility subsequent to (insert effective date of this rule) except that citizens shall not be required to furnish such documentation more than once. A photocopy of each document (or the original if released by such person), and a signed verification consent form shall be retained by the owner or mortgagee.

(b) *Responsibility for Documentation.* The owner/mortgagee shall furnish each applicant, tenant-lessee or cooperative member a list of the documents identified in § 200.182 and a verification consent form. Applicants, tenant-lessees or cooperative members have the responsibility for providing such documentary evidence for themselves and others as set forth in § 200.182.

(c) *Disclosure.* Documents and information evidencing or pertaining to citizenship or alien status, including the verification of such status, obtained by the owner or mortgagee, as appropriate, from persons described in § 200.182 or from Federal, State or local government agencies shall be deemed to have been submitted in confidence. All such documents and information shall be safeguarded appropriately to restrict their use or disclosure by such owner or mortgagee to persons directly connected with the verification of such status or the administration or enforcement of the financial assistance programs set forth in § 200.180.

PART 215—RENT SUPPLEMENT PAYMENTS

§ 215.1 [Removed]

3. Section 215.1(i) is removed.

4. Section 215.20(b)(2) is revised to read:

§ 215.20 Qualified tenant.

* * * * *

(b)(1) * * *

(2) Rent supplement payments shall not be approved or made unless applicants, tenant-lessees or cooperative members regardless of their ages, and all other person 18 years of age or older, who will or do occupy the housing unit on or after (insert effective date of this rule) are citizens or eligible aliens as defined in § 200.181, who have provided documentary evidence of such status and verification consent forms in accordance with §§ 200.182 and 200.183 of this chapter. If any such tenant-lessee or cooperative member, or any such other occupant, is an ineligible alien as defined in § 200.181 and is receiving the benefit of assistance under this part on or after (insert effective date of this rule), the benefit of such assistance shall terminate upon the expiration of the current term of the lease or occupancy agreement unless each ineligible alien has vacated the housing unit on or before the expiration date. With respect to rental projects tenant-lessees must be given at least 30 days advance written notice by the owner that upon the expiration of the current lease the assistance will terminate, the reason(s) therefor, and that the lease will not be renewed. This notice shall give the option of vacating the unit or, subject to compliance with all other conditions of continued occupancy, entering into a new lease without receiving the benefit of rent supplement payments. If tenant-lessees can demonstrate to the owner that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded. With respect to cooperative projects the cooperative corporation or association shall notify cooperative members at least 30 days in advance of the expiration of the current occupancy agreement that their portion of rent supplement assistance shall terminate, the reason(s) therefor, and that their share of the carrying charge under any renewal of the occupancy agreement shall be increased by the amount of the terminated assistance. If cooperative members can demonstrate to the cooperative corporation or association that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.5 [Removed]

5. Section 235.5(g) is removed.

§ 235.10 [Removed]

6. Section 235.10(e) is removed.

7. Section 235.13 is added, to read as follows:

§ 235.13 Ineligible alien mortgagors and cooperative members.

(a) On and after (insert effective date of this rule), a mortgagor or cooperative member is not qualified to receive assistance payments at the time of (1) application for assistance, (2) purchase of a cooperative membership, (3) assumption of a mortgage, (4) assignment of a mortgage to the Secretary, or (5) request for reinstatement unless the mortgagor or cooperative member regardless of age, and any other person 18 years of age or older who will or does occupy the property or cooperative unit, is a citizen or eligible alien as defined in § 200.181 of this chapter.

(b) The mortgagee shall review the documentation furnished in accordance with §§ 200.182 and 200.183 of this chapter to determine that all persons described in paragraph (a) of this section are eligible to receive assistance at the time of the events specified in paragraph (a) of this section and shall certify to the Secretary that based upon such review all such persons are eligible at the time of application, purchase of the cooperative membership, assumption of the mortgage, assignment of the mortgage to the Secretary or request for reinstatement. If at a time of such event the mortgagee cannot make such a certification because one or more of such persons is an ineligible alien, the mortgagee shall notify the mortgagor or cooperative member of its ineligibility for such assistance until it has demonstrated to the mortgagee that no ineligible alien will or does occupy the property or cooperative unit.

(c) Commitments to insure mortgages under this part will not be issued or be renewed after (insert effective date of this rule), and no mortgage executed after (insert effective date of this rule) will be endorsed for insurance under this part unless the mortgagee has made the certification required in paragraph (b) of this section.

§ 235.325 [Amended]

8. Section 235.325(c) is removed.

§ 235.375 [Amended]

9. Section 235.375(a)(1)is amended by removing the second sentence.

10. Section 235.375(a)(5) is removed.

11. Section 235.375(e) is amended by removing the last sentence.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

§ 236.2 [Amended]

12. Section 236.2(l) is removed.

13. Section 236.70(a) and (d) are revised to read:

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* (1) Initial occupancy in a project by tenant lessees or cooperative members who will be charged less than the fair market rental or fair market carrying charge shall be restricted to individuals and families which the mortgagor determines meet the income requirements established by the Commissioner. (2) On or after (insert effective date of this rule) initial occupancy under subparagraph (1) of this paragraph shall not be permitted when a tenant-lessee or cooperative member, regardless of age, or any other person 18 years of age or older who will occupy the unit, is an ineligible alien as defined in § 200.181 of this chapter.

* * * * *

(d) *Ineligible aliens.* Continued occupancy on or after (insert the effective date of this rule) by a tenant-lessee or cooperative member, regardless of age, or by any other person 18 years of age or older who is an ineligible alien as defined in § 200.181 of this chapter shall only be permitted at the fair market rent as described in § 236.55(a)(4), or the fair market carrying charge, as appropriate. A monthly rent or carrying charge of less than the fair market rent or fair market carrying charge shall only be permitted when tenant-lessees or cooperative members regardless of their ages, and all other persons 18 years of age or older who occupy the housing unit, are citizens or eligible aliens, who have provided documentary evidence of such status and verification consent forms in accordance with §§ 200.82 and 200.183 of this chapter. If any such tenant-lessee or cooperative member, or any such other occupant, is an ineligible alien and is receiving the benefit of assistance under this part on or after (insert effective date of this rule) the benefit of such assistance shall terminate upon the expiration of the current term of the lease or occupancy agreement unless the ineligible alien has vacated the housing unit on or before the expiration date. With respect to rental projects the tenant-lessee must be given at least 30 days advance written notice by the owner that the assistance will be terminated upon the expiration of the current lease, the reason(s) therefor, and that the lease will not be renewed. This notice shall give the option of vacating the unit or, subject to compliance with all other conditions to continued occupancy, entering into a new lease at the fair market rent. If the tenant-lessee can demonstrate to the owner that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded. With respect to cooperative projects the cooperative corporation or association shall notify cooperative members at least 30 days in advance of the expiration of the current occupancy agreement that they shall no longer be entitled to pay a carrying charge less than the fair market carrying charge, the reason(s) therefor, and that they shall have to pay the fair market carrying charge under any renewal of the occupancy agreement. If the cooperative member can demonstrate to the cooperative corporation or association that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded.

14. In § 236.710 the letter (a) is inserted before the introductory paragraph,the present letters (a) and (b) are redesignated (1) and (2) respectively, paragraph (c) is removed, and a new paragraph (b) is added to read as follows:

§ 236.710 Qualified tenant.

(a) * * *

(1) * * *

(2) * * *

(b) On or after (insert effective date of this rule) rental assistance payments shall only be approved or made when applicants, tenant-lessees or cooperative members regardless of their ages, and all other persons 18 years of age or older who occupy the housing unit, are citizens or eligible aliens, who have provided documentary evidence of such status and verification consent forms in accordance with §§ 200.182 and 200.183 of this chapter. If any such tenant-lessee or cooperative member, or any such other occupant, is an ineligible alien as defined in § 200.181 and is receiving the benefit of assistance under this subpart on or after (insert effective date of this rule) the benefit of such assistance shall terminate upon the expiration of the current term of the lease or occupancy agreement unless the ineligible alien has vacated the housing unit on or before the expiration date. Notice of termination of assistance payments, including a statement of the reason(s) therefor, shall be included in the notice required by § 236.70(d) for the termination of assistance under that section A rescission of the notice required by § 236.70(d) shall result in a rescission of this notice.

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS: OCCUPANCY BY SINGLE PERSONS

15. Section 812.1 is revised to read as follows:

§ 812.1 Purpose and scope.

The purpose of this part is to establish a definition of the term Family and other related terms applicable to all housing assisted under the United States Housing Act of 1937 (the Act). In addition, this part prescribes criteria and procedures for occupancy in low-income and lower-income housing projects assisted under the Act by Single Persons who are not otherwise eligible by reason of qualification as an Elderly Family or as a Displaced Person or as the remaining member of a tenant family. This part also incorporates the statutory 10 percent limitation. (See

§ 812.3(f).) This part is applicable to all housing assisted under the Act. This part also contains the provisions relating to the prohibition against providing assistance under the Act to ineligible aliens.

16. Section 812.2 is revised by amending paragraphs (d) and (g) and adding new paragraphs (h), (i) and (j), as follows:

§ 812.2 Definitions.

* * * * *

(d) *Family.* "Family" includes but is not limited to (1) Elderly Family or Single Person as defined in this part, (2) the remaining member of a tenant family, and (3) a Displaced Person: *Provided, however,* That family members who are tenant-lessees, cooperative members, or homebuyers as defined in Part 804 of this chapter, regardless of their ages, and all other occupants of the unit who are 18 years of age or older, are citizens or eligible aliens as defined in paragraph (g) of this section, who have provided documentary evidence of such status and verification consent forms in accordance with §§ 812.5 and 812.6. In accordance with § 812.7 assistance under the Act shall be denied to ineligible aliens as defined in paragraph (h) of this section.

* * * * *

(g) *Eligible alien. An eligible alien is:*

(1) An alien lawfuly admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and (101)(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)and 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residences in a foreign country.

(2) An alien who entered the United States prior to June 30, 1948, or such subsequent date as enacted by law, has continuously maintained his/her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated), under section 208 of such Act (8 U.S.C.1158);

(4) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(5) An alien who is lawfully present in the United States as a result of an exercise of descretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

(6) An alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253h)).

(h) *Ineligible alien.* An alien who does not meet the requirements contained in paragraph (g) of this section.

(i) *Citizen.* A citizen of the United States.

(j) *Verification consent form.* A document prescribed by the Department which provides that (1) the form itself, (2) copies of citizenship or alien status documents or information contained therein, and (3) other documentary information furnished by or for any person claiming to be a citizen or eligible alien that is reasonable and necessary to verify such status, may be made available to the Department, which may release any or all such documents or information to other Federal, State or local government agencies, including the Social Security Administration and the Immigration and Naturalization Service, for verfication purposes. Further, the form shall provide that any such government agency may release any information or documents relating to the verification of citizenship or alien status to the Department.

17. A new § 812.5 is added, as follows:

§ 812.5 Evidence of citizenship or eligible alien status.

Applicants for assistance, and tenant-lessees, cooperative members and homebuyers receiving assistance pursuant to the Act, shall furnish documentary evidence of citizenship or eligible alien status as required by this section and accompanying signed verification consent forms for themselves regardless of their ages, and for all other persons 18 years of age or older who will or do occupy the housing unit. Failure to provide documentary evidence and verification consent forms required by this section shall result in denial or termination of assistance in accordance with this part.

(a) *Citizenship Status.* (1) Each person claiming to be a citizen shall produce the original or a certified copy of one of the following documents to evidence citizenship if such documentation has not been produced previously pursuant to this paragraph:

(i) U.S. Passport;

(ii) Birth Certificate;

(iii) Naturalization Certificate;

(iv) U.S. Citizenship Identification Card (INS form I–197);

(v) Commuter Status Card (INS form I–178);

(vi) Military Discharge Form (DD214); or

(vi) Selective Service Certificate of Registration (Form SSS2).

(2) If none of the above documents can be obtained and a person claiming to be a citizen can provide a reasonable explanation, the person may submit a signed collateral statement from a third party who can produce one of the above documents to demonstrate that he/she is a citizen, in which the third party under penalty of perjury swears that the person for whom documentation is unavailable is a citizen.

(b) *Eligible alien status.* (1) Each person claiming to be an eligible alien shall produce in original form one of the following documents to evidence eligible status:

(i) Form I–151, Alien Registration Receipt Card (for permanent resident aliens);

(ii) Form I–551, Alien Registration Receipt Card (for permanent resident aliens);

(iii) Form I–181B, Processed for I–551, Temporary Evidence of Lawful Admission for Permanent Residence (for permanent resident aliens);

(iv) Form AR–3a, Alien Registration Receipt Card (Issued during 1941–1949 for permanent resident aliens);

(v) Form I–94, Arrival-Departure Record (Annotated either "Section 207" or "Refugee," or "Section 208" or "Asylum");

(vi) Form I–94, Arrival-Departure Record—Parole Edition (Annotated Section 212(d) (5)," or "Conditional Entry" or "Section 203(a) (7)"); or

(vii) Form I–94, Arrival-Departure Record (Annotated Section 243(h)).

(2) The following documents may not be considered evidence of eligible alien status:

(i) Form I–94, Arrival-Departure Record: Annotated with any codes "A" through "L" for Non-Immigrants (for temporary resident aliens);

(ii) Form I–95A, Crewman's Landing Permits (for alien visitors);

(iii) Form I–144, Mexico Border Visitors Permit;

(iv) Form I–185, Nonresident Alien Canadian Border Crossing Card;

(v) Form I–186, Nonresident Alien Mexican Border Crossing Card;

(vi) Unnumbered form, Nonresident Alien Canadian Border Crossing Identification Card; or

(vii) Any Foreign issued Visa.

18. A new § 812.6 is added as follows:

§ 812.6 Records.

(a) *Documentation at certification or recertification of income eligibility.* Documentation required by § 812.5 by or for persons described therein shall be furnished to the owner or PHA, as appropriate, upon any certification or recertification of income eligibility subsequent to (insert effective date of this rule) except that citizens shall not be required to furnish such documentation more than once. A photocopy of each document (or the original if released by such person), and a signed verification consent form shall be retained by the owner or PHA, as appropriate.

(b) *Responsibility for Documentation.* The owner or PHA, as appropriate, shall furnish each applicant, tenant-lessee, cooperative member or homebuyer a list of the documents identified in § 812.5 and a verification consent form. Applicants, tenant-lessees, cooperative members and homebuyers have the responsibility for providing such documentary evidence for themselves and others as set forth in § 812.5.

(c) *Disclosure.* Documents and information evidencing or pertaining to citizenship or alien status, including the verification of such status, obtained by the owner or PHA, as appropriate, from persons described in § 812.5 or from Federal, State or local government agencies shall be deemed to have been submitted in confidence. All such documents and information shall be safeguarded appropriately to restrict their use or disclosure by such owner or PHA to persons directly connected with the verification of such status or the administration or enforcement of the financial assistance programs set forth in this chapter.

19. A new § 812.7 is added, as follows:

§ 812.7 Occupancy by Ineligible Aliens.

(a) On or after (insert effective date of this rule) assistance under the Act shall only be provided to a family as defined in § 812.2.

(b) If a housing unit is occupied on or after (insert effective date of this rule) by an ineligible alien as defined in § 812.2, who is a tenant-lessee, cooperative member or homebuyer, regardless of age, or who is an other occupant 18 years of age or older, then assistance under the Act shall be terminated as follows:

(1) For public housing as defined in the Act, except for housing assisted under the Section 23 Housing Assistance Payments program under Part 800 of this chapter, the benefit of such assistance shall terminate with respect to all occupants of the unit upon the expiration of the current term of the lease unless the ineligible alien has vacated the housing unit on or before the expiration date. The public housing agency shall give the tenant-lessee at least 30 days advance written notice that the assistance will be terminated, the reason(s) therefor, that the lease will not be renewed, and that the tenant-lessee and all other occupants will be required to vacate the unit. If the tenant-lessee can demonstrate to the PHA that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded.

(2) For all other rental or cooperative housing assisted under the Act, the benefit of such assistance shall terminate with respect to all occupants of the unit upon the expiration of the current term of the lease or occupancy agreement unless the ineligible alien has vacated the housing unit on or before the expiration date. The owner, or cooperative association, shall give the tenant-lessee, or cooperative member at least 30 days advance written notice to this effect, with the reason(s) therefor, and shall give the lessee or cooperative member the option of vacating the unit, or subject to compliance with all other conditions to continued occupancy, entering into a new lease or occupancy agreement without receiving further assistance under the Act. If the tenant-lessee or cooperative member can demonstrate to the owner or cooperative association that no such ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded.

(3) For the Turnkey III program under Part 804 of this chapter, the local housing authority shall give the homebuyer (who has not taken title to a housing unit) at least 30 days advance written notice that the Homebuyers Ownership Opportunity Agreement and assistance under the Act will both be terminated, with the reason(s) therefor, and that the homebuyer will be required to vacate the unit. If the homebuyer can demonstrate to the local housing authority that no ineligible aliens will occupy the housing unit after the expiration date, this notice shall be rescinded.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a))

Dated: March 26, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-11840 Filed 4-30-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Availability of Environmental Assessment and Proposed Finding of No Significant Impact, and Intent to Prepare a Supplemental Environmental Impact Statement

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

ACTION: Notice of Availability of Environmental Assessment (EA); Proposed Finding of No Significant Impact (FONSI); and Notice of Intent (NOI) to Prepare a Supplemental Environmental Impact Statement (EIS).

SUMMARY: OSM is making available for public review and comment an EA covering the cumulative environmental impacts of a number of revisions proposed for the permanent program regulations promulgated under Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The EA indicates that several of the proposed revisions could cause potentially significant impacts on hydrology, wildlife, land use, social conditions, and cultural resources.

OSM also has prepared and is making available for 30 days of public review and comment a proposed FONSI for a number of the proposed regulations analyzed in the EA. The proposed FONSI incorporates the EA by reference, presents the reasons why promulgation of a number of the revised regulations would not cause or contribute to any significant effect on the quality of the human environment, and concludes that the preparation of an EIS for these regulations is not required. After the 30 day review period has expired OSM will consider any comments received, and if appropriate prepare a final FONSI. The final FONSI will reflect any issues that will be considered in the supplemental EIS discussed below.

To comply with section 102(2)(C) of the National Environmental Policy Act (NEPA), OSM intends to prepare a supplemental EIS covering those of the revised regulations that may or would significantly affect the quality of the human environment, or for which there is public controversy over their impact. Therefore, OSM is issuing this notice of intent (NOI) to prepare a supplemental EIS for those proposed revisions which the EA has indicated would cause significant impacts, as well as any additional proposed revisions which OSM decides to include as a result of public controversy, or finds could cause significant impacts based on public comments on the EA and proposed FONSI. OSM will conduct two scoping meetings to help determine the scope of the issues to be addressed in the supplemental EIS, and identify significant issues and alternatives.

DATES: The comment period for the EA and proposed FONSI will extend until 5:00 p.m. on June 2, 1982. The public meetings on the scope of the supplemental EIS will be held at 9:00 a.m., local time, on May 18, 1982, at the addresses listed below.

ADDRESSES: Written comments on the EA and proposed FONSI must be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315, 1100 L St. NW, Washington D.C. 20240. Public meetings on the scope of the supplemental EIS will be held at the following locations:

Washington—OSM Headquarters, Interior South Building, Conference Room 220, 1951 Constitution Avenue, NW., Washington, D.C.;

Denver—OSM Western Technical Service Center, Brooks Tower, Conference Room, 1020 15th Street, Denver, Colorado

FOR FURTHER INFORMATION CONTACT: Frank Anderson, Chief, Division of Environmental and Economic Analysis, Office of Surface Mining, 1951 Constitution Ave. NW., Rm 134, Washington, DC 20240; Telephone: 202–343–5854.

SUPPLEMENTARY INFORMATION:

Public Comments

Comments on the EA and proposed FONSI should be submitted to OSM in writing and be as specific as possible. OSM appreciates any and all comments, but those most useful and likely to influence decisions in the preparation of the final FONSI are those which will provide facts and analyses to support any recommendations or conclusions.

Public Comment Period

The comment period on the EA and proposed FONSI will extend until June 2, 1982. All comments must be submitted in writing and received at the OSM Administrative Record Room by 5:00 p.m. on that date. Comments received after that deadline may not be included in the Administrative Record or considered in the preparation of the final FONSI. OSM cannot assure that written comments received or delivered during the comment period at locations other than that specified above will be considered or included in the Administrative Record.

Availability of Copies

Copies of the EA and proposed FONSI may be obtained from the following OSM offices:

Office of Surface Mining, U.S. Department of the Interior, Interior South Building, Room 134, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: 202/343–5854;

Office of Surface Mining, U.S. Department of the Interior, Administrative Record, 1100 L Street, NW., Room 5315, Washington, D.C. 20240; Telephone: 202/343–7896;

Office of Surface Mining, Eastern Technical Service Center, Deputy Administrator's Office, Ten Parkway Center, Pittsburgh, Pennsylvania 15220; Telephone: 414/644–4462;

Office of Surface Mining, Western Technical Service Center, Administrator's Office, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; Telephone: 303/837–5421.

Public Scoping Meetings

At this time OSM is considering the appropriate scope of the supplemental EIS. The scoping process will include consideration of any timely written comments received on the EA, the proposed FONSI, or this NOI.

Public meetings on the scope of the supplemental EIS will be held on May 18, 1982, at 9:00 a.m., local time in Washington, D.C., and Denver, Colorado.

The nature and format of the hearings will depend on the number of people who attend. A small number of participants will allow for informal working groups, as well as the submission of written comments. A larger number of participants will require a more structured meeting where individual presentations may be limited.

The scoping meetings will continue on the day identified until 5:00 p.m., or until all those in attendance have had a chance to comment.

Background Information

OSM is proposing to revise a number of its permanent program regulations (30 CFR Chapter VII), which regulate the surface effects of coal mining and reclamation. These regulations are required by SMCRA and conform to the provisions of Title V of that Act. The specific regulations OSM is proposing for revision are identified in the environmental assessment.

Executive Order 12291 (46 FR 13193, February 19, 1981), requires Federal agencies to review regulations that are currently in effect and revise them as necessary to reduce their burdens, to minimize duplication and conflict between them, and to ensure that they are well reasoned. In response to this Executive Order, OSM is reviewing its permanent program regulations and is proposing to eliminate those regulations that are excessive, burdensome, or counterproductive and to replace them with new regulations that meet the intent of SMCRA and are reasonable, cost effective, and enforceable.

Some revisions are also being proposed in response to comments on proposed drafts from States, citizen's groups, and coal company representatives, as documented in the OSM Headquarters Administrative Record. These commenters generally sought to increase the flexibility in the regulations, to account for differences between coal-producing regions, to eliminate unnecessary difficulty and expense in complying with the regulations, and to provide a logical and rational enforcement program. Other revisions are being made in response to legal actions—namely for those regulations that were suspended or remanded by Federal court order. OSM also voluntarily suspended certain permanent program regulations.

Environmental Assessment

The EA complements the final EIS (OSM–EIS–1, 1979) prepared by OSM as a basis for adopting its existing permanent program regulations in Chapter VII of 30 CFR, which govern the surface environmental effects of coal mining. Specifically, the EA covers revisions proposed for 30 CFR Subchapter C (Permanent Regulatory Programs for Non-Federal and Non-Indian Lands), Subchapter F (Areas Unsuitable for Mining), Subchapter G (Permits), Subchapter J (Bonding), Subchapter K (Permanent Program Performance Standards), Subchapter L

(Inspection and Enforcement), and Subchapter M (Blaster Certification).

Significant impacts could be caused mainly by revisions proposed for the regulations that govern the process for designating lands unsuitable for mining (Subchapter F, 30 CFR Parts 760 through 769). Significant impacts on wildlife could be caused by revisions proposed for fish and wildlife standards (Subchapter K, 30 CFR 816.97 and 817.97). Significant impacts on hydrology could be caused by revisions proposed for the regulations that govern permits (Subchapter G, § 780.21). Apart from these cited sections of the regulations, the EA indicates that none of the other proposed revisions would either cause or contribute to significant individual or cumulative impacts on the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. sec. 4332(2)(C).

For those proposed revisions with significant impacts, or which OSM has decided to include as a result of public controversy, OSM intends to prepare a supplement to the final EIS on the Permanent Regulatory Program Implementing Section 501(b) of the SMCRA (OSM–EIS–1, January 1979). The EIS will supplement the final EIS prepared by OSM as a basis for adoption of its original permanent program regulations (OSM–EIS–1, 1979). Major alternatives thus far identified for consideration in the EIS are:

a. No action
b. Adoption of the proposed revisions
c. Selected technical alternatives

The draft Supplemental EIS, which will be published after the final FONSI is issued, will incorporate the EA by reference and concentrate on analyzing any impacts not fully covered by the EA, and particularly those impacts identified as a result of public comments on the EA and proposed FONSI. OSM has determined that in order to insure compliance with NEPA and thorough public participation, the EIS will encompass proposed regulations covering at least the following topics: Permitting, subsidence, concurrent surface and underground mining, roads, remining, excess spoil, alluvial valley floors, hydrology, impoundments, prime farmlands, revegetation, land use/variances, backfilling and grading, fish and wildlife, coal processing waste, topsoil, experimental practices, auger mining, support facilities, blaster certification, coal exploration, OSM oversite enforcement authority, lands unsuitable, State program procedures, two-acre exemption, special bituminous coal mines, prime farmlands cut-off date, use of explosives, and sedimentation ponds. Other proposed regulations will be included in the EIS if OSM determines, as a result of public comment on the EA and proposed FONSI, that they would cause or contribute to significant impacts.

The Supplemental EIS will be prepared in accordance with existing Department of the Interior NEPA procedures. Upon completion, the draft Supplemental EIS will be made available for a 60-day public review and comment period, after which a final EIS will be prepared.

Dated: April 28, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82-12017 Filed 4-30-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL-2108-3]

Designation of Areas for Air Quality Planning Purposes; Alabama: Proposed Redesignation of Ten Counties for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On March 8, 1982, the Alabama Air Pollution Control Commission (the Commission) asked EPA, pursuant to section 107 of the Clean Air Act, to redesignate the following counties attainment for ozone: Monroe, Conecuh, Escambia, Autauga, Elmore, Montgomery, Lowndes, Tuscaloosa, and Bibb. The State submitted air quality data which showed no violation of the ozone standards for these counties. EPA today proposes to change the designation of the above nine counties in Alabama from unclassifiable to attainment for ozone.

On March 8, the Commission also asked EPA to redesignate Etowah County, Alabama nonattainment for ozone based on submitted air quality data. EPA proposes to change the designation of Etowah County to nonattainment for ozone.

DATE: To be considered, comments must be received on or before June 2, 1982.

ADDRESSES: Written comments should be addressed to Ms. Sally Bethea of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 S. McDonough Street, Montgomery, Alabama 36130

FOR FURTHER INFORMATION CONTACT: Ms. Sally Bethea, Air Programs Branch, EPA Region IV, at the above address, telephone 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962 at 8965), EPA made attainment status designations for the State of Alabama and its counties. The following counties were stated to be unclassifiable: Monroe, Conecuh, Escambia, Autauga, Elmore, Montgomery, Lowndes, Tuscaloosa, Bibb, and Etowah. On March 8, 1982, the State submitted air quality data for two ozone seasons, 1980 and 1981, which showed no violations of the ozone standard for nine of the counties. Violations were indicated for Etowah County during the 1980–1981 measurement period. A nonattainment designation for Etowah County will not require the adoption of new control regulations. The State had previously adopted a statewide plan for control of volatile organic compounds in all unclassified or nonattainment areas.

EPA has reviewed the State's data for representativeness, quality, and quantity, and has found them to be acceptable.

Action. EPA today proposes to designate Monroe, Conecuh, Escambia, Autauga, Elmore, Montgomery, Lowndes, Tuscaloosa, and Bibb Counties, Alabama attainment for ozone. EPA today proposes to designate Etowah County, Alabama nonattainment for ozone.

A 30-day comment period is being provided because the submitted redesignations and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments and publish a notice of final rulemaking.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

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

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: April 13, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-11936 Filed 4-30-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

41 CFR Ch. 9

Proposed Amendments to the DOE Procurement Regulations

AGENCY: Energy Department.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the procurement regulations of the Department of Energy (DOE). These changes are designed to provide greater discretion to the Heads of the Procuring Activities in the use of their delegated authority, to provide new guidance and to update the regulations. It is anticipated that these changes will simplify the procurement process and increase the clarity of the regulations.

EFFECTIVE DATE: June 2, 1982.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR INFORMATION CONTACT:

Richard Langston, Procurement Policy Branch, MA931.1, Procurement and Assistance Management, Department of Energy (202) 252-8188;

Elliot Winnick, Office of General Counsel, AGC for Procurement and Financial Incentives, GC44, Department of Energy (202) 252-6902.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Statutory and Regulatory Requirements.
III. Public Comments.

I. Background

Under section 644 of the Department of Energy Organization Act (hereinafter referred to as "the Act") Pub. L. 95-91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in him. Accordingly, the Department of Energy Procurement Regulations (DOE-PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Chapter 9.

This proposed rule amends § 9-3.807-50, "Approvals and waiver," at paragraph (a) in order to simplify and streamline the procurement process by allowing delegation below the Head of Procuring Activity of the authority to approve the findings required by FPR 1-3.807-1(b)(1)(ii)(C) and 1-3.807-3(f)(1); amends § 9-5.5206 in order to delete paragraphs 9-5.5206-6 and 9-5.5206-7 to assure consistency with amendments to the Federal Property Management Regulations and to delete paragraph 9-5.5206-13 as a result of a change being made at 9-5.5207; amends § 9-5.5207-2 to establish a new property category to be titled "Precious Metals" which will include the previous categories of gold and platinum and will be managed by the Oak Ridge Operations Office; amends the Classification and Security clauses at 9-7.103-50 and 9-7.103-53; adds a new paragraph to § 9-7.104-50, "Priorities, Allocations, and Allotments," informing DOE contractors that they may be eligible for priorities and allocations support in ordering necessary materials and equipment for their contracts, if the purpose of such contracts is to maximize domestic energy supplies; amends 9-7.302-57, "Printing," to clarify the definition of printing and the procedures to be followed regarding printing; adds a new § 9-15.205-61 entitled "Printing costs" to note the limitation contained at 9-7.302-57, amends Part 9-23, "Subcontracting Policies and Procedures," to relax the Headquarters review prerequisites, increase emphasis on surveillance, extend the cycle of subsequent reviews, and delegate increased approval authority to the Heads of Procuring Activities; amends § 9-50.5206.6, "Miscellaneous items," to change a citation at paragraph (e), to change the reference at paragraph (1) from the Chicago Operations Office to the Oak Ridge Operations Office, and to remove from paragraph (m) the references to appliances and water coolers inasmuch as Amendment E-247 of the Federal Property Management Regulations (46 FR 34643, July 10, 1981) has changed the procedures for ordering these items; and amends § 9-50.704-33, "Priorities, Allocations and Allotments," to reflect the change proposed at 9-7.104-5 above.

II. Statutory and Regulatory Requirements

A. *Review Under Executive Order 12291.* Inasmuch as this final rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. *Review Under the Regulatory Flexibility Act.* This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, regulatory flexibility analysis has been prepared.

C. *Review Under the Paperwork Reduction Plan Act.* DOE has determined that this rulemaking imposes no information collection and reporting requirements on organizations and individuals external to DOE that may be subject to this regulation in accordance with the Paperwork Reduction Plan Act (44 U.S.C. 3501 *et. seq.).*

D. *Review Under the National Environment Policy Act.* DOE has concluded that promulgation of this final rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et seq.* 1976)), the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and the DOE guidelines (10 CFR Part 1020), and therefore does not require an environmental impact statement pursuant to NEPA.

III. Public Comments

Interested person are invited to participate by submitting data, views of arguments with respect to the proposed DOE-PR amendments set forth in this notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

List of Subjects in 41 CFR Parts 9-3, 9-5, 9-7, 9-15, 9-23, 9-50

Government procurement.

For the reasons set out in the preamble, Chapter 9 or Title 41 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C. April 26, 1982.

Berton J. Roth,

Director, Procurement and Assistance, Management Directorate.

The regulations in 41 CFR Chapter 9 are proposed to be amended as set forth below.

(Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599, (42 U.S.C. 7254))

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of proposed changes; thus, this is Change 6 to indicate that this is the sixth time that DOE has issued a notice of proposed rulemaking for the purpose amending 41 CRR Chapter 9. The second digit is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the sixth notice is identified as Change 6.1.

PART 9-3—PROCUREMENT BY NEGOTIATION

Change 6.1

Section 9-3.807-50, *Approvals and waivers,* is amended by removing the words, "without power of redelegation" from paragraph (a) regarding the authority to approve the findings required by FPR 1-3.807-1(b)(1)(ii)(C) and 1-3.807-3(f)(1). These findings involve determining that a price is not reasonable even though based on adequate price competition or a catalog or market price. The revised text will read:

§ 9-3.807-50 Approvals and waiver.

(a) Heads of Procuring Activities, or their delegees, may approve the findings required by FPR 1-3.807-1(b)(1)(ii)(C) and 1-3.807-3(f)(1) for contracts estimated to be within the limits of the authority delegated to them. In making such delegations, the Heads of the Procuring Activities shall require that either of these approvals be made at a level above the Contracting Officer as is required by FPR 1-3.807-1(b)(1)(ii)(C).

PART 9-5—SPECIAL AND DIRECT SOURCES OF SUPPLY

Change 6.2

Section 9-5.5206, *Miscellaneous items,* is amended by removing and reserving § 9-5.5206-6, *New electric water coolers,* and § 9-5.5206-7, *Appliances.* This revision is necessary as Amendment E-247, of the Federal Property Management Regulations (46 FR 34643, July 10, 1981) changed the manner in which these supply items could be procured. Subsection 9-5.5206-13, "Gold," is also removed and reserved as a result of the change at 6.3 below. The revised text will read:

§ 9-5.5206-6 Miscellaneous items.

* * * * *

§ 9-5.5206-6 [Reserved]

§ 9-5.5206-7 [Reserved]

* * * * *

§ 9-5.5206-13 [Reserved]

Change 6.3

Section 9-5.5207-2, *Platinum,* is amended at both the Table of Contents and the text, to change its title to *Precious metals,* to change the assignment for this item from the Chicago Operations Office to the Oak Ridge Operations Office, and to expand this assignment to include other elements in the platinum family of metals as well as gold and silver. The revised text will read:

§ 9-5.5207-2 Precious metals.

The Oak Ridge Operations Office is responsible for maintaining the DOE supply of precious metals. These metals are platinum, palladium, iridium, osmium, rhodium ruthenium, gold and silver. Oak Ridge Operations has assigned management of these metals to N.L.O., Inc., P.O. Box 39158, Cincinnati, Ohio 45239. Telephone numbers are (513) 738-1151, extension 228 or F.T.S. 774-8228. DOE Offices and cost-type contractors shall coordinate with N.L.O., Inc. regarding the availability of the above metals prior to the purchase of these metals on the open-market.

PART 9-7—CONTRACT CLAUSES

Change 6.4

The clauses set forth at § 9-7.103-50, *Classification,* and § 9-7.103-53, "*Security*" are deleted and replaced by new clauses of the same title. This is necessary to assure compliance with Executive Order 12065, as amended by Excutive Orders 12148 and 12163. The nature of the change in the Classification clause is to provide that only an Authorized Classifier may classify documents and to provide that in instances where such authority is delegated to a contractor, it cannot be redelegated or transferred to others. The changes to the Security clause involve specifying "of 1954" after the reference to the "Atomic Energy Act" in the preamble to the clause, adding the definitions of "Classified Information" and "National Security Information," and adding references to the newly defined category. The text of the new clauses is as follows:

§ 9-7.103-50 Classification.

* * * * *

Classification

In the performance of the work under this contract, the contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and equipment originated or generated under the contract in accordance with classification regulations and guidance furnished to the contractor by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and equipment in accordance with classification regulations and guidance furnished to such subcontractor or supplier by the contractor.

* * * * *

§ 9-7.103-53 Security.

The following clause is required in contracts entered into under section 31 (research assistance) or 41 (ownership and operation of production facilities) of the Atomic Energy Act of 1954, as amended, and in other contracts and subcontracts, the performance of which involves or is likely to involve classified information.

Security

(a) *Contractor's duty to safeguard all classified information.* The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the contractor will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter, and the period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained.

(b) *Regulations.* The contractor agrees to conform to all security regulations and requirements of DOE.

(c) *Definition of classified information.* The term "classified information" means Restricted Data, Formerly Restricted Data, and National Security Information.

(d) *Definition of Restricted Data.* The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) *Definition of Formerly Restricted Data.* The term "Formerly Retricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) *Definition of National Security Information.* The term "National Security Information" means information or material which is owned by, produced for or by, or under the control of the United States Government, which has been determined pursuant to Executive Order 12065 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) *Security clearance of personnel.* The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12065, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(h) *Criminal liability.* It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2100 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12065).

(i) *Subcontracts and purchase orders.* Except as otherwise authorized in writing by the contracting officer, the contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

Change 6.5

Section 9-7.104-50. *Priorities, allocations, and allotments,* is amended by placing a prefix (a) before the existing text, correcting the name of the Department of Commerce group administering this program, and adding a new paragraph (b) to explain that priorities and allocations support may be available to DOE contractors if the purpose of their contract is to maximize domestic energy supplies. The revised text will read:

§ 9-7.104-50 Priorities, allocations, and allotments.

(a) The following clause may be used only in contracts and orders for military and atomic energy production and directly related activity, and supply contracts directly related thereto, where the programs have been authorized pursuant to the Atomic Energy Act of 1954, as amended.

Priorities, Allocations, and Allotments

The contractor shall follow the rules, regulations, and procedures of the Defense Priorities System and the Defense Materials System, Regulation I, and all other applicable regulations and orders of the International Trade Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fill this order.

(b) Other contracts may be eligible for priorities and allocations support if their purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis. Guidance is provided by DOE Publication PR-0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. If the purpose of the contract is to maximize domestic enregy resources, include the following clause:

Priorities, Allocations, and Allotments—Special Clause

This contract may be eligible for priorities and allocations support, as provided for by section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201 *et seq.*) if its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis with the decision being jointly made by the Departments of Commerce and Energy. DOE Regulations regarding Material Allocation and Priority Performance under Contracts or Orders to Maximize Domestic Energy Supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR Part 216).

Additional guidance is provided by DOE Publication PR-0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Technical Information Center (TIC), Post Office Box 62, Oak Ridge, Tennessee 37830.

Change 6.6

The present 9-7.302-57, "Printing," is removed and replaced with new coverage of the same topic. The change is being made to clarify the definition of printing and to provide procedures to be followed by contractor and Government personnel. The revised text will read:

§ 9-7.302-57 Printing.

Title 44, United States Code, "Public Printing and Documents," establishes policies regarding public printing and documents within the Federal Government. It provides that public printing will be accomplished by the Government Printing Office, its regional offices or authorized departmental printing plants. It provides a limited exemption for contractors. Requirements exceeding that limitation are to be accomplished utilizing Government resources. To facilitate this, Contracting Officers shall furnish the necessary forms and instructions to contrators, as called for by DOE Order 1340.1, and include the following clause in all contracts:

Printing

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: *Provided,* however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or not more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches, one side only, one color.

a. The term "printing" includes the following processes: Composition, platemaking, presswork, binding, microform publishing or the end items produced by such processes.

b. If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, contractors shall provide the Contracting Officer with camera ready copy as may be required elsewhere in the contract. The Contracting Officer will arrange for the production, acquisition, and dissemination of printed matter.

c. Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

* * * * *

PART 9-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Change 6.7

New §§ 9-15.205-61, 9-15.303-J.45, and 9-15.603-2.B-61 entitled "Printing costs" are added. The text will read as follows:

§ 9-15.205-61 Printing costs.

The costs of printing as defined at 9-7.302-57 are allowable only to the extent that they are allowed under the limited exemption provided therein.

* * * * *

§ 9-15.303-J.45 Printing costs.

See the limitation at 9-15.205-61.

* * * * *

§ 9-15.603-2.B-61 Printing costs.

See the limitation at 9-15.302-57.

Change 6.8

The existing Table of Contents and text of Part 9-23, "Subcontracting Policies and Procedures," is removed and replaced by the revised Part 9-23 of the same title. This revision is the result of a reassessment of the Contractor Procurement System Review program, which suggested a reduced Headquarters involvment in such reviews. The more significant changes in the revised coverage include (1) relaxing Headquarters review prerequisites, (2) increasing emphasis on surveillance and extending the cycle of subsequent reviews, and (3) delegating increased authority to cognizant HPAs to grant, withhold, or withdraw system approval. The proposed rule contains a number of other less significant changes designed to improve the overall continuity and clarity of the part. The revised text reads:

PART 9-23—SUBCONTRACTING POLICIES AND PROCEDURES

Sec.

9-23.0 Scope of part.

Subpart 9-23.1—Review of contractor procurement systems.

9-23.100 Scope of subpart.
9-23.101 Objectives.
9-23.102 Responsibilities.
9-23.103 Definitions.
9-23.104 Review criteria.
9-23.105 Types of review.
9-23.106 Extent of review.
9-23.107 Review of CPSR reports.
9-23.108 Granting, continuing, withholding, and withdrawing approval.
9-23.109 Disclosure of approval status of a contractor's procurement system.
9-23.110 Surveillance of the contractor's approved procurement system.

§ 9-23.0 Scope of part.

This part sets forth policies and procedures for evaluation, review, and approval of contractor procurement systems. Reliance upon a contractor's approved procurement system will usually eliminate the need for reviewing and approving or consenting to most individual subcontracts. However, programmatic and other considerations will still require Government involvement at an early stage in procurement action planning and some subcontract approvals.

Subpart 9-23.1—Review of Contractor Procurement Systems

§ 9-23.100 Scope of subpart.

This subpart sets forth requirements for conducting contractor procurement system reviews (CPSRs).

§ 9-23.101 Objectives.

The objectives of the reviews are to provide:

(a) A means for evaluating the efficiency and effectiveness with which the contractor manages the procurement function in spending Government funds;

(b) The basis for the Contracting Officer to grant, continue, withhold, or withdraw approval of the contractor's procurement systems;

(c) Reliable current information on contractor procurement systems for use (c) Reliable current information on contractor procurement systems for use contract costs, and establishing profit or fee objectives; and

(d) Current procurement system information for appropriate DOE activities.

§ 9-23.102 Responsibilities.

(a) DOE Contracting Officers, or designees, will conduct CPSRs of DOE cognizant contractors.

(b) Other Federal Agencies/ Departments may be requested to conduct CPSRs, as appropriate, for other than DOE cognizant contractors. DOE Contracting Officers shall normally recognize other Federal Agency/ Department approvals of contractor's procurement systems within the limitations identified by approving officials of such agencies.

(c) The Senior Procurement Official, Headquarters, is responsibile for overall conduct of the DOE-wide CPSR program.

§ 9-23.103 Definitions.

(a) The term "contractor", as used in this Subpart, refers to a "prime contractor" or "subcontractor" and means a separate entity of a contractor, such as an affiliate, division, or plant, which performs its own purchasing.

(b) The term "DOE cognizant contractors" refers to those contractors over which DOE has cognizance as identified in OMB Circular A-88, or those with which DOE has the preponderance of Government business. The term includes operating contractors, and pilot and demonstration plant contractors.

§ 9-23.104 Review criteria.

(a) A Contractor Procurement System Review (CPSR) is an evaluation of a contractor's procurement system and the effectiveness with which procurements are placed in performance of Government contracts. It is not limited to a specific Government contract.

(b) The Contracting Officer will initiate a CPSR after determining a review is warranted by the nature or extent of subcontracting. Generally, a CPSR shall be performed if the contractor is expected, within the next 12 months, to have in excess of $5,000,000 of Government-funded subcontracting under other than fixed-price contracts awarded on the basis of adequate price competition as defined in FPR 1-3.807(b)(1). (For the purpose of this paragraph, contract modifications are not considered to be competitively awarded). CPSRs should not ordinarily be performed on subcontractors unless, in addition to the criteria for conducting a CPSR on a prime contractor, the following criteria are also satisfied: (i) The preponderance of subcontractor sales is to prime contractors under the Federal Government, and (ii) both the prime contractor and the subcontractor agree to performance of a CPSR.

(c) Contractor procurement systems meeting the criteria in (b) above shall not be reviewed if the Contracting Officer determines in writing, with Head of Procuring Activity concurrence, that the extent or nature of the subcontracting will not justify CPSR costs. In exceptional cases, a contractor not meeting the criteria in (b) above, may be reviewed if the Contracting Officer determines that facts warrant such action.

(d) CPSRs will be conducted in accordance with appropriate agency directives and guidance.

(e) Initial, subsequent, and followup review teams should include appropriate representatives from DOE field offices; other Federal Agency participation may be additionally requested as appropriate. Generally, team composition should not consist exclusively of those who have a day-to-day relationship with the contractor regarding subcontract consent or approval.

§ 9-23.105 Types of reviews.

§ 9-23.105-1 Initial reviews.

An initial review shall be conducted when the contractor meets criteria in 9-23.104. The review shall be a complete evaluation as described in 9-23.106.

§ 9-23.105-2 Subsequent reviews.

If a contractor's procurement system is approved, the Contracting Officer shall annually determine the need for a subsequent review if the system still meets the criteria in 9-23.104. The maximum length of time between

subsequent reviews shall be determined by the Head of Procuring Activity based on Contracting Officer's ability to accomplish adequate surveillance of the contractor's procurement system as described in 9–23.110. A subsequent review may be limited to specific areas, but shall include sufficient consideration of each factor listed in 9–23–106(a) to establish current adequacy or inadequacy of the entire system. Such review shall generally be conducted to:

(a) Examine changes instituted since the previous review;

(b) Ascertain the status of prior recommendations upon which action has not been completed; and

(c) Determine whether the contractor's procurement system warrants continued approval.

§ 9–23.105–3 Special reviews.

After approval of the contractor's procurement system, the Contracting Officer may inititate special reviews in connection with identified weaknesses resulting from:

(a) Initial, follow-up, or subsequent review;

(b) Review of subcontracts submitted under the notification requirement of contract clauses;

(c) Changes in the contractor's procurement policies, procedures, or personnel;

(d) Changes in plant workload or type of work; or

(e) Information provided by Government personnel.

In conducting such reviews, the same effectiveness criteria used in previous reviews shall be applied to areas being examined.

§ 9–23.105–4 Follow-up reviews.

If approval of a contractor's procurement system is withheld or withdrawn, a follow-up review shall be made as soon as evidence is received from the contractor that factors leading to such action have been corrected. Whether this review consists of complete reexamination of the contractor's procurement system, or is confined to areas found deficient, is a matter of judgment and will depend on the time lapse between notice to the contractor of withholding or withdrawal of approval, and follow-up review.

§ 9–23.106 Extent of review.

(a) Generally, a review shall consist of a complete evaluation of the contractor's procurement system. The review shall be made in accordance with appropriate DOE directives and guidance, and shall given attention to:

(1) Degree of competition obtained;

(2) Pricing policies and techniques, including methods of obtaining accurate, complete, and current cost or pricing data, and certification as required;

(3) Methods of evaluating subcontractors' capabilities and financial responsibility;

(4) Treatment accorded affiliates and other concerns having close working arrangements with the contractor;

(5) Extent to which assurance is obtained that principal subcontractors apply sound pricing practices and have a satisfactory procurement system in dealing with lower-tier subcontractors;

(6) Appropriateness of the types of subcontracts used;

(7) Practices pertaining to small and socially and economically disadvantaged businesses, labor surplus areas, and other socio-economic provisions;

(8) Management surveillance of significant subcontract programs;

(9) Contractor procurement policies and procedures pertaining to such items as "make-or-buy" program, property control, obtaining warranties, and organizational conflicts of interest;

(10) Compliance with cost accounting standard in subcontract award and administration;

(11) Effectiveness of subcontracting policies and procedures;

(12) Effectiveness of policies and procedures for subcontract close-out actions;

(13) Adequacy of sole source justifications;

(14) Conformance of subcontracting terms and conditions with requirements of the prime contract;

(15) Acceptability and completeness of subcontractor representations and certifications;

(16) Adequacy of subcontracting negotiations and documentation; and

(17) Whether required DOE approval or consent has been obtained for subcontracts and deviations from required terms and conditions.

(b) In reviewing the contractor's procurement system, a determination shall be made as to whether subcontracting is competitively accomplished to the maximum practicable extent. This requires ascertaining whether:

(1) A sufficient number of sources are solicited; and

(2) Subcontracting procedures provide other essential elements needed for adequate and effective competition, including:

(i) Adequate description of any factors to be evaluated; and

(ii) Evaluation of all offers on a common basis.

(c) Decisions as to whether commercial items conform to the purpose and intent of the exemption from the requirement to submit and certify current cost or pricing data shall be analyzed.

§ 9–23.107 Review of CPSR Reports.

(a) Review team findings and recommendations contained in the CPSR Report shall be approved by the Head of Procuring Activity before the Contracting Officer makes a determination to continue, grant, withhold, or withdraw approval.

(b) If revisions are to be made to subcontract dollar thresholds or other limitations, the submittal to the HPA shall include:

(i) A stratification of the present subcontract review workload, including average workhours expended and lead times experienced in processing requests for subcontract consent and;

(ii) An evaluation of anticipated benefits, including average workhours and lead times saved in processing requests for subcontract consent.

§ 9–23.108 Granting, continuing, withholding, and withdrawing approval.

(a) The Contracting Officer is responsible for granting, continuing, withholding, or withdrawing approval of a contractor's procurement system subject to the requirements of § 9–23.107(a). The Contracting Office shall approve a procurement system only after a CPSR discloses that the contractor's procurement policies and practices are effective and provide adequate protection of the Government's interests. Approval of a system shall be withheld if there are major weaknesses, if the contractor is unable to provide sufficient information upon which to base an affirmative determination that its procurement system is adequate and effective or if withholding of approval is otherwise deemed appropriate to protect the Government's interests.

(b) The Contracting Officer shall give the contractor written notice granting, continuing, withholding, or withdrawing approval of the procurement system. If the contractor's system is approved, the notification of approval shall include:

(1) The effective date of the approval;

(2) Approved plant(s), division(s), or facility of the company;

(3) Approval period (usually one year, maximum three years);

(4) Extent of applicability (usually all DOE contracts with the approved facility administered by the involved procurement office, and all such DOE contracts administered by other DOE

procurement offices when the cognizant Contracting Officer concurs);

(5) Any special conditions which the contractor must follow in notifying the Contracting Officer or in obtaining Contracting Officer consent or approval, (such as intracompany transfers, critical or programmatically important subcontracts, or awards of noncompetitive subcontract);

(6) Other conditions such as:

(i) Contract terms that need to be changed; and

(ii) Advice that termination of approval will occur upon a change in the procurement system unless approved by the Contracting Officer; and

(7) A statement that approval may be withdrawn at any time at the Government's discretion.

(c) The approval (and any change in dollar thresholds or other limitations) will be based upon the degree of confidence in the contractor's procurement system as determined through the review and the need to maintain a review of the most significant subcontracts, subject to the limitations in 9–50.302–5(b).

(d) Approval of a contractor's procurement system does not negate the requirement for advance notification except as set forth in 9–3.901. Advance notification for information purposes is required in the following instances:

(1) Noncompetitive procurement over $25,000;

(2) Intracompany transfers or payment over $10,000; and

(3) Direct reimbursement of costs over $500.

The advance notice shall contain, as a minimum, a description of work, estimated costs, type of contract or reimbursement provisions, and extent of anticipated competition or justification for noncompetitive procurement. The Contracting Officer may at any time request additional information that must be furnished promptly and prior to award of the subcontract.

When approval of the contractor's procurement system is withheld or withdrawn, recommendations for correction of those deficiencies which will permit (after correction and assuming that other areas previously found to be satisfactory are not deficient) the granting or reinstatement of approval should be furnished to the contractor in writing. The contractor shall be requested to furnish as soon as possible (normally within two weeks) a time-phased plan for correction of deficiencies. Submission of periodic status reports to the Contracting Officer shall be required. Contents of contractor procurement systems review reports, and other information disclosed by the contractor during the review shall be divulged only to Government personnel having a need to know. However, the Contracting Officer will furnish three copies of the approved review report (less the contractor's recommendations to the Government) to the contractor for information purposes.

(f) When recommendations are made for improvement of an approved system, the contractor shall be requested to reply as soon as possible (normally within two weeks) as to its concurrence or position with respect to the recommendations.

(g) Copies of CPSR reports, copies of notifications granting, continuing, withholding, or withdrawing approval of a contractor's procurement system, copies of recommendations for improvement of an approved system, copies of notifications (or contract modifications) altering the subcontract consent dollar thresholds, and information received from the contractor pursuant to (d) and (e) above, shall be transmitted to the Director, Procurement Management Review Division (Attention MA–933), Headquarters.

§ 9–23.109 Disclosure of approval status of a contractor's procurement system.

Upon request, a prime contractor may be informed that the procurement system of a proposed subcontractor has been approved under Government prime contracts, if such is the case. The prime contractor shall be cautioned that approval status is furnished only as of the date of notification and the Government does not assume the responsibility to keep the prime contractor advised of any change in approval status of the proposed subcontractor's procurement system.

§ 9–23.110 Surveillance of the contractor's approved procurement system.

(a) The Contracting Officer must maintain a sufficient level of surveillance to assure that the contractor continues to effectively manage the procurement program. The Contracting Officer shall develop a surveillance plan and submit it to the Head of the Procuring Activity for approval. The surveillance plan shall encompass all phases of the system (pre-award and post-award performance, contract completion, and close-out) and all operations affecting procurement and subcontracting. Surveillance shall consider all elements of the contractor's procurement system including, but not limited to, those items evaluated in the initial review. The surveillance plan must provide for review and consent to placement of a representative sample of subcontracts, including the largest and most complex subcontracts being issued each year.

(b) Certain subcontractors may require additional surveillance based on flowdown of policies concerning cost, schedule, and technical performance.

PART 950—OPERATING AND ON-SITE SERVICE CONTRACTS

Change 6.9

Section 9–50.506–6, *Miscellaneous items,* is amended at paragraph (e) to change the reference § 9–5.5206–13 to § 9–5.5207–2; is amended at paragraph (l) to indicate that the Oak Ridge Operations Office rather than the Chicago Operations Office is the manager for DOE supplies of the newly designated "Precious Metals" property category; and is amended at paragraph (m), subparagraphs (1) and (2) to delete the references to appliances and new electric water coolers as this guidance has been superseded by Amendment E–247 of the Federal Property Management Regulations, (46 FR 35643, July 10, 1981). Subparagraphs (7) and (8) of paragraph (m) are also revised to correct erroneous references to sections of the Federal Property Management Regulations. The revised text will read:

§ 9–50.506–6 Miscellaneous items (9–5.5206).

* * * * *

(e) Gold (See § 9–5.5207–2).

* * * * *

(l) Prior to purchase of any of the precious metals (these are platinum, palladium, iridium, osmium, rhodium, ruthenium, gold and silver) on the open market, contractors shall clear the availability of such metals with N.L.O., Inc. as required by § 9–5.5207–2.

(m) * *

(1) [Reserved]

(2) [Reserved]

* * * * *

(7) Materials handling equipment 101–25.405 (§9–5.5206–15).

(8) Coal 101.26.602–4 (§9–5.5206–18).

* * * * *

Change 6.10

Section 9–50.704–33, *Priorities, allocations, and allotments,* is revised by (1) adding a new introductory sentence with the prefix "(a)" before the present text, (2) correcting the reference to the Department of Commerce, International Trade Administration, and (3) by adding a new paragraph (b) to explain that priorities and allocations support may be available to DOE contractors if the purpose of their contract is to maximize domestic energy supplies. The revised text will read:

§ 9-50.704-33 Priorities, allocations, and allotments.

(a) If the contract is for military or atomic energy production use the following clause:

Priorities, Allocations, and Allotments

The contractor shall follow the rules, regulations, and procedures of the Defense Priorities System and the Defense Materials System Regulation I and all other applicable regulations and orders of the International Trade Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fill this order.

(b) Other contracts may be eligible for priorities and allocations support if their purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis. Guidance is provided by DOE Publication PR-0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. If the purpose of the contract is to maximize domestic energy resources, include the following clause:

Priorities and Allocations—Special Clause

This contract may be eligible for priorities and allocations support, as provided for by section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act of 1975 if its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis with the decision being jointly made by the Departments of Commerce and Energy.

DOE Regulations regarding Materials Allocation and Priority Performance under Contracts or Orders to Maximize Domestic Energy Supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR Part 216).

Additional guidance is provided by DOE Publication PR-0042, entitled "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Technical Information Center (TIC), Post Office Box 62, Oak Ridge, Tennessee 37830.

[FR Doc. 82-11928 Filed 4-30-82; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 10, 12, and 187

[CGD 82-033]

Establishment of Regional Examination Centers for Issuance of Merchant Marine Licenses and Certificates

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish sixteen (16) Regional Examination Centers (RECs) for licensing and certification of Seamen on July 1, 1982. These RECs will be the only issuing locations for those licenses or certificates required. Because of present and foreseeable budgetary and personnel limitations, the licensing and certification functions can no longer be administered at the locations of every Officer in Charge, Marine Inspection.

DATE: Comments must be received on or before June 2, 1982.

ADDRESSES: Comments should be submitted to, and are available for inspection at the Marine Safety Council (G-CMC/44), Room 4402, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Commander Scott D. McCowen, Office of Merchant Marine Safety, Vessel Manning Branch (G-MVP-5/14), Room 1400G, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. (202-426-2240).

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should provide their name and address, identify this notice (CGD 82-033), indicate the specific section of the notice to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the Federal Register, if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Since this amendment relates to agency organization, a general notice of proposed rulemaking is not required by 5 U.S.C. 553(b)(3)(A). However, it is the policy of the Coast Guard to provide to the public, to the maximum extent possible, notice and opportunity to comment on regulations even when not required by statute. Executive Order 12291 does not apply to matters of agency organization (section 1(a)(3)).

The short comment period is necessary because budgetary necessity requires early action on closing the affected examining offices. The Coast Guard is planning to close the affected examination centers and establish the Regional Examination Centers by July 1, 1982.

Environmental Evaluation: The Coast Guard has determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

Drafting Information

The principal persons involved in drafting this proposal are Commander Scott D. McCowen, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

A proposal for the establishment of Regional Examination Centers (REC) was first made in 1969. That proposal was part of a study conducted by the Educational Testing Service, Princeton, N.J. which dealt with the entire seaman's licensing and documentation function conducted by the Coast Guard. The most prominent part of the study, the replacement of the traditional essay type examination with a multi-choice format, was accomplished in 1974. Until recently, the Coast Guard's budget permitted the administration of the licensing and certification activity at 49 Marine Safety/Inspection Offices. Faced with the maintenance of this portion of the marine safety program as well as other marine safety related functions in light of current and projected budgetary and personnel restrictions, a program review was clearly in order.

As an initial step, the licensing and certification activity at the existing ports was surveyed. To obtain a figure which would reveal an overall activity level, and possibly future trends, a three year period (1978-1980) was selected. Upon completion of the survey, the high activity ports were examined for their general suitability to become an REC. The following guidelines were used for this determination:

a. At least one REC in each of the 12 current Coast Guard Districts.

b. In general, the REC should be no more than one day's drive from the applicant's residence. Recognized exceptions are: New Mexico, Montana, Wyoming, Utah, Nevada, North Dakota, South Dakota, and portions of Texas.

c. Availability of commercial transportation.

d. Availability of lodging in the general area.

e. Proximity to maritime academies/approved schools.

f. Availability of existing Coast Guard examining facilities and their potential for possible enlargement.

g. Other unique features.

After making an initial determination, this information was distributed to Coast Guard field units for their comments. Based on the information received, adjustments to the proposed locations were made, and the following list was developed:

REC location	Expanded service area (locations of offices formerly providing the service)
Boston, MA	Portland, ME, Providence, RI, Albany, NY.
New York, NY	Philadelphia, PA, Albany, NY.
Baltimore, MD	Philadelphia, PA, Norfolk, VA, Wilmington, NC, Pittsburgh, PA.
Miami, FL	Tampa, FL, Jacksonville, FL, San Juan, PR.
Charleston, SC	Wilmington, NC, Savannah, GA, Jacksonville, FL.
New Orleans, LA	Mobile, AL.
Houston, TX	Port Arthur, TX, Galveston, TX, Corpus Christi, TX.
Memphis, TN	Louisville, KY, Paducah, KY, Nashville, TN.
St. Louis, MO	Louisville, KY, Cincinnati, OH, Minneapolis/St. Paul, MN.
Toledo, OH	Cleveland, OH, Buffalo, NY, Detroit, MI, Duluth, MN, St. Ignace, MI, Chicago, IL, Milwaukee, WI, Sturgeon Bay, WI, Huntington, WV.
Long Beach, CA	San Diego, CA.
San Francisco, CA	Unchanged.
Seattle, WA	Portland, OR.
Anchorage, AK	Valdez, AK.
Juneau, AK	Unchanged.
Honolulu, HI	Guam, MI.

NOTE.—The traffic flow from the old offices to an REC is only a projection. The applicant may choose to be examined at any REC irrespective of the location of his/her residence.

By concentrating the licensing/certification function, the following benefits and administrative improvements would result:

a. A more efficient service to the user public by Coast Guard personnel whose primary purpose is to carry out this function.

b. The evaluation of license applications involving unusual sea service, military sea service, and sea service acquired on foreign flag vessels would ultimately be done at the REC. This would result in faster service to the user public because it would replace the current cumbersome and time consuming system involving an initial review and recommendation at the local level, transmission through the chain of command, and final review and determination at Coast Guard Headquarters.

c. All examinations would be graded at the REC. This would particularly benefit the "unlimited" license candidates whose examination is currently machine graded at one central location (Coast Guard Institute in Oklahoma City) and the candidate informed of the results by mail.

d. The "unlimited" deck and engine licenses would be ultimately available at two (2) week intervals vice the current practice of a once a month administration.

e. A more uniform administration of the function. Under the present organization, a great number of "local interpretations, customs, and practices" prevail. By reducing the number of licensing/documentation facilities, the possibility of such occurrences is greatly reduced.

f. No change is foreseen in the service requirements/composition of locally oriented licenses such as First Class Pilot. Should changes be desirable, they would originate from the particular Officer in Charge, Marine Inspection, having jurisdiction over the waters in question. The REC would simply administer the examination.

g. Group examinations in areas away from the REC would be offered. The complement of each REC would be set at a level which would accommodate this contingency. The primary recipients of this service are envisioned to fall within the following general categories: merchant marine officer training institutions (federal and state), Coast Guard approved schools, and groups assembled to take specialty licenses (most commonly the Motorboat Operator License).

h. An expanded use of the mails in various transactions, particularly in the matter of license renewals. The issuance of certificates (Merchant Mariner's Documents (MMDs)) for which no sea service, examination, or physical requirements exist, is also being considered for conversion to a largely mail based transaction. The specific ratings envisioned include—Ordinary Seaman, Wiper, and Stewards Department. This program is currently under study and will be instituted if all of the details can be satisfactorily worked out. The sum total of this action would be to make such transactions more convenient, and would result in a cost savings to the individual who otherwise would have to bear the expense of a trip to the nearest REC.

i. Fewer visits to an REC. This is contingent upon the adoption of the simplified licensing structure envisioned by the advance notice of proposed rulemaking contained in CGD 81-059 (Licensing of Officers and Motorboat Operators and Registration of Staff Officers) published in the **Federal Register** of October 29, 1981 (46 FR 53624).

j. The REC's would be assigned a core group consisting of 77 military and 41 civilian personnel. This represents a reduction of 54 positions currently involved in the activity and an annual savings to the Government of approximately $850,000 (in current dollars). The core group level is that estimated number of persons required to accommodate the average workload at each REC. Peak demands (which are primarily seasonal in nature) may be accommodated by utilization of other non-REC personnel assigned to a particular Marine Inspection Office. Readjustment will be made to the core groups as REC utilization figures become established. From the viewpoint of efficient internal Coast Guard personnel management, establishment of the RECs is a vital necessity as future reductions in force in the commercial vessel safety area become realities.

The most contentious aspects of this reduction in the number of examining offices are the loss of convenience and the additional personal expense placed on the maritime public. When considering these factors it should be noted that the transaction figures of the 1978 to 1980 base period indicate that 65% of all transactions occurred at the sixteen (16) REC locations. The remaining 35% were scattered among the 33 locations selected to be discontinued. Of the total transactions, 53% dealt with either license renewals, or issuance of certificates (MMDs) which require no sea service, examination or physical requirements. The loss of convenience factor would be mitigated through the increased use of mail transactions and group examinations.

License renewals currently amount to an average of 13,300 annual transactions. If 50% of these license renewals use the mail process, a decrease of actual visits would be realized which would result in an appreciable reduction in both the current individual costs as well as the additional costs associated with this proposal. In addition, Coast Guard records indicate an average of 17,000 entry rating certificates (MMDs) are issued annually. Conversion of only 50% of these transactions to a mail process would provide a substantial, additional cost savings. This proposed rulemaking is necessitated by the language in 46 CFR Parts 10, 12, and 187 which indicate that every Officer in Charge, Marine Inspection, or Marine Inspection Office provides licensing/certification services. This proposal would reduce the number of Offices performing the seamen's licensing/certification function from the current 49, to 16 RECs with expanded facilities.

To accommodate the necessary change in regulations, a note would be added to 46 CFR Part 1 to list the

locations of the Regional Examination Centers. Further, a statement restricting the language of 46 CFR Parts 10, 12, and 187 to the context of an Officer in Charge, Marine Inspection, at one of the noted locations would be added. In addition, 46 CFR Parts 10, 12, and 187 would be amended to reflect the Regional Examination Center information outlined in 46 CFR Part 1.

Summary of Draft Evaluation.

The proposed regulations are considered to be nonsignificant and, accordingly, a draft evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, state and local governments, as well as the anticipated benefits and impacts of the regulations.

As discussed in paragraph (j) above, a reduction of 54 positions will result in a yearly savings to the Government of approximately $850,000 in current dollars. Other potential benefits to the user public were summarized in paragraphs (a–i).

The main point of interest addressed by the Draft Evaluation concerns the personal expense incurred by the user public. When considering the personal expense factor a necessary distinction was made between "present costs", and "additional costs". Within this context, those personal expenses involved in a visit to one of the present 49 examining locations must be placed under the "present costs" title. Some expense obviously exists as all mariners do not reside in a city where the service is available. Exact quantification of this expense was not considered reasonable. When considering the "additional costs" factor, the following parameters were utilized:

1. For the cost of travel between a present examining location and the nearest REC by an automobile an allowance of $.20 per mile was made. Highway mileages were extracted from the Rand McNally Road Atlas.

2. A single day's meal costs and overnight lodging were included for the REC locations irrespective of the fact the vast majority of transactions (85%) are completed in a single day and a portion of this expense could be avoided. These expenses were computed using the Joint Travel Regulations which establish rates for reimbursement to government employees while in a travel status.

Under the foregoing, the total projected "additional costs" on an annual basis, are $2,644,390.00 or an average of $136.00 per individual. This "additional cost" figure is considered to be a high estimate. Many unquantifiables enter the picture. For example, under the existing arrangements, an individual may opt for one of the non-REC examination locations because it is closer to his or her residence, the lodging/meal costs are lower, or a combination of both. In this case, the "additional costs" would probably not amount to the projected figure as only the differential of expenses ("present" vice "additional") are involved. At the opposite end of the spectrum, an individual may have opted for a non-REC port based on personal preference or other intangible considerations, irrespective of the fact this course of action may have been more costly than visiting the REC port. Under this circumstance, this proposal would provide a monetary savings, with a sacrifice of those personal preferences which controlled the individual's prior actions.

By necessity, the "additional costs" are based on the transaction figures under the existing licensing/certification structure. The regulatory revisions currently published for public comment, and the projected administrative revisions (such as wider use of the mails for original documents, license renewal, and group examinations) offer the potential of further reducing both the "present costs" and "additional costs".

As discussed above, the economic impact will be born exclusively by individual applicants for licenses/certificates. Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act (94 stat. 1164), it is certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. Compliance with the licensing/certification functions under this proposed rule is required by 46 U.S.C. 214, 224, 229, 242, 404–1, 405, 643, 672, and 1461.

List of Subjects in 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies).

List of Subjects in 46 CFR Parts 10 and 12

Seamen.

List of Subjects in 46 CFR Part 187

Passenger vessels, Seamen.

Proposed Regulations:

In consideration of the foregoing, the Coast Guard proposes to amend Parts 1, 10, 12, and 187 of Title 46, Code of Federal Regulations as set forth below:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. The authority cite for Part 1 reads as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462 as amended, (46 U.S.C. 416); 14 U.S.C. 633; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b). Additional statutes interpreted or applied are cited with sections affected.

§ 1.05 [Amended]

2. By adding a note following § 1.05(b) to read as follows:

Note.—Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection", or "Marine Inspection Office" is used within the context of Parts 10, 12, or 187 of this chapter, it is understood to mean that particular "Officer" or "Office" at one of the above listed locations.

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS.

1. The authority cite for Part 10 reads as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462 as amended, (46 U.S.C. 416); sec. 12(e), 85 Stat. 217, as amended, (46 U.S.C. 1461(e)); sec. 6 (b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b). Additional statutes interpreted or applied are cited with sections affected.

2. By adding § 10.01–7, to read as follows:

§ 10.01–7 Regional Examination Centers.

Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA,	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach,, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection," or "Marine Inspection Office" is used within the context of this part it is to mean that "Officer" or "Office" at one of the above listed locations.

PART 12—CERTIFICATION OF SEAMEN

1. The authority cite for Part 12 reads as follows:

Authority: R.S. 4405 as amended, (46 U.S.C. 375); R.S. 4462 as amended, (46 U.S.C. 416); c. 816, sec. 7, 49 Stat. 1936, as amended, (46 U.S.C. 689); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)). Additional statutes interpreted or applied are cited with sections affected.

2. By adding § 12.01–7, to read as follows:

§ 12.01–7 Regional Examination Centers.

Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA,	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach., CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection," or "Marine Inspection Office" is used within the context of this part it is to mean that "Officer" or "Office" at one of the above listed locations.

PART 187—LICENSING

1. The authority cite for Part 187 reads as follows:

Authority: R.S. 4438 as amended, (46 U.S.C. 224); c. 258, sec. 3, 70 Stat. 152, as amended, (46 U.S.C. 390b); R.S. 4417a, as amended, (46 U.S.C. 391a); c. 155, sec. 17, 54 Stat. 166, as amended, (46 U.S.C. 526p); sec. 6(b), 80 Stat. 938 (49 U.S.C. 1655(b)); 49 CFR 1.46(b), unless otherwise noted.

2. By adding § 187.01–5, to read as follows:

§ 187.01–5 Regional Examination Centers.

The licensing function is performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA,	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection," or "Marine Inspection Office" is used within the context of this part it is to mean that "Officer" or "Office" at one of the above listed locations.

Dated: April 26, 1982.

Clyde Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82–11994 Filed 4–30–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 74, and 94

[Gen. Dockets 80–112 and 80–113]

Frequency Allocation to the Instructional Television Fixed Service, et al. and; Technical Requirements Applicable to the Multipoint Distribution Service, et al.; Order Accepting Additional Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rules and notices of inquiry; Acceptance of additional comments.

SUMMARY: This Order accepts as additional comments in General Dockets 80–112 and 80–113 a proposal by Microband Corporation of America to create a "wireless cable system" using the Multipoint Distribution Service (MDS). The Order also gives interested parties 30 days to comment on the Microband proposal.

The original comment period in General Docket 80–112 ended on October 27, 1980 and the original comment period in General Docket 80–113 ended on October 27, 1980, thus it is necessary to issue this Order to accept additional comments in these proceedings.

This action will make a more complete record in these proceedings and will allow interested parties to submit comments on the Microband proposal.

DATES: Comments must be submitted on or before June 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kevin J. Kelley, Common Carrier Bureau (202) 632–6430.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of Parts 2, 21, 74 and 94 of the Commission Rules and Regulations in regard to fequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service. [Gen. Docket No. 80–112], (5/2/80; 45 FR 29323) and Amendment of Parts 21, 74 and 94 of the Commission Rules and Regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational Fixed Microwave Service (OFS). [Gen. Docket No. 80–113], (5/2/80; 45 FR 29350).

Order accepting Additional Comments

Adopted: April 20, 1982.

Released: April 26, 1982.

On February 10, 1982, Microband Corporation of America (Microband) filed a 3 volume proposal concerning issues raised in General Dockets 80–112 and 80–113. Microband simultaneously filed a "Motion for Leave to File Additional Comments" in which it requested that the proposal be accepted as "additional comments" in the referenced dockets. For the reasons stated herein, we believe the proposal should be accepted and that the pleading period in these proceedings should be reopened for comment on Microband's proposal.

Background

In the Notice of Proposed Rulemaking in General Docket 80–112, released on May 2, 1980, the Commission proposed, *inter alia,* to reallocate the 2500–2690 MHz portion of the spectrum for shared use by the Multipoint Distribution Service (MDS), the Instructional Television Fixed Service (ITFS), and the Private Operational Fixed Microwave Service (OFS). The band contains thirty-one 6 MHz television channels and a like number of 125 KHz return channels and is presently shared by the ITFS (28 channels) and the OFS (3 channels). The major purpose of the proceeding was to examine alternative schemes to make more effective use of the 2500–2690 MHz band. Comments and Reply Comments in General Docket 80–112 were due on or before September 26, 1980 and October 27, 1980, respectively.

In the Notice of Proposed Rulemaking and Notice of Inquiry in General Docket 80–113, released on April 24, 1980, the Commission proposed a number of new technical rules regarding cochannel and adjacent channel interference standards and the establishment of a protected service area for the MDS. The inquiry part of the proceeding raised issues concerning the feasibility of applying the proposed technical rules to the ITFS and OFS if the spectrum were reallocated in Docket 80–112. Comments and Reply comments in General Docket 80–113 were due on September 2, 1980 and October 1, 1980, respectively.

The 3 volumes submitted by Microband constitute a proposal to transform the present MDS into what it calls a "wireless cable" system. This would be accomplished by removing 3 groups of 4 channels from the present ITFS allocation and allocating them for use in the MDS. These new MDS channels would be available only in the 50 largest metropolitan areas listed in § 21.901(c) of the present rules. The groups that would be made available for the MDS would be the E, F, and G groups of the present ITFS allocation. In those areas in which these groups are in use by ITFS licensees, Microband proposes that MDS applicants be allowed to apply for any other unused ITFS group.

Microband further proposes that the rules be amended so that no entity could apply for MDS use of either the E group or the F group for the first year after these channels were made available for MDS use unless such entity was already either an existing licensee, permittee, or applicant for the present MDS channels. This restriction would not apply if there were no applicant, permittee or licensee in a particular market. Each eligible entity would be required to apply for 4 channels. Any qualified entity could apply for the third four-channel group. Finally, Microband proposes to make all of the technical rules that are applicable to the MDS applicable to the OFS and the ITFS.

The proposal contains extensive economic and viewer preference data that indicate, according to Microband, that if the MDS industry is to survive it must become a true competitor to cable television in the major markets. Microband states that this can best be done if there are three MDS service providers in the large markets, two providing 5 channels of pay service and a third providing 4 channels of pay service. The proposal also contains a detailed description of how Microband would use the additional channels that would be made available. It would establish a two way system it calls "Urbanet," that would distribute pay television, teletext, and data, and would allow customers to interact with the network using the local telephone system and the network operated by Tymshare, Microband's parent company.

Among the several appendices included with the proposal is an "ITFS Spectrum Utilization Study." The study concludes that within 25 miles of the present MDS station location in the 50 markets listed in § 21.902, 75% of the ITFS channel capacity is unused. Microband also claims that in these areas many of the licensed ITFS channels are being used to provide point-to-point service rather than point-to-multipoint service.

Pleadings

In its motion, Microband argued that in the time since the Notices in the two dockets were released "significant changes in the competitive marketplace and in available technology" have occurred that "compel a revisitation of many of the relevant issues." It further argues that the record in these proceedings is "stale" and, therefore, it would be appropriate for the Commission to consider additional comments. Microband claims that the issues raised in its additional comments are well within the scope of the original Notices. It requests the Commission accept the comments and publish public notice of their acceptance in the **Federal Register** and give interested parties 30 days to submit comments on the proposal and an additional 15 days in which to submit reply comments. Finally, Microband notes that it has served copies of its proposal to all parties who filed comments in either General Docket 80–112 or General Docket 80–113.

On February 22, 1982, the Association for Higher Education of North Texas, the Catholic Television Network, the Center for Excellence, Inc., the Illinois Institute of Technology, the National Instructional Telecommunication Council, Inc., the Leland Stanford Junior University, and the San Francisco Archdiocise jointly filed an "Opposition to Motion for Leave to File Additional Comments." They argue that the Microband proposal is "far outside the scope of the Commission's Notices of Proposed Rulemaking and Inquiry" and that accepting it would raise "serious questions regarding compliance with the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553 (1976)." They further argue that the requirements of the act would not be satisfied by Microband's proposed comment schedule.

They also claim that acceptance of the proposal would be prejudicial to those who have filed timely comments in these proceedings because reviewing and responding to the Microband proposal would be a "massive, costly and, if properly done, time consuming undertaking." They argue that if the Commission accepts Microband's filing other parties should be given time to prepare relevant new proposals to make a complete and consistent record. Finally, the Opposition argues that the Microband proposal is in reality a petition for rulemaking, and thus should not be accepted as additional comments in an ongoing proceeding.

On March 4, 1982, Microband filed a Reply to the Opposition. In the Reply, Microband claims that "each of the issues raised by Microband, in its additional comments, is relevant to General Docket Nos. 80–112 and 80–113." It believes its proposal to allow multichannel operation by a single licensee is contemplated by our proposed deletion of § 21.901(d) and therefore was an issue raised in the Notice.[1] Furthermore, Microband argues that publication of a Federal Register notice containing the information required by the Administrative Procedure Act, 5 U.S.C. 553(b) (1976), would insure that the legally required notice had been given. It also stressed the fact that Microband had "taken the extraordinary step" of serving a copy of its proposal and motion on all who filed comments in these proceedings.

On March 4, 1982, Contemporary Communications Corporation filed comments in support of Microband's motion. Informal comments in support of the Microband motion were submitted by American Cable Television, Inc., Alfred E. Anscome, California Satellite Systems, Cinema 24, Cleveland Microband Teleservices, Global Systems Corp., Kravetz Media Corp., Knox LaRue, Microwave Distribution Services, Northwest Entertainment Network, Inc., Pay Television of Greater New York, Inc., Satellite Television and Associated Resources, Inc., Showbiz Spanish Universal Network, Test, Inc. and Texscan Corporation. On March 31, 1982, Taft Broadcasting Corporation submitted late filed formal comments in support of the motion.

On April 5, 1982, the Public Broadcasting Service (PBS) submitted informal comments which argued against granting the Microband motion and argued in the alternative that if the motion were granted the public should be afforded an opportunity to comment. On April 6, 1982, Gerald A. Rosander, County Superintendent of Schools, Department of Education, San Diego County, submitted an "Opposition to Motion For Leave to File Additional Comments" on behalf of the Department of Education, San Diego County, the San Diego Unified School District, the Ninth District, Inc., California State PTA, the San Dieguito Union High School District, the Coronado Unified School District,

[1] Section 21.901(d) of the rules prohibits an MDS applicant from applying for a second channel in the same city until it successfully has operated the first channel forone year and can demonstrate that such operation will satisfy a public demand that is unlikely to be met by a competing carrier.

the Chula Vista City School District, the Lakeside Union School District, the TV College Consortium, San Diego and Imperial Counties Community College Association, the Sweetwater Community College District, San Diego Miramar College District, and Mira Costa College. This Opposition contained similar arguments to those advanced in the Opposition filed by the Association of Higher Education of North Texas and others. On April 13, 1982, Microband filed a "Consolidated Reply" to the Opposition of Dr. Rosander and the informal comments of PBS reiterating the arguments it submitted in response to the earlier filed Opposition.

Discussion

We believe the public interest would be best served by permitting interested persons to comment on Microband's filing. The future use of the band 2500–2690 is at the heart of the proceedings in Docket 80–112 and the notice of inquiry part of Docket 80–113. While not in any way reaching the merits of the Microband proposal, we believe it is sufficiently related to the ongoing proceedings for intersted parties to comment on it in the context of those proceedings.

As noted above, the present § 21.901(d) precludes an applicant from applying for a second MDS channel in the same metropolitan area until it has operated the original channel for at least one year and it has demonstrated that demand for the proposed additional service exists and it is unlikely to be met by a competing carrier. The rules proposed in the Notice in Docket 80–112 replaced the language in § 21.901(d) with language that would remove the prohibition against multiple channel operation by a single carrier. Thus, we cannot conclude, as argued in the oppositions, that the issue of allowing MDS licensees to operate multi-channel systems was outside the scope of this proceeding. We believe that the issue is central to the general questions raised regarding appropriate use of the 2500–2690 MHz band.

The Notice in Docket 80–113 contained an extensive analysis of the problems inherent in the operation of the two adjacent MDS channels (2150–2156 MHz; 2156–2162 MHz) in the same geographical area and proposed rules governing this type of operation. The Notice also acknowledged that operation with multiple adjacent channels might create more complex technical problems and for that reason we requested comment on the feasibility of using the proposed MDS rules in the 2500–2690 MHz band.

The channel plan proposed by Microband contemplates multiple adjacent channel operation in the 50 largest metropolitan areas of the country. Although the proposal did not contain an extensive analysis of the adjacent channel interference problems that might occur were we to allow this type of operation, we believe the technical issues raised by the proposal are well within the scope of the Notice in General Docket 80–113.

We also must reject the claim raised in the oppositions that acceptance of Microband's proposal would be prejudicial to those who have filed timely comments in these proceedings. The information submitted byMicroband as for the most part factual in nature. As already discussed, the future use of this band is an essential aspect of these proceedings. In this case, accepting a document that adds factual information to the record and that focuses attention on what are essential issues will serve the public interest. We also believe that allowing interested parties to comment on these issues will serve the public interest.

Since Microband served a copy of its proposal on all entities that filed comments in either General Docket 80–112 or General Docket 80–113 and since the proposal has been available in our public reference room since February 10, 1982, we believe that a 30 day comment period from the date of publication of this order in the **Federal Register** is adequate. We believe publication of this order in the **Federal Register** satisfies the notice requirement of the Administrative Procedure Act.

Ordering Clauses

Accordingly it is ordered, that the Microband "Motion for leave to file additional comments" is granted.

This Order is issued pursuant to Section 4(i) of the Communications Act, 47 U.S.C. 4(i), Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and §§ 0.91, 0.291, and 1.415(d) of the Commission's Rules, 47 CFR 0.91, 0.291, 1.415(d).

Interested parties may file comments on the Microband proposal on or before (30 days after the date of publication of this Order in the **Federal Register**). In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all comments shall be furnished the Commission. All comments received in response to this Order will be available for public inspection in the Commission's public reference room located at the Commission headquarters in Washington, D.C.

The Secretary shall cause this order to be published in the **Federal Register**.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-11902 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-220; RM-3969]

TV Broadcast Station in Green Valley, Arizona; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 46 to Green Valley, Arizona, as its first television assignment, in response to a petition filed by Stephen L. Coppock d/b/a Skyline Communications Group.

DATES: Comments must be filed on or before June 11, 1982, and reply comments on or before June 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Green Valley, Arizona) [BC Docket No. 82–220 RM–3969]

Adopted: April 20, 1982.

Released: April 28, 1982.

1. The Commission herein considers a petition for rule making[1] filed by Stephen L. Coppock d/b/a Skyline Communications Group (petitioner), which seeks the assignment of UHF television Channel 46 to Green Valley, Arizona. Petitioner stated his intention to apply for the channel, if assigned. Opposing comments were filed by Universal Communications Corporation,[2] to which petitioner responded.

2. Green Valley (population not listed in the 1980 U.S. Census), in Pima County

[1] Public Notice of the petition was given on September 9, 1981, Report No. 1308.

[2] Universal is licensee of Station KOLD-TV, Tucson, Arizona, and translator Station KO7DA, Casa Adobes, Arizona.

(population 531,263),[3] is located approximately 37 kilometers (23 miles) south of Tucson, Arizona. Petitioner states that Green Valley's population is 13,500. It has no local television service.

3. Petitioner claims that there is a compelling need for a television station at Green Valley. It is said to be one of the fastest growing communities in the State, showing a population increase of approximately 17.9 percent during the 1970s. Green Valley is described as a retirement community with much of its income derived from retirement benefits, stock dividends, and social security allotment payments. Petitioner notes that Green Valley's economy is also enhanced by nearby open-pit copper mines, home building industries, local businesses and the Smithsonian Institution's Mt. Hopkins Observatory.

4. Universal's objection to the proposal is premised on the fact that the proposed assignment would nullify its pending application for translator station KO7DA, Casa Adobes, Arizona, to modify its license to specity operation on Channel 46. Universal contends that while it does not object to a television assignment at Green Valley, it does object to the assignment of Channel 46 to that community. It feels that another channel should be specified for Green Valley and suggests as an alternative assigning Channel 60, 61, 66 or 67 to that community. This alternative proposal would allow for the grant of its translator application, thereby providing the public with two television signals.

5. Petitioner in reply argues that the Commission's regulations govering situations as presented in this proceeding clearly state that a full service television station takes precedence over an application for a translator assignment or over existing translator stations. The use of a broadcast frequency by a translator is a secondary use which must yield to a proposal for a full service television station. See *Medford and Grants Pass, Oregon,* 45 RR 2d 359–362 (1979). Petitioner urges the Commission to deny the opposition request and allocate Channel 46 to Green Valley, as proposed.

6. Having considered the proposal and comments, we find that the public interest would be served by proposing Channel 46 for assignment to Green Valley. The opposition's focus on the use of that channel for its translator station does not present a viable argument. The use of a channel for translator service is not protected under our rules when such use would interfere with the operation of a full television station. See § 74.702(c)(3) of the Rules. The proposed assignment of Channel 46 to Green Valley meets all spacing requirements, and requires no site restriction.

7. Since Green Valley, Arizona, is located within 320 kilometers (199 miles) of the Untied States-Mexican border, the assignment of Channel 46 requires coordination with the Mexican Government.

8. Based on the above findings we believe that the petitioner has made an adequate showing for the need of a television assignment to Green Valley, and the proposal would provide the community with an opportunity to develop a first broadcast television service. Comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, with regard to the following city:

City	Channel No.	
	Present	Proposed
Green Valley, Arizona		46

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before June 11, 1982, and reply comments on or before June 28, 1982, and are advised to read the Appendix for the proper procedures.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Sec. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

PART 73—RADIO BROADCAST SERVICES

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponents of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It shold also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the

[3] Population figures are taken from the 1980 U.S. Census, Advance Report.

proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-11900 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-186; RM-3655; FCC 82-165]

FM Broadcast Station Blanketing Interference

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its rules to establish a specific signal level defining the "blanketed" areas around an FM broadcast station's antenna. An area is "blanketed" whenever the station's signal is so strong that it partly or completely blocks the reception of other broadcast stations on different frequencies. The proposed rule changes also would state the applicant's responsiblity when interference occurs. Rules are needed to protect the public's right to receive other stations without interference.

DATES: Comments must be filed on or before June 29, 1982, and reply comments must be filed on or before July 29, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Albert S. Jarratt, Sr., Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Comments not mailed to the above address may be hand delivered to the office of William J. Tricarico, Secretary, Federal Communications Commission, Rm. 222, 1919 M Street NW., Washington, D.C. 20554.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

In the Matter of FM Broadcast Station Blanketing Interference [BC Docket No. 82-186 RM-3655]

Adopted: April 1, 1982.

Released: April 23, 1982.

Introduction

1. This proceeding is instituted in response to a petition submitted by the Association of Federal Communications Consulting Engineers (AFCCE). The AFCCE petition requests rule changes to define FM "blanketed" areas and the licensee's responsibility for remedying interference complaints within it.

2. An area is considered to be blanketed whenever an FM station's signal strength or signal power density is of such magnitude that it causes receivers near the transmitting antenna to be partially or completely blocked from receiving other broadcast stations. The signal handling capability of the input stages of the affected receiver are adversely affected by the high signal levels of the blanketing station. As a result the receiver sensitivity is reduced. The high signal level may also produce intermodulation products which may interfere with the reception of other stations. The range of the blanketing effect on the receiver can vary from slight to severe.

3. Deficient input selectivity and insufficient circuit shielding contribute in a large manner to the receiver's susceptibility to blanketing effects. The effect varies not only from receiver model to receiver model but (among consumer grade receivers) from receiver to receiver of the same model. Better receivers can be built at somewhat greater cost (however there is an ultimate limit to the rejection capabilities when cost is not a factor). The absence of consumer pressure for adequate blanketing interference rejection capability has resulted in a flood of inexpensive receivers that perform poorly in strong signal areas. While the more expensive models generally have better tuner selectivity and are therefore less susceptible, the receiver is not the sole determinant of whether blanketing occurs. The size, location and orientation of any external antenna (and signal amplifiers) connected to the receiver also have a large influence upon the blanketing effect.

Background

4. The Commission has never defined the FM signal strength or signal power density contour within which it would consider receivers to be affected by blanketing interference. Section 73.315(e) of our rules explains that "[p]resent information is not sufficiently complete to establish blanket areas of FM broadcast stations. . . ." The rules presently state that applicants constructing an FM station in an area ". . . where blanketing problems may appear to be excessive . . . must include a showing concerning the availability of other sites. The authorization of station construction in areas where blanketing problems appear to be excessive will be on the basis that the applicant will assume full responsibility for the adjustment of reasonable complaints arising from excessively strong signals of the applicant's station."

5. Blanketed areas are clearly defined for AM broadcast stations as is the licensee's responsibility for satisfying the interference complaints due to blanketing within the areas. Blanketing is considered in four separate sections of the AM station rules, *i.e.;* §§ 73.14(s), 73.24(g), 73.88 and 73.188(b)(4). Section 73.88 defines the AM station licensee's overall responsibility as follows:

> The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1 V/M contour.

The AFCCE petition seeks an analogous rule section within the FM broadcast rules.

Discussion

6. The Commission regularly receives complaints and inquiries concerning FM interference. During 1979 the Field Operations Bureau received almost 600 complaints about FM interference to FM and TV reception and over 800 such

complaints in 1980. Because the present rules do not define the licensee's areas of responsibility the commission has found a large variation in the willingness of licensees to respond to interference complaints. On the other hand, licensees may feel that the Commission expects them to do far too much to resolve interference complaints. Obviously a better situation is one in which responsibility is clearly defined and each party recognizes it. Amendment of the rules to specify a blanketing contour and the licensee's responsibility within it would accomplish this. Therefore we are proposing revision of the FM rules along these lines.

7. FM blanketing affects not only FM receivers but television and other receivers as well. Strong FM signals may overload the tuner of a TV receiver driving it into a non-linear condition so that the receiver itself generates its own interference signal on the desired channel.[1]

8. The problem of FM blanketing is compounded by several factors. Foremost among these is the common practice of locating FM transmitting antennas in "downtown" locations as contrasted to the practice of locating AM transmitting sites outside the city of license. The potential for affecting larger numbers of receivers is increased because of this practice.[2] Many FM stations located in center-city areas use antenna supporting towers that are, relatively speaking, not particularly tall. This results in a high power density in areas around the base of the supporting tower. Where the antenna is located on top of a building, the overall height above ground may still be such that the signal power density is quite high at ground level. In addition, FM antennas located on top of buildings or relatively short towers may have adjacent buildings (and any receivers located in them) in their main radiation lobe where the signal level is greatest. Also, we are told that some antennas have a substantial radiation lobe directed straight downward.

9. Another factor is the practice of combining low gain antennas with high power transmitters. The Commission recognizes that this practice tends to minimize multipath problems; however, it also tends to increase the field strength in areas adjacent to and below the transmitting antenna. The most egregious case occurs when a single bay antenna is combined with a transmitter having a power of 40 kW or greater.

10. Further compounding the blanketing problem is the otherwise desirable practice of grouping several FM stations' transmitting antennas together, for example, to take advantage of a desirable transmitting site.[3] FM receivers located in areas near such sites are more likely to experience intermodulation interference than would otherwise be the case due to the number and strength of signals present.

11. The AFCCE petition states that available data indicates that ". . . blanketing interference problems are most likely to arise when the received undesirable FM station's signal stretch is 115 dBu or greater." AFCCE recognizes blanketing problems can occur in weaker fields, however, it states the 115 dBu contour includes the ". . . more difficult and egregious problems." In its discussion, AFCCE says that applicants should be placed ". . . on notice that problems arising from their operation will impose an obligation to remedy those problems when they occur." In its proposed amendment of § 73.315(e) AFCCE suggests a requirement for a special showing similar to that now required but linked to population density:

> In those instances where the population density within the 115 dBu contour exceeds 1,000 persons per square mile, the appliant will have to include a showing justifying use of the particular site and demonstrating that another site in a less densely populated area is not possible or is not available, or that it is impossible to utilize a combination of height, antenna gain and power which will suppress the 115 dBu contour.

12. The AFCCE petition does not offer any data justifying the use of the 115 dBu value to denote the blanketing contour. They note that this is the value used by the Canadian Department of Communications for domestic Canadian blanketing studies but no other information is provided concerning it.[4]

13. Based on the number of interference complaints received the Commission feels amendment of the FM blanketing rules is both desirable and necessary. This 115 dBu value suggested by AFCCE has not been justified as a specific standard, but it appears to be reasonable. The importance of the AFCCE petition and the Commission's proposal is less in the exact blanketing signal value chosen than in the defining of the licensee's area of responsibility for satisfying complaints. We solicit public and industry comments on whether the 115 dBu value, or some other value, should be adopted by the Commission.

14. Three differences exist between the rules being proposed by the Commission and the petition submitted by the AFCCE. The first of these is the manner in which the 115 dBu contour is determined. The rules we propose specify that the effective radiated power (ERP) of the main radiation lobe be used in determining the blanketed area without considering the vertical radiation pattern of the antenna (or antenna height). It is proposed that the inverse distance calculation be applied to the main radiation lobe using the horizonal distance from the antenna. The blanketed area so defined establishes the limits of responsibility of the licensee. We realize that this appears to penalize the applicant/licensee that uses a tall tower and/or a larger antenna which tends to minimize the blanketed area. However, the absence of a considerable reduction in public complaints will compensation the licensee. Further, a defined blanketing contour based on the 115 dBu ground level contour determined by using the antenna slant angle radiation could fail to include receivers located well above ground level (such as in high-rise apartments) where the field strength may exceed the 115 dBu limit.

15. The second difference is the level of responsibility placed on the applicant or licensee for satisfying complaints. AFCCE proposes that applicants and

[1] AFCCE notes that FM stations in the reserved portion of the band particularly cause interference to TV Channel 6 reception. From the Commission's experience, this type of interference is generally due to a lack of adjacent channel rejection capability in the TV receiver. This type of interference is not included in this proceeding as Docket 20735 addresses that subject.

[2] The Commission's rules have encouraged the location of FM station antennas near the center of the community to be served. See § 73.315(b). In times past this was an otherwise desirable practice because it insured the best coverage of the "downtown" sections of a community and the nearby residential areas. Blanketing interference was less of a concern then since there were fewer broadcast stations licensed and therefore fewer competing signals with which a given station could interfere. With the overall growth of the broadcast services, the problem of blanketing interference has increased. Applicants and licensees must now weigh the benefits of a centrally located antenna against the possibility of causing blanketing interference.

[3] In addition, the Federal Aviation Administration encourages the grouping of broadcast station antennas to minimize hazards to air traffic.

[4] The AFCCE petition explains that the Canadian procedure is to require a compiliation of the various frequency combinations and field strengths of all stations normally viewed or heard (with a minimum signal of 54 dBu) within the 115 dBu signal contour of the proposed station and also to include the number of people within the affected area. Although the Canadian applicant must agree to remedy blanketing complaints, they are exempted from certain complaints which include malfunctioning or mistuned receivers, improperly installed antenna systems, use of high gain antennas or antenna booster amplifiers and non-RF (radio frequency) devices such as tape recorders or hi-fi amplifiers.

licensees "will have a mandatory obligation of assuming full responsibility for the adjustment of reasonable complaints occuring within the 115 dBu contour". This language is similar to that now contained in the rules in § 73.315(e). The proposal the Commission is advancing would place a financial obligation on the licensee or applicant to satisfy reasonable complaints within the 115 dBu contour. Under this proposal licensees would bear the costs, for example, of equipment modification necessary to correct the blanketing problems. By placing financial responsibility on licensees' shoulders, blanketing interference should become a larger consideration when decisions concerning transmitter sites, transmitter output powers, and antennas are being made.

16. The third difference between the AFCCE proposal and the Commission's is the absence of a requirement for a showing in situations where licensees or applicants desire to locate their transmitter sites in areas of high population density. We feel the showing is an unnecessary burden on both applicants and the Commission since the licensee bears the ultimate responsibility for satisfying interference complaints in any event. Because the Commission's proposal includes a financial burden under the definition of responsibility, the showing becomes even more unnecessary. In our view, licensees should be free to select any site, transmitter power, and antenna (within their authorized class) so long as they bear the entire responsibility for their decisions. Certainly they should bear any costs associated with correcting interference engendered by their decisions. For this reason, we see no need to burden either applicants or the Commission with superfluous showings.

17. We recognize that sometimes a more densely populated site may offer advantages in providing service to the public. Since under the proposed rules a station must bear the responsibility of resolving cases of blanketing interference, we think it advisable that each station, rather than the Commission, balance these considerations in choosing its transmitting site.

18. Because more severe blanketing interference may occur when two or more stations share a common antenna tower or nearby sites, the FCC is requesting comments on appropriate procedures for establishing responsibility among the stations to correct the complaints in such cases. For example, when two or more stations share the same antenna/tower/location, would it be practical to determine the blanketed area by summing the power (ERP) in the main radiation lobe of each station? Alternatively, should the proposed 115 dBu blanketing level be modified downward when the signal of more than one station contributes to the blanketing interferance potential? Should each co-located station installed concurrently be jointly responsible for resolving interference complaints in the larger blanketed area? Should a station joining existing stations at a given location be responsible for all additional interference complaints in the entire area calculated by using the total radiated power? When transmitting stations are in close proximity, each station's signal can cause spurious emissions to be generated within and radiated from the transmission system of the other statons. It may be necessary to install special filters in the antenna systems of each station. Although the Commission holds each station responsible for the suppression of spurious emissions from its own equipment, should stations proposing to locate near previously authorized stations be responsible for not only installing any required filtering at the existing station(s), but also resolving all listener interference complaints? Should the proposed rule apply to licensees where, for example, the blanketing problem is created by events such as people moving into the blanketed area subsequent to the station's establishment in that area? We welcome comments on whether or not the proposed blanketing rule should apply to other circumstances. Current data leads us to believe that the vast majority of existing licensees have resolved almost all blanketing complaints satisfactorily even farther from the transmitting site than the proposed blanketing rule requires. However, in the rare instance in which a current licensee has failed to satisfactorily resolve blanketing complaints within that area encompassed by the proposed blanketing rule, should the blanketing rule is applicable to such licensees or should these licensee sitautions be "grandfathered"?

19. Finally, this *Notice* does not address hazardous radiation (to humans). General Docket No. 79-144, adopted June 7, 1979, addresses the responsibility of the Commission to consider the biological effects of radio frequency radiation when authorizing transmitting devices.

20. *Regulatory Flexibility Act of Initial Analysis*

I. *Reason for action.* Action is needed because of the apparent increase in intrerference complaints. The increasing number of FM stations and the practice of co-locating higher-power stations within denser populated center-city areas, contribute to the potential for blanketing interference. The present rules lack the specificity necessary to insure licensee's resolve blanketing problems arising from their operations.

II(a). *The objective.* The objective is to establish the appropriate blanketing signal level in order to define the area of responsibility of the licensee.

II(b). *Legal basis.* Action is proposed in accordance with Section 303 (f) and (r) of the Communications Act of 1934 in order that stations may operate free from harmful interference within their service areas.

III. *Description, potential impact and number of small entities affected.* The proposed rule change would clarify the FM station licensee's responsibility for correcting blanketing interference in the area around FM transmitters. At the maximum power permitted for Cass C stations, this would include only a 2.45 mile radius around the station. The proposed rule would apply to all FM station applicants and existing licensees. At the present time there are approxiamtely 4,400 FM stations licensed and on the air. This figure incldues both educational and commercial licensees. In a worst case stituation a station could have to relocate or raise its antenna height to resolve interference problems.

IV. *Recording, record keeping and other compliance requirements.* All FM stations would be required to satisfy blanketing interference complaints within the specified signal strength contour.

V. *Federal rules which overlap, duplicate or conflict with this rule.* None.

VI. *Any significant alternative minimizing impact on small entities and consistent with stated objectives.* The Commission's alternative is to maintain the status quo which does not define the blanketed area.

Filing Responses To This Notice

21. For purposes of this non-restricted Notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the

matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully convered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

22. Accordingly, pursuant to authority found in Sections 4(i) and 303(g) and (r) of the Communications Act of 1934, as amended, it is proposed to amend Part 73 of the Commission's Rules and Regulations as set forth in the attached Appendix.

23. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested parties may file comments on or before June 29, 1982, and reply comments on or before July 29, 1982. All relevant and timely comments and reply comments will be considered by the Commission before further action is taken in this proceeding. The Commission may also consider any other relevant information brought to its attention.

24. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*. In accordance with the provision of § 1.419 of the FCC's rules and regulations, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the FCC. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that RM-3655 is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.). Further information concerning this proceeding may be obtained from Albert S. Jarratt, Sr., Broadcast Bureau 202-632-9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 73—RADIO BROADCAST SERVICES

Appendix

1. It is proposed to amend § 73.310 of the Commission's rules by adding a new definition for FM Blanketing in alphabetical sequence in paragraph (a) to read as follows:

§ 73.310 Definitions.

* * * * *

FM Blanketing. Blanketing is that form of interference to the reception of other broadcast stations which is caused by the presence of an FM broadcast signal of 115 dBu (562 mV/m) or greater signal strength in the area adjacent to the antenna of the transmitting station. The 115 dBu contour is referred to as the blanketing contour and the area within this contour is referred to as the blanketed area.

* * * * *

2. It is proposed to amend § 73.315 of the Commission's rules by revising paragraph (e) to read as follows:

§ 73.315 Transmitter location.

* * * * *

(e) Areas adjacent to the transmitting antenna that receive a signal with a strength of 115 dBu (562 mV/m) or greater will be assumed to be blanketed. In determining the blanketed area, the 115 dBu contour is determined by calculating the inverse distance field using the effective radiated power of the maximum radiation lobe of the antenna without considering its vertical radiation pattern or height above average terrain.

(1) The distance to the 115 dBu contour is determined using the following equation:

$D \text{ (in kilometers)} = 0.394\sqrt{P}$

$D \text{ (in miles)} = 0.245\sqrt{P}$

Where P is the Effective Radiated Power (ERP) in the horizonal plane in kW.

(2) Applicants choosing a transmitter/antenna location within a densely populated area do so at their own financial risk, as they will be required to satisfy all reasonable blanketing interference complaints without cost to the complainant. This requirement specifically does not include malfunctioning or mistuned receivers, improperly installed antenna systems, use of high gain antennas or antenna booster amplifiers and non-RF devices such as tape recorders or hi-fi amplifiers (phonographs).

3. It is proposed to amend the Commission's Rules by adding a new § 73.326 to read as follows:

§ 73.326 FM blanketing interference.

The licensee or permittee of each FM broadcast station is required to resolve all reasonable complaints of blanketing interference within the 115 dBu contour without cost to the complainant (except as provided in § 73.315(e)(2)).

[FR Doc. 82-11901 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of proposed reopening of surf clam closed area and public hearing; request for comments.

SUMMARY: NOAA proposes to reopen portions of the area currently closed to surf clam fishing off Atlantic City, New Jersey, and invites public review and comment on the proposal. A hearing is scheduled to permit presentation of additional information about the sub-areas and discussion of alternatives. The proposal identifies the alternative sub-areas to be reopened and the conditions under which fishing may be conducted in the area selected.

EFFECTIVE DATE: Comments will be accepted through June 11, 1982. The

public hearing will be held from 7:00 p.m. to 9:00 p.m.

ADDRESS: Comments should be sent to: Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930–3097. The public hearing will be in Room CC–103 at the Richard Stockton State College in Pomona, New Jersey.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator; 617–281–3600.

SUPPLEMENTARY INFORMATION: Amendment 3 to the Fishery Management Plan for Surf Clam and Ocean Quahog Fisheries was implemented by final regulations published on January 29, 1982 (47 FR 4268). One provision of the regulations directs the Secretary to publish notice of any proposed action to reopen and area closed to surf clam fishing under the provisions of 50 CFR 652.23. Reopened areas are managed separately from the rest of the fishery until catch per unit of effort in the areas is comparable to the catch per unit of effort in the general fishery.

The closure area off Atlantic City was expanded on January 7, 1981 (46 FR 1714), due to concentrations in that area of undersized clams. A special study of the closed area, conducted during the summer of 1981, evaluated the abundance and size composition of surf clams within the area. That information was used by the Mid-Atlantic Fishery Management Council to identify sub-areas that would meet the criteria for reopening, and to access the amount of surf clams that could be harvested from such areas during 1982. The overall quota for surf clams in the mid-Atlantic area in 1982 was established with the expectation that a contribution to total harvest would come from reopening parts of the closed area (47 FR 141158). The Council recommended that a sub-area on the southeasterly edge of the closed area be opened, for the period from October 1 through December 31 of 1982. The sub-area identified by the Council is bounded by straight lines connecting the following coordinates:

39°13.04'N., 74°21.30'W.
39°15.40'N., 74°23.80'W.
39°19.25'N., 74°17.93'W.
39°17.00'N., 74°15.35'W.
39°13.04'N., 74°21.30'W.

The Regional Director has examined the survey information and has developed an alternative proposal for consideration. Public comment on each proposal will be evaluated, and a final decision to open either of these sub-areas, or a modified sub-area, will be issued after the end of the comment period. The Regional Director's proposal is intended to make available slightly more surf clams than the recommendation from the Council. It is also designed to establish boundaries that are less complicated and that would therefore be more readily adhered to by fishermen and more easily monitored by enforcement officials. Both proposals meet the criteria for reopening areas as established by 50 CFR 652.23(b)(2)(i). The alternative area is bounded by straight lines connecting the following coordinates:

39°15.50'N., 74°30.00'W.
39°21.10'N., 74°21.80'W.
39°19.90'N., 74°12.20'W.
39°11.60'N., 74°23.50'W.
39°15.50'N., 74°30.00'W.

This area is essentially a triangular shape taken from a portion of the original closed area. The shoreward boundary of the areas remaining closed continues to be the limit of the territorial sea of the State of New Jersey.

Section 652.23(b)(3) requires the Secretary to control harvest from reopened areas and authorizes the Regional Director to use any of several control mechanisms for that purpose. Section 652.23(c) requires the Secretary to publish notice of proposed control mechanisms. This area reopening will initially include two harvest controls on fishermen. First, vessel operators will be required to advise the Regional Director, through the area law enforcement officer, of their intent to fish in the reopened area. The second requirement is a restriction on allowable fishing time in the reopened area. Vessel operators will be allowed to exchange regular authorized fishing periods for fishing periods within the reopened area by requesting new letters of authorization. As a preliminary estimate, from one-quarter (presently twelve hours per two weeks) to one-half (presently twelve hours per week) of the authorized fishing time may be designated, at the operator's option, for use in the reopened area. This estimate may be readjusted upward or downward after the public review period to reflect additional information about the abundance of surf clams in the area or any reduction or increase in the allowable surf clam fishing time in the mid-Atlantic area.

The Regional Director is especially interested in the public response to an alternative schedule for reopening whatever area is designated, particularly the alternative of reopening as early as August 1, 1982.

Comments on this proposal are invited through June 11. A public hearing will be conducted from 7:00 p.m. to 9:00 p.m. on June 4, 1982, in Room CC–103 at the Richard Stockton State College in Pomona, New Jersey, to present information about the proposals and to discuss alternatives both to the areas proposed and the control mechanisms and ranges identified here. Charts showing alternative areas, and the latest resource survey information, will be available. The Regional Director will review the results of the hearing and any comments received during the comment period. The Secretary will then publish a final notice defining the area and specifying any restrictions on harvest within the area.

Other Matters

This action is taken under the authority of 50 CFR 652.23 and is taken in compliance with Executive Order 12291. The action is covered by the certification for Amendment 3, under the Regulatory Flexibility Act, that the authorizing regulations do not have a significant economic impact on a substantial number of small entities.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fish, Fisheries.

Dated: April 28, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–11997 Filed 4–30–82; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Designation of the Alaska Department of Natural Resources, Division of Agriculture (AK), and Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the selection of the Alaska Department of Natural Resources, Division of Agriculture (Alaska), for designation as an official agency responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act). This notice also announces assignment of geographic area to Alaska.

EFFECTIVE DATE: June 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The November 30, 1981, issue of the **Federal Register** (46 FR 58268) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation as the agency to provide official inspection services within the State of Alaska, excluding export port locations. Applications were to be postmarked by December 28, 1981.

FGIS announced the name of the applicant for designation and requested comments on same in the January 29, 1982, issue of the **Federal Register** (47 FR 4472). Comments were to be postmarked by March 30, 1982.

No comments were received regarding the application for designation by Alaska (the only applicant) as the official agency in the area cited in the November 30 issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Alaska is able to provide official services in the geographic area for which it applied. This assigned area is the entire State of Alaska, excluding export port locations.

Effective June 1, 1982, and terminating May 31, 1985, the responsibility for providing official inspection services in the geographic area as specified above will be assigned to Alaska.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geogrphic area, the agency will provide official inspection services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agency at the following address: Alaska Department of Natural Resources, Divison of Agriculture, Pouch A, Wasilla, AK 99687.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 12, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–11878 Filed 4–30–82; 8:45 am]

BILLING CODE 3410-EN-M

Renewals of Designation of the Little Rock Grain Exchange Trust (AR) and Memphis Grain and Hay Association (TN)

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Little Rock Grain Exchange Trust (Little Rock) and Memphis Grain and Hay Association (Memphis), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (Act).

EFFECTIVE DATE: June 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The November 30, 1981, issue of the **Federal Register** (46 FR 58268) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Little Rock and Memphis' designations would terminate on May 31, 1982, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by December 28, 1981.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the January 29, 1982, issue of the **Federal Register** (47 FR 4471). Comments were to be postmarked by March 30, 1982.

Favorable comments were received regarding the renewals of designation of Little Rock and Memphis (the only applicants for each respective designation) as the official agency in

each area cited in the November 30 issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in Section 7(f)(1)A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Little Rock and Memphis are able to provide official services in the geographic area for which their designation is being renewed. Each assigned area is the entire geographic area as described in the November 30 issue of the **Federal Register.**

Effective June 1, 1982, and terminating May 31, 1985, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Little Rock and Memphis, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where they agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Little Rock Grain Exchange Trust, 600 Olive Street, Bldg. B, North Little Rock, AR 72114.

Memphis Grain and Hay Association, 1390 Channel Avenue, P.O. Box 13302, Memphis, TN 38113.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: April 12, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-11912 Filed 4-30-82; 8:45 am]

BILLING CODE 3410-EN-M

Termination of Designations of the Los Angeles Grain Inspection Service, Inc. (CA), and Peoria Grain Inspection Service, Inc. (IL)

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces that the designations of two official agencies will terminate, in accordance with the U.S. Grain Standards Act, as amended, on October 31, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection services in the geographic areas currently serviced by each of the two agencies. The official agencies are the Los Angeles Grain Inspection Service, Inc., and Peoria Grain Inspection Service, Inc.

DATE: Applicantions to be postmarked on or before June 2, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned geographic area.

Los Angeles Grain Inspection Service, Inc. (Los Angeles), 1625 Bluff Road, Montebello, CA 90640, was designated as an official agency under the Act for the performance of official grain inspection functions on July 19, 1979. Peoria Grain Inspection Service, Inc. (Peoria), 330 S.W. Washington Street, 2nd Floor, Peoria, IL 61602, was designated as an official agency under the Act for the performance of official grain inspection functions on August 16, 1979. The agencies' designations will terminate on October 31, 1982. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Los Angeles in the State of California pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation includes the following:

Bounded: on the North by the Angeles National Forest southern boundary from State Route 2 east; the San Bernadino National Forest southern boundary east to State Route 79;

Bounded: on the East by State Route 79 south to State Route 74;

Bounded: on the South by State Route 74 west-southwest to Interstate 5; Interstate 5 northwest to Interstate 405; Interstate 405 northwest to State Route 55; State Route 55 northeast to Interstate 5; Interstate 5 northwest to State Route 91; State Route 91 west to State Route 11; and

Bounded: on the West by State Route 11 north to U.S. Route 66; U.S. Route 66 west to Interstate 210; Interstate 210 northwest to State Route 2; State Route 2 north to the Angeles National Forest boundary.

The geographic area presently assigned to Peoria in the State of Illinois pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by the northern Stark County line to Marshall County; the northern Marshall County line to Putnam County; the western Putnam County line north to State Route 29; State Route 29 north to Interstate 180; Interstate 180 east to State Route 26;

Bounded: on the East by State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 southeast to State Route 121; State Route 121 south to State Route 10;

Bounded: on the South by State Route 10 west to Mason County; the eastern and southern Mason County lines west to the Illinois River; the Illionis River northeast to Fulton County; the southern Fulton County line; and

Bounded: on the West by the western and northern Fulton County lines to Peoria County; the western Peoria and Stark County lines.

Interested parties, including Los Angeles and Peoria, are hereby given opportunity to apply for designation as the official agency for each respective specified geographic area, as described above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period

beginning November 1, 1982, and terminating October 31, 1985. Parties wishing to apply for either of these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than June 2, 1982 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection services in the geographic areas, consideration will be given to all applications submitted and all other information available.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: April 12, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–11913 Filed 4–30–82; 8:45 am]

BILLING CODE 3410–EN–M

ARMS CONTROL AND DISARMAMENT AGENCY

Extension of Hubert H. Humphrey Fellowship Application Deadline

As previously announced in the Federal Register (46 FR 56838, corrected at 46 FR 57334), the U.S. Arms Control and Disarmament Agency is conducting a competition for one year Hubert H. Humphrey Fellowships in arms control and disarmament for the period beginning September, 1982. The fellowships will support unclassified doctoral dissertation research in the field. Law candidates for the Juris Doctor or any higher degree are also eligible, if they are writing a substantial paper in partial fulfillment of degree requirements. The fellowship stipends for Ph.D. candidates will be $5,000, plus applicable tuition and fees up to a maximum of $3,400. Stipends and tuition for law candidates will be prorated according to the credits given for the research paper. Fellows must be citizens or nationals of the U.S. and degree candidates at a U.S. university. The application deadline for the awards has been extended from February 22, 1982 to May 30, 1982, and announcement of final selection will be made shortly thereafter. For information and application materials write: Hubert H. Humphrey Fellowship Program, Office of Congressional and Public Affairs, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

Dated: April 27, 1982.

Joseph D. Lehman,

Public Affairs Advisor.

[FR Doc. 82–11887 Filed 4–30–82; 8:45 am]

BILLING CODE 6820–32–M

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; Proposed Amendment of the Statement of General Routine Uses of the Systems of Records

AGENCY: General Intelligence Agency.

ACTION: Proposed amendment of the statement of general routine uses of the systems of records.

SUMMARY: This proposed amendment adds one new general routine use and revises four of the existing six general routine uses and is applicable to all of the CIA systems of records (last published in full text in the Federal Register, Vol. 40, No. 168, p. 39778). With the exception of the proposed general routine use number 1, the amendment makes technical revisions in four of the remaining six uses. Proposed general routine use number 1 is intended to enable the CIA to fulfill its lawful functions pursuant to applicable law in a more effective manner.

DATES: Written comments should be submitted at the earliest possible date, but no later than June 2, 1982 in order to enable the Agency to have an opportunity to review them. The routine uses will become effective July 2, 1982 unless the Agency publishes a notice to the contrary.

ADDRESS: Send written comments to: Chief, Information and Privacy Division, Central Intelligence Agency, Washington, DC 20505.

FOR FURTHER INFORMATION CONTACT: Emilio Jaksetic, Phone: (703) 351–7521.

SUPPLEMENTARY INFORMATION: The addition of the first proposed general routine use is intended to state an obvious proposition: That records contained in systems of records maintained by the CIA to enable it to carry out its responsibilities under the National Security Act of 1947, as amended, and the Central Intelligence Agency Act of 1949, as amended, and other federal statutes, Executive orders, nationl security directives, or regulations or procedures promulgated pursuant thereto, will be disclosed as a routine use whenever such disclosure is necessary or appropriate to enable the CIA to fulfill its lawful functions. Nothing in the Privacy Act or its legislative history indicates that Congress intended the routine use provisions of the Act to interfere with, or otherwise constitute a barrier to, the ability of Federal agencies to carry out their lawful functions.

The addition of the phrase "or relates to" to the second general routine use (formerly number 1) is made to clarify an ambiguity. Where a record containing information that indicates a violation or potential violation of law is disclosed to the appropriate agency, it may be necessary or appropriate to disclose other related records to the appropriate agency to enable it to understand, interpret or otherwise act upon the information that indicates a violation or potential violation of law. Addition of the phrase "or charged with the responsibility to take appropriate administrative action" to the second general routine use is made to clarify the types of entities to which disclosures will be made concerning actual or potential violations of law. Substitution of the word "disclosed" for the word "referred" is an amendment of a nonsubstantive nature and requires no explanation.

Substitution of the phrase "performance of the Agency's acquisition functions" for the phrase "letting of a contract" in the third general routine use (formerly number 2) is an amendment of a nonsubstantive nature and requires no explanation.

The amendment made to the fourth general routine use (formerly number 3) is intended to bring this general routine use statement into conformity with the language of the third general routine use (formerly number 2) in order to provide for a more uniform standard for disclosure. Substitution of the phrase "entity" for "agency" is a technical amendment of a nonsubstantive nature and requires no explanation.

The addition of the phrase "or special access" to the third and fourth general routine uses (formerly number 2 and 3, respectively) is made to distinguish the types of security approvals granted by the Agency. A security clearance represents formal determination that an individual is authorized access, on a "need-to-know" basis, to a specific level of classified information. A special access is required for access to certain types of classified information irrespective of its level of classification. Accordingly, addition of the phrase "or special access" is an amendment of a nonsubstantive nature.

The amendment made to the fifth general use (formerly number 4) is a technical amendment. To the extent that records may be disclosed in the course of presenting evidence in a legal proceeding, such disclosures are, of

course, made pursuant to statutes or regulations governing the conduct of such proceedings. Furthermore, because parties in legal proceedings are not always represented by legal counsel, it may be necessary to make disclosures to the parties themselves or to their non-attorney representatives or agents. Accordingly, this proposed amendment is intended to explicitly recognize that CIA records will be disclosed, as a routine use, to appropriate parties when necessary or appropriate to Agency participation in legal proceedings.

The sixth and seventh general uses (formerly numbers 5 and 6) remain unchanged.

For the reasons set out in the preamble and pursuant to Privacy Act of 1974 (5 U.S.C. 552a), this Agency proposed to amend the statement of general routine uses as stated below:

The following routine uses apply to, and are incorporated by reference into, each system of record maintained by the CIA:

1. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency, other appropriate entities or individuals, or, through established liaison channels, selected foreign governments whenever such disclosure is necessary or appropriate to enable the Central Intelligence Agency to carry out its responsibilities under any federal statute, Executive order, national security directive, or any regulations or procedures promulgated pursuant thereto.

2. In the event that a system of records maintained by the Central Intelligence Agency to carry out its functions indicates, or relates to, a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be disclosed, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with the responsibility to take appropriate administrative action, or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Central Intelligence Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance or special access, or the performance of the Agency's acquisition functions.

4. A record from this system of records may be disclosed, as a routine use, to a federal, state, or local agency, or other appropriate entities or individuals, in connection with the hiring or retention of an employee, the issuance of a security clearance or special access, the reporting or an investigation of an employee, the letting of a contract, of the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the entity's decision on the matter.

5. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing parties or their counsel or other representatives in the course of settlement negotiations, and disclosures made pursuant to statutes or regulations governing the conduct of such proceedings.

6. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation, as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. A record from a system of records may be disclosed, as a routine use, to NARS (GSA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Harry E. Fitzwater,

Deputy Director for Administration.

[FR Doc. 82–11756 Filed 4–30–82; 8:45 am]

BILLING CODE 6310–02–M

CIVIL AERONAUTICS BOARD

[Docket 40507]

EOA Fitness Investigation; Cancellation of Prehearing Conference

Notice is hereby given that the prehearing conference in this case, assigned to be held on April 30, 1982 (47 FR 16363, April 13, 1982), is hereby cancelled.

Dated at Washington, D.C., April 28, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82–12003 Filed 4–30–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40580]

Samoa, Inc., d.b.a. Samoa Airlines, Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter is assigned to be held on May 18, 1982, at 10:00 a.m. (local time) in Room 1012, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 28, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82–12004 Filed 4–30–82; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

California 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 meeting of the California Advisory Committee to the Commission will convene at 8:30 a.m. and will end at 5:00 p.m., on May 26, 1982, at the Federal Building, 300 North Los Angeles Street, Room 8544, Los Angeles, California, 90012. The purpose of this meeting is to obtain information on reapportionment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 260 Eucalyptus Hill, Santa Barbara, California 93103, (303) 444–3541 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 28, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–12005 Filed 4–30–82; 8:45 am]

BILLING CODE 6335–01–M

Michigan 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 meeting of the Michigan Advisory Committee to the Commission will convene at 5:30p and will end at 8:30p, on May 19, 1982, at the Best Western Motel, G3129 Miller Road, Flint, Michigan, 48507. The purpose of this meeting is to discuss tuition tax credits, minority contracting practices by large

corporations, and affirmative action practices in municipal governments.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas, S.E., Grand Rapids, Michigan, 49506, (616) 949–4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 28, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–12006 Filed 4–30–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF THE COMMERCE

Bureau of the Census

Estimates of Cubans and Haitians Who Entered the United States Between April 1, 1980 and September 30, 1980; Revision

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice; revision.

SUMMARY: This notice revises a table showing estimates of Cubans and Haitians who entered the United States between April 1, 1980 and September 30, 1980. The table was published June 24, 1981 (46 FR 32602).

FOR FURTHER INFORMATION CONTACT: Jennifer Marks (301) 763–5072.

The following lines should read:

New Jersey—9,380
Hudson County—6,150
West New York—3,160
Florida—98,330
Dade County—90,750

Dated: April 28, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82–12001 Filed 4–30–82; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Subcommittee on Export Administration of the President's Export Council

AGENCY: International Trade Administration.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Wednesday, May 26, 1982.

The Subcommittee on Export Administation was initially established on June 1, 1976. Executive Order 12258 of December 31, 1980, continued the Subcommittee unitl December 31, 1982.

The Subcommittee provides advice on matters peritinent to those portions of the Export Administration Act of 1979 which deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

TIME AND PLACE: The meeting will take place at 10:00 a.m., May 26, 1982, at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. The public session will be from 10:00 a.m. to 11:45 a.m.

AGENDA: *Open Session.* The agenda for the public session is as follows:

10:00–10:15

Meeting called to Order; Report on PEC Meeting of May 14, 1982; Subcommittee Resolutions to PEC—Chairman David Scott

10:15–10:50

Report of Ad-Hoc Working Group on Foreign Trade Controls—Ed Law
Report of Ad-Hoc Working Group on COCOM Reexports and Status of U.S. Cases in COCOM—Tom Chirstiansen
Report of Ad-Hoc Working Group on Review of Export Administration Act—John Copeland

10:50–11:00

Report of Ad-Hoc Working Group on Insurance Against Foreign Policy Controls—Ed Stroh

11:00–11:45

Panel Discussion on Insurance Against Foreign Policy Controls: Ed Stroh; Mac Johnston, V.P. for Insurance, Overseas Private Investment Corp.; Robert Keenan, President, Foreign Credit Insurance Assoc.; Bill Carrick, V.P., Alexander & Alexander

Executive Session. From 12:00 p.m. to 4:30 p.m. the Subcommittee will meet in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with U.S. and COCOM export control program developments and their related strategic criteria.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 8, 1982, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 522b(c)(1) and properly classified under Executive Order 12065.

A copy of the Notice of Determination to close the Subcommittee's meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: (202) 377–4217.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Kappler, Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–1455) or Mr. Jeffrey Jackson, President's Export Council, Room 1215 (202/377–1125).

Dated: April 27, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82–12011 Filed 4–30–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Weapons Panel will meet at Lawrence Livermore National Laboratory, Livermore, California on 17–18 June 1982. The purpose of the meeting will be to review current scientific and technological advances in high energy physics. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in section 52(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For futher information, contact the Scientific Advisory Board Secretariat at 202–697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

April 23, 1982.

[FR Doc. 82–11938 Filed 4–30–82; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)
Dates of meeting: Thursday, 27 May 1982, Friday, 28 May 1982
Times: 0830–1700 hours on 27 May 1982 (Closed), 0830–1600 hours on 28 May 1982 (Closed)
Place: The Pentagon, Washington, D.C. (exact location to be determined)
Agenda: The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will meet for a Plenary Session of classified briefings and discussions and then break up into the three working groups for this effort: (1) Civilian Engineers, (2) Civilian Scientists, and (3) Uniformed Scientists and Engineers. The Summer Study addresses the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,
Administrative Officer.

[FR Doc. 82–12010 Filed 4–30–82; 8:45 am]
BILLING CODE 3710–08–M

Ballistic Missile Defense, Army Science Board Ad Hoc Subgroup; Meeting Cancellation

The meeting of the Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense which was originally announced in the issue of the **Federal Register** of 29 April 1982 (82–11707) for 25 & 26 May 1982 at the Pentagon (Closed Meeting) has been canceled. Questions may be addressed to the Army Science Board's Administrative Officer, Helen M. Bowen, at (202) 695–3039 or 697–9703.

Maria P. Galvan,
Acting Administrative Officer.

[FR Doc. 82–12009 Filed 4–30–82; 8:45 am]
BILLING CODE 3710–08–M

Record of Preparation and Disposition of Remains (DD Form 2063)

Notice of Information Collection.— The primary purpose of this information collection is to ensure that Federal standards are met. Additional data is gathered in order to plan budgets and manage for the proper care of remains. Forward comments to Andy Uscher, OMB Desk Officer, Room 3235, NEOB, Washington DC 20503, and John V. Wenderoth, Agency Clearance Officer, OASD(C), DIRMS, IRA, Room 4B929, Pentagon, Washington, DC 20301. A copy of the information collection proposal may be obtained from David Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, DC 20301, telephone 202–695–5111.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

April 28, 1982.

[FR Doc. 82–12002 Filed 4–30–82; 8:45 am]
BILLING CODE 3710–08–M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

10–11 June 1982, Thursday & Friday, Vaihingen, Germany. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence support to tactical commanders.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

April 28, 1982.

[FR Doc. 82–11937 Filed 4–30–82; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Amendment to meeting.

SUMMARY: Notice is hereby given of the amendment to a notice concerning a closed meeting of the National Advisory Council on Indian Education. The meeting recessed on Tuesday, April 20, 1982, and was continued on April 21, 1982, until 10 a.m. in order for the Executive Committee to complete reviewing proposal based on the provisions of the Indian Education Act, Title IV, Pub. L. 92–318, section 442(b) (2) and make recommendations to the Secretary with respect to their approval. The original notice was published in the **Federal Register** on March 26, 1982, page 13026.

Dated: April 21, 1982.
Signed at Washington, D.C.

Michael P. Doss,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 82–11876 Filed 4–30–82; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

These subsequent arrangements would give approval, which must be obtained under the above mentioned agreements, for the following transfers of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to the United Kingdom (British Nuclear Fuels, Ltd.) for the purpose of reprocessing, 42 irradiated fuel bundles, containing 8,000 kilograms of uranium, enriched to 1.0% in U–235, and 70 kilograms of plutonium from the Tsuruga Power Station, and 1,848 irradiated fuel elements from the Tokai Power Station containing 21,100 kilograms of uranium enriched to approximately 0.5% in U–235 and 43.5 kilograms of plutonium. These subsequent arrangements are designated as RTD/EU(JA)–41, and RTD/EU(JA)–42, respectively.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in the United Kingdom, and will not be transferred from the United Kingdom, nor put to any use, without the prior

consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreigh Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.
Dated: April 28, 1982.

Jack Ebetino,

Acting Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-12008 Filed 4-30-82; 8:45 am]
BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Adjustments To Operating and Maintenance Charges for Customer-Owned Facilities; Opportunities To Comment

AGENCY: Bonneville Power Administration (BPA), Energy.

ACTION: Notice of proposed adjustments to operation and maintenance charges for customer-owned facilities.

SUMMARY: Bonneville Power Administration (BPA) is proposing increases in its charges for providing operation and maintenance services for customer-owned transmission related facilities. Written data, views, and comments on the proposed adjustments are requested from interested persons.

DATES: Operation and maintenance charges for customer-owned facilities will be increased effective July 1, 1982. Data, views, and comments on the proposed charges will be accepted until May 24, 1982.

ADDRESS: Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212; (503) 230-4261. BPA maintains toll-free lines for the use of persons within the region. Oregon callers may use 1-800-452-8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1-800-547-6048. Messages and requests for information received outside of normal business hours (4:30 p.m. to 7:30 a.m.) may be recorded on the toll-free lines.

Additional information is available from:

Mr. George E. Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551;

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311;

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518;

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202;

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377;

Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130;

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701;

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: A number of BPA's electric power and transmission customers own transformers, switches, capacitors, power circuit breakers, terminals, and other transmission equipment on which BPA performs operations and maintenance services pursuant to contract. BPA's labor and material costs associated with such operations and maintenance services have increased significantly over the past year. By **Federal Register** Notice of December 1, 1980, BPA implemented the most recent increases in charges for operation and maintenance of customer-owned facilities, effective January 1, 1981 [45 FR 79528]. In order to be properly compensated for such services, an increase in operation and maintenance charges will be necessary effective July 1, 1982. Unlike schedules of rates and charges for the sale and dispostion of electric energy and capacity and for transmission of non-Federal electric power over the Federal transmission system, the operation and maintenance charges are not subject to the ratemaking procedures contained in Section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). Therefore, operation and maintenance charges are neither subject to the procedural requirement of section 7(i) of the Regional Act, nor to confirmation and approval by the Federal Energy Regulatory Commission. Rather, under terms of various agreements, operation and maintenance charges are subject to unilateral adjustments to recover BPA's costs.

The purpose of this Notice is to solicit comments on the proposed adjusted charges for operations and maintenance services to be performed by BPA. The increased charges are based upon a study conducted by BPA. The attached table is a summation of study results. Copies of the study results are available upon request for the address and phone numbers listed under the Further Information section of the Notice.

Persons wishing to comment on the proposed charges should submit comments to Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, by May 10, 1982. Thereafter, a notice of final charges will be published in the **Federal Register.**

PROPOSED ANNUAL O. & M. CHARGES FOR CUSTOMER-OWNED FACILITIES

Terminal Charges	
Low voltage industrial terminal	$6,624
Other low voltage terminal	4,152
115 kV terminal	8,112
230 kV terminal	12,828
500 kV terminal	37,104
Power Circuit Breakers	
Low voltage industrial	5,976
69 kV and under	3,516
115 kV	6,900
230 kV	11,616
500 kV	28,476
Switches and Capacitors	
Group operated 345 kV and under	396
Group operated 500 kV and above	2,880
Hook operated 345 kV and under	120
Load break 345 kV and under	4,296
Capacitors per KVAR (series)	0.444
Capacitors per KVAR (shunt)	0.444
Transformers	
230/low voltage	8,028
230/115 kV	35,784
500/230 kV	100,380
Industry transformers 230/low voltage	22,392

Issued in Portland, Oregon on April 28, 1982.

Earl Gjelde,

Acting Administrator.

[FR Doc. 82-12123 Filed 4-30-82; 10:12 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5953-000]

Stephen E. and George S. Austin; Application for Preliminary Permit

April 27, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on February 8, 1982, an application for preliminary permit [pursuant to the

Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5953 to be known as the Pike Mill Project located on the Moose River in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A newly constructed 13-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 965 feet NGVD with an estimated storage capacity of 54 acre-feet; (3) a 300-foot long tailrace; (4) a new powerhouse containing one generating unit with a rated capacity of 105 kW; (5) a new transmission line; and (6) appurtenant facilities. The applicant estimates that the average annual energy output would be 450,000 to 500,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The project property is owned by Robert Beede of Concord, Vermont, Floyd Lanphere of Hyde Park, Vermont, Frank Balazs of Maplewood, New Jersey, and Aphonse Leonardis of Haskellstown, New Jersey.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,749.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself, or a notice of intent to file such an application [see 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 12, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–11952 Filed 4–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–19–001]

Colorado Interstate Gas Co.; Petition To Amend

April 28, 1982.

Take notice that on March 26, 1982, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82–19–001 a petition to amend the order issued December 29, 1981, in Docket No. CP82–19–000 pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g) so as to increase Petitioner's allowable expenditures relating to field gas compression for the calendar year 1982, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued December 29, 1981, it was authorized to construct, operate, remove, relocate, and/or abandon field gas compression facilities during the calendar year 1982. Petitioner asserts that said order limited the total cost of said facilities to $3,000,000 with no single project to exceed $500,000. Petitioner proposes to increase its allowable expenditures relating to the aforementioned field gas compression for the calendar year 1982 from a total cost of $3,000,000 to $5,000,000 and to increase the single project limit from $500,000 to $1,235,000. Petitioner explains that such increases are necessary due to inflation and increased costs of constructing pipelines.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to interverne or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–11954 Filed 4–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6108-000]

Emerald Peoples Utility District; Application for Preliminary Permit

April 27, 1982.

Take notice that Emerald Peoples Utility District (Applicant) filed on March 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6108 to be known as the Huckleberry Creek Hydroelectric Project located on Huckleberry Creek, a tributary of the Williamette River, in Lane County, near Oakridge, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Enid Smith, Emerald Peoples Utility District, 84899 Tillicum Avenue #9, Pleasant Hill, Oregon 97401.

Project Description—The proposed project would consist of: (1) A proposed 10-foot-high by 40-foot-long diversion dam; (2) A proposed 1,500-foot-long open flume; (3) a proposed 3,800-foot-long, 18-inch diameter steel penstock; (4) a proposed powerhouse with generating units having an estimated installed capacity of 1,100 kW and producing an average annual energy output of 6,300 MWh; (5) a proposed 7-mile-long transmission line to connect to an existing Bonneville Power Administration (BPA) line; and (6) appurtenant facilities. The project would be located within the boundaries of the Williamette National Forest. The proposed market for the power is principally Emerald Peoples Utility District.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant has requested a 30-month permit to study the engineering, environmental and economic feasibility of constructing and operating the proposed project. The cost of this study along with consulting Federal, State, and local agencies for information, comments and recommendations relevant to the project, and preparing a license application is estimated by the Applicant at $80,000.

Competing Applications—This application was filed as a competing application to Grisdale Hill Company's application for Project No. 5705 filed on December 1, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing aplications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11955 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6204-000]

Energenics Systems, Inc.; Application for Preliminary Permit

April 27, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on April 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6204 to be known as the Hiram H. Chittenden Lock and Dam Project located at the dam on Lake Washington Ship Canal in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, President, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing United States government dam owned and operated by the Corps of Engineers and would consist of a powerhouse containing two generating units with a combined rated capacity of 1,300 kW and appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission on or before August 9, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11950 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6152-000]

Grisdale Hill Co.; Application for Preliminary Permit

April 27, 1982.

Take notice that The Grisdale Hill Company (Applicant) filed on April 1, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6152 to be known as the Jackson Creek Hydroelectric Project located on Jackson Creek in Douglas County, Oregon, affecting United States lands within Umpqua National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Leo S. Fisher, Suite 423, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036.

Project Description—The proposed project would consist of:

A. *Jackson No. 1 Development* consisting of: (1) An 8-foot high, 90-foot long diversion structure on Jackson Creek; (2) a 7-foot diameter, 2.9-mile long pipeline; (3) a 72-inch diameter, 500-foot long penstock; and (3) a powerhouse with total installed capacity of 2,700 kW.

B. *Jackson No. 2 Development* consisting of: (1) a 5-foot high, 60-foot long diversion structure on Beaver Creek; (3) a 4-foot diameter, 2.1-mile long pipeline; (3) a 3-foot diameter penstock; and (4) a powerhouse with total installed capacity of 1,900 kW.

The power produced by the project would be transmitted by a 5-mile long, 12.5-kV transmission line interconnecting with existing Pacific Power and Light transmission line. The Applicant estimates that the average annual energy output would be 16.9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking a preliminary permit for 24 months during which it would conduct engineering, environmental, and economic studies, and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $125,000.

Competing Applications—This application was filed as a competing application to City of Canyonville, Oregon's application for Project No. 5684 filed on November 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 1, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11957 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5633-001]

Hydro Development Group Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 27, 1982.

Take notice that on March 1, 1982, Hydro Development Group Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended)*, for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 5633) would be located on the South Branch Oswegatchie River in the Village of Hailesboro, Town of Fowler, St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mr. John T.

Bedard, Hydro Development Group Inc., P.O. Box 58, Dexter, New York 13634.

Project Description—The proposed project would utilize the existing facilities consisting of: (1) A 16-foot high and 68-foot long reinforced-concrete dam having a 24-foot long spillway section with crest elevation 431.5 feet msl and having an intake section at the left (south) abutment and a gated sluiceway section at the right abutment; (2) a reservoir with a surface area of 6.5 acres and negligible storage capacity at normal surface elevation 432.5 feet msl; (3) a 12-foot wide, 16-foot deep, 150-foot long concrete flume; (4) a tailrace having water surface elevation 414.5 feet msl; (5) a substation; and (6) appurtenant facilities.

Applicant proposes to: (1) Install new headgates and trash racks; (2) repair the flume; (3) construct a powerhouse containing two rebuilt generating units each rated at 500-kW at a head of 18 feet and hydraulic capacity of 360 cfs each; (4) construct a 0.25-mile long 2.3-kV transmission line. Applicant estimates that the average annual energy output would be 5 million kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 18, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11958 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5943-000]

City of Los Angeles Department of Water and Power; Application for Preliminary Permit

April 27, 1982.

Take notice that City of Los Angeles Department of Water and Power (Applicant) filed on February 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5943 to be known as the Cottonwood Creek Water Power Project located on Cottonwood Creek within the Inyo National Forest in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Norman E. Nicholas, Chief Electrical Engineer and Assistant Manager, Department of Water and Power of the City of Los Angeles, P.O. Box 111, Room 1155, Los Angeles, California 90051.

Project Description—The proposed project would consist of: (1) A 170-foot high, 1,900-foot long dam; (2) a reservoir with a surface area of 160 acres and a storage capacity of 5,000 acre-feet; (3) a 30-inch diameter, 12,300-foot long buried conduit; (4) a forebay; (5) a 30-inch diameter, 19,000-foot long buried penstock; (6) a powerhouse to contain a single generating unit with a rated capacity of 8,700 kW, operating under a head of 4,050 feet; (7) a 34.5-kV transmission line to tie into an existing line which is to be upgraded. The estimated average annual energy output is 38,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No new road construction will be required. The estimated cost for conducting these studies and preparing an application for an FERC license is $250,000.

Competing Applications—This application was filed as a competing application to Eastern Sierra Energy Development's application for Project No. 5310 filed on September 2, 1981.

Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11953 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5002-001]

Mac Hydro-Power Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 27, 1982.

Take notice that on February 23, 1982, Mac Hydro-Power Company, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydro-electric project (Project No. 5002) would be located on Haypress Creek, near Sierra City, within the lands of the Tahoe National Forest, Sierra County, California. Correspondence with the Applicant should be directed to: Mr. H.L. Pete Childers, Mac Hydro-Power Company, P.O. Box 5193, Auburn, California 95603.

Project Description—The project would consist of: (1) A 2-foot high, 16-foot long diversion structure; (2) a 3900-foot long, 30-inch diameter low pressure conduit; (3) a 1400-foot long, 24-inch diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 1400 kW and (5) a 2.5-mile long, 12-kV transmission line from the powerhouse to an existing PG&E power line. The Applicant estimates that the average annual energy production would be 6.1 million KWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 14, 1982, either the competing license application that proposes to develop at least 7.5 mega-watts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Application for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11959 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6183-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

April 27, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6183 to be known as the Skykomish Tributaries Project located on Bitter, Lewis & Canyon Creeks, within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122-196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) 36-inch wide concrete intake structures placed in the streambeds at elevation 2,600 feet; (2) diversion pipelines with total length 15,000 feet; (3) a powerhouse at 800 feet containing a turbine generator with 3.26 MW capacity and 14.29 GWh annual energy production; and (4) a transmission line 2 miles long. The potential market for project-generated energy includes Puget Sound Power and Light, the Bonneville Power Administration and the Intalco Aluminum Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 8, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 8, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 7, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11960 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6172-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

April 27, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on April 6, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6172 to be known as the Salmon Creek Project located on Salmon Creek in Snohomish County, Washington. The project would be located within the Snoqualmie-Mount Baker National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122–196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) Two 36-inch-wide concrete French drain diversion structures; (2) two 36-inch-diameter pipelines, totaling 15,000 feet in length; (3) a powerhouse containing one generating unit rated at 2.88 MW; and (4) a 7-mile-long transmission line. The average annual energy generation is estimated to be 12.6 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct engineering economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the preliminary permit is estimated to be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 8, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption

from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 8, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 7, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11961 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

Docket No. CP82-275-000]

Michigan Wisconsin Pipe Line Co.; Application

April 28, 1982

Take notice that on April 6, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-275-000 an application pursuant to Section 7(c) of the Natural Gas Act for blanket authorization to make sales of natural gas to other interstate pipelines, intrastate pipelines, local distribution companies and other users of natural gas during 1982 and 1983 and to transport natural gas in order to make such sales where necessary, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it proposes to sell up to a total of 200,000,000 Mcf of natural gas in 1982 and 1983 of which no more than 120,000,000 Mcf would be sold in 1982 on an interruptible and limited-term basis to other interstate pipelines, intrastate pipelines, local distribution companies and other users of natural gas. It is stated that such sales would be made out of gas which is surplus to its system requirements. It is further stated that such sales would allow Applicant to meet its gas purchase contract obligations and to continue to acquire new long term gas supplies.

Applicant states that the sale price would be at individually negotiated levels but no less than the greater of the then current rate under Section 102 of the Natural Gas Policy Act of 1978 or the sum of Applicant's average cost of gas plus out-of-pocket costs for each sale made pursuant to the requested certificate.

Applicant proposes to notify the Commission as soon as possible after a contract is executed for a sale made hereunder but in no case later than five days after the sale is commenced. It is further proposed that any sale made pursuant to the requested blanket authority would be for an initial period not to exceed one year from the date the sale commences. Applicant states that if it proposes to continue a sale beyond the initial one-year period it would file a request for an extension of the sale at least 90 days after the expiration of the initial period.

Applicant explains that it would limit the amount of natural gas sold pursuant to each agreement to a maximum of 200,000 Mcf of gas per day. It is further submitted that Applicant would make sales which require no construction of facilities, or only those facilities which can be constructed under budget-type authorization, or for which transportation can be arranged pursuant to Part 284, Subparts B, C and G of the Commission's Regulations.

Applicant anticipates that sales pursuant to this authorization would be made to persons with a personal need or direct markets for such gas rather than to brokers.

Applicant proposes to credit to its customers all revenues received from off system sales made pursuant to the requested authorization in excess of the sum of such volume of sales times the average cost of its purchased gas plus any out-of-pocket expenses related to such sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1982, file with the Federal Energy Regulatory Commmission, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intevene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11962 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4859-001]

Modesto Irrigation District; Application for Preliminary Permit

April 27, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on April 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 4859 to be known as the Canyon Creek Project located at the Canyon Creek in Nevada County, near Washington, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Lee Delani, Modesto Irrigation District, 1231 11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) A 6-foot high by 100-foot long diversion structure; (2) a 4,000-foot long by 54-inch diameter conduit; (3) a 1,000-foot long by 40-inch diameter penstock; (4) a powerhouse with an installed capacity of 5MW; and (5) a 4.5-mile long, 12-kV transmission line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project.

Competing Applications—This application was filed as a competing application to Consolidated Hydroelectric, Inc.'s application for Project No. 4078 filed on January 29, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file and application for preliminary permit, or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 18, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11963 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-282-000]

Mountain Fuel Supply Co.; Application

April 28, 1982.

Take notice that on April 13, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salf Lake City, Utah 84139, filed in Docket No. CP82-282-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of one 4-inch distribution sales tap and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to pulbic inspection. Applicant states that said tap would be located on its mainline No. 36, Uinta County, Wyoming, and would be used to sell gas to Chevron U.S.A. Inc. (Chevron) for use as start-up fuel in Chevron's Carter Creek Treating Plant, Uinta County, Wyoming.

Applicant maintains that such natural gas service would be provided to Chevron on a best-efforts, temporary basis.

Applicant states that Chevron's maximum daily requirement for fuel gas is estimated at 9,000 Mcf and that such volumes are required for a period of approximately 6 months beginning July 1, 1982. The total estimated cost for the proposed mainline distribution sales tap and related facilities is $82,100 which would be financed through funds on hand and/or short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1982, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11964 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-276-000]

Southern Natural Gas Co.; Application

April 28, 1982.

Take notice that on April 6, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-276-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), Michigan Wisconsin Pipe Line Company (Mich Wis), Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and Florida Gas Transmission Company (Florida Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued April 7, 1981, in Docket No. CP80-494 it was authorized along with Transco, Mich Wis, Northern, and Florida Gas to construct and operate approximately 40 miles of pipeline and related facilities extending from a production platform in Mississippi Canyon Area Block 194, offshore Louisiana, to a point of interconnection with Applicant's existing 14-inch Romere Pass Line in Plaquemines Parish, Louisiana.

Pursuant to the terms of a separate transportation agreement with Transco, Mich Wis, Northern, and Florida Gas, Applicant proposes subject to its operating conditions, the availability of excess capacity in its system, and such other terms and conditions specified in the transportation agreement to receive gas at Romere Pass and redeliver such gas to or for the account of Transco, Mich Wis, Northern, and Florida Gas at the applicable point of redelivery for that shipper.

Applicant asserts that pursuant to such transportation agreements it would transport up to 45 billion Btu of gas per day for Transco to a point of interconnection with Transco previously authorized under Applicant's budget-type authorization and being constructed at or near Milepost 54.35 on Applicant's 20-inch Duck Lake-Franklinton Line in Livingston Parish, Louisiana, up to 4.325 billion Btu of gas per day for Mich Wis to an existing point of interconnection with Mich Wis near Applicant's Shadyside Compressor Station in St. Mary Parish, Louisiana, up to 42 billion Btu of gas per day for Northern to an existing point of interconnection between Sea Robin Pipeline Company's processing plant and the facilities of United Gas Pipe Line Company in Vermilion Parish, Louisiana, at which point Applicant has gas available to effect redelivery of gas hereunder for Northern's account, and up to 45 billion Btu of gas per day for Florida Gas to an existing point of interconnection with Florida Gas near Applicant's Franklinton Compressor Station in Washington Parish, Louisiana.

For such transportation service, Applicant proposes to charge each of the shippers a rate of 30.0 cents per million Btu of gas redelivered to or for the account of the shipper at its point of redelivery.

Applicant does not propose any additional facilities in order to effect the proposed transportation service and further asserts that the proposed transportation services would have no adverse effect on any service currently rendered by Applicant for its customers. It is asserted that the transportation service proposed herein would provide the shippers with a means of taking delivery of additional sources of gas without having to construct duplicative facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1982, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11965 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-83-003]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

April 28, 1982

Take notice that on April 16, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-83-003 a petition to amend the order issued January 28, 1980, in Docket No. CP80-83 pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction and operation of gas purchase facilities in excess of the total cost limitation of $20,000,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by order issued January 28, 1980, to construct and operate certain natural gas purchase facilities with a maximum total cost of $20,000,000.

Petitioner proposes herein to construct and operate such facilities in the aggregate of up to $50,000,000 during calendar year 1982. It further asserts that ever increasing costs of construction have exacerbated the problem and have made the $20,000,000 annual limitation unrealistic.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 17, 1982, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11966 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-265-000]

United Gas Pipe Line Co.; Application

April 28, 1982.

Take notice that on March 30, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-265-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap to provide natural gas service to the City of Pascagoula's Energy Recovery Facility, Jackson County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 2-inch tap on its existing 4-inch Zapata-Haynie line at Station No. 11+40 in Jackson County, Mississippi, inside Moss Point's corporate limits on Elder Ferry Road. It is stated by Applicant that through such tap supplemental fuel would be provided to the Energy Recovery Facility to be constructed for the City of Pascagoula. Applicant further states that such gas service would be provided under the existing service agreement with the City of Pascagoula dated October 10, 1979. Applicant submits that no increase in the contractual maximum daily quantity would result from the proposed facilities.

Applicant estimates the cost of the proposed facilities to be $3,327 which cost would be financed with available funds and reimbursed to Applicant by the City of Pascagoula upon completion.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1982, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11967 Filed 4-30-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Closing of Pittsburgh, Pennsylvania Field Office

April 22, 1982.

The Federal Communications Commission's Pittsburgh, Pennsylvania, field office will be discontinued on April 30, 1982. After that date, all public service and enforcement activities in the Pittsburgh area will be handled by the Philadelphia District Office, located at: One Oxford Valley Office Bldg., Room 404, 2300 East Lincoln Highway, Langhorne, Pennsylvania 19047, Phone: (215) 752-1324.

Examinations for all classes of amateur licenses and commercial radiotelephone operator licenses will continue to be conducted in Pittsburgh four times per year—January, April, July, and October. Applications should be mailed to the Philadelphia office two weeks before the beginning of the month in which examinations ae scheduled. Applicants will be notified when and where to appear for the examinations.

Commercial radiotelegraph examinations will not be conducted in Pittsburgh. Applicants for these examinations must make an appointment to be examined at a district office. Examinations are given weekly at Philadelphia and Buffalo, New York, as follows:

- Philadelphia, Pennsylvania, Commercial Examinations, Tuesday and Wednesday, 10:00-12:00 Noon
- Amateur Examinations, Requiring Code—Tuesday 9:00 AM, Not Requiring Code—Tuesday and Wednesday, 10:00-12:00 Noon, Buffalo, New York, 1307 Federal Building, 111 West Huron Street, Phone: (716) 846-4511.
- Commercial Examinations, Tuesday 9:00-12:00 Noon
- Amateur Examinations, Requiring Code, Friday 9:00 AM, Not Requiring Code—Friday 10:00 AM

No prior appointment is required at either office except for:

- Commercial Rediotelegraph Applicants
- Blind Applicants
- Groups of 10 or more.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-11935 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-218 et al., File No. BPCT-810511KO]

Connecticut Yankee, Broadcasting Co. et al. Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: April 16, 1982.

Released: April 23, 1982.

In re applications of Connecticut Yankee Broadcasting Co., New London, Connecticut, BC Docket No. 82-218, File No. BPCT-810511KO; CTV of Connecticut, Inc., New London, Connecticut, BC Docket No. 82-219, File No. BPCT-810720KE; Television Corporation of Hartford (WHCT-TV), Hartford, Connecticut, File No. BMPCT-810522KI.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) the above-captioned mutually exclusive applications of Connecticut Yankee Broadcasting Company (Connecticut Yankee) and CTV of Connecticut, Inc. (CTV) for a new commercial television station to operate on Channel 26, New London, Connecticut; (b) the above-captioned application of Television Corporation of Hartford (TCH) for a minor change in the facilities of WHCT-TV, Channel 18, Hartford, Connecticut (see paragraph 2, *infra*); (c) an informal

objection to CTV's application, filed by the Association of Maximum Service Telecasters, Inc. (AMST); (d) a joint request, filed by CTV and TCH for approval of an agreement seeking removal of a conflict between the two applications; (e) petitions for leave to amend their applications, filed by CTV on December 7, 1981, and March 1, 1982, and by Connecticut Yankee on November 3 and 19, 1981, and February 2, 1982; [1] (f) a petition to dismiss CTV's application, filed by Connecticut Yankee; and (g) related pleadings.

2. On May 11, 1981, Connecticut Yankee filed its application and was assigned a cut-off date of July 20. On May 22, TCH filed its application to move its transmitter site, increase its power, and decrease its tower height. TCH's proposal met all spacing requirements; however, on July 20, CTV filed its application proposing a site short-spaced to the proposed transmitter site of TCH.[2] As a result, CTV's and TCH's applications were mutually exclusive, and all three applications became linked.

3. On November 25, 1981, TCH and CTV filed a joint request for approval of an agreement to resolve the conflict between their applications in accordance with § 73.3525 of the Commission's rules. The agreement provides for CTV to amend its application to specify a transmitter site that is not short-spaced to TCH's proposed site. In return, TCH would reimburse CTV for expensed incurred in obtaining and specifying the short-spaced site. CTV seeks reimbursement for expenses of $27,000; however, it has documented legitimate and prudent expenses of $21,247. The Commission has examined the agreement and the accompanying affidavits and finds that the parties have complied with the requirements of § 73.3525 of the rules. The agreement is also consistent with the requirements of Section 307(b) of the Communications Act of 1934 and publication is not required.

4. On December 7, 1981, CTV filed a petition for leave to amend its application to remove the conflict with TCH. In support of its petition, CTV contends that it was unaware of the short-spacing until AMST filed an informal objection to its application on September 8. CTV states that it immediately began discussions with TCH to resolve the conflict and to explore alternate sites, and it now seeks to amend its application to a non-short-spaced site near Chesterfield, Connecticut. In opposition to the petition, Connecticut Yankee argues that CTV should have known earlier of the short-spacing, since public notice of the acceptance of TCH's application was given a month before CTV's application was filed. *Public Notice of Broadcast Applications, Report No. 11405,* Mimeo No. 001532 (released June 17, 1981). Connecticut Yankee further argues that CTV's selection of a site some distance from its purported community of license, but in proximity to a nearby larger television market, was not innocent and inadvertent and follows a pattern CTV and its principals have followed in a proceeding for a new television station in Derry, New Hampshire (BC Docket No. 81–695). In addition, Connecticut Yankee contends that CTV must give a more definitive showing of the availability of its new proposed site, since the change was made at the "eleventh-hour." Finally, Connecticut Yankee argues that CTV has not taken steps to obtain authority from the Town of Montville to construct a tower there.

5. The Commission has long held that while an applicant must have reasonable assurance of obtaining local zoning or licensing authorization for its antenna proposal, there is an assumption that such approval will be forthcoming. *Northbanke Corp.,* 46 R.R. 2d 453, 457 (1979). Although the assumption may be effectively rebutted by a reasonable showing that the necessary authorization cannot be obtained, Connecticut Yankee has not demonstrated that here.

6. We agree with Connecticut Yankee that CTV had constructive notice of the filing of TCH's application; however, CTV is entitled to file an application proposing a site short-spaced to TCH's. 47 CFR 73.3572(e); see also *Pappas Telecasting, Incorporated,* 49 R.R. 2d 1688 (1980), where applications for different channels proposing short-spaced sites were designated for hearing. CTV now proposes to remedy the short-spacing, but there is no requirement, as Connecticut Yankee suggests, that CTV be held to a higher standard in demonstrating site availability. Finally, Connecticut Yankee has shown no pattern of CTV proposing short-spaced sites in an effort to serve a larger television market, and the petition to enlarge issues against CTV of Derry, Inc. in this regard was denied. *Channel 50, Inc.,* Memorandum Opinion and Order in Docket No. 81–695, Mimeo No. 006401 (ALJ, released Jan. 21, 1982). Accordingly, CTV's petition for leave to amend will be granted.

7. Since CTV has now removed the conflict with TCH, the Commission finds that TCH is fully qualified to construct and operate as proposed and that grant of its application would serve the public interest. Moreover, AMST's informal objection is now moot and will be dismissed.

8. In support of its petition to dismiss, Connecticut Yankee argues that CTV's application fails to specify a transmitter site since CTV had entered a joint agreement with TCH whereby CTV would change its proposed site, but had not actually filed the change with the Commission. That amendment was filed the same day as the petition to dismiss, so Connecticut Yankee's contention is now moot. Connecticut Yankee further argues that CTV falsely stated that its proposed transmitter site met all spacing requirements, thereby witholding information from the Commission. To avoid confusion, CTV should have filed its amendment concurrently with its joint agreement with TCH; however, this error does not constitute misrepresentation. Accordingly, Connecticut Yankee's petition to dismiss will be denied.

Connecticut Yankee Broadcasting Company

9. Connecticut Yankee estimates that $1,513,211 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment:	
Cash	[1] $1,021,377
Installment sales contract from Comark Communications, Inc.	
(downpayment)	177,262
(three months)	33,237
Land	30,000
Building (five months)	13,335
Legal, engineering, and installation costs	19,000
Operating costs (three months)	219,000
Total	1,513,211

[1] Connecticut Yankee states that it proposes to proposes to purchase this equipment by installment sales contract from RCA; however, the applicant has not submitted its agreement with RCA. Consequently we will require Connecticut Yankee to meet the total cash value of the equipment.

The applicant has not indicated the amount of interest to be paid to Comark, and an appropriate issue will be specified.

10. To meet this requirement, Connecticut Yankee intends to rely on $100,000 in subscription agreements from Thomas Carney, William Roper, Martin O'Meara, Joseph Carney, and

[1] Pursuant to § 73.3522(a) of the Commission's Rules, Connecticut Yankee's petitions for leave to amend will be granted; however, the applicant cannot derive any comparative advantage from the amendments, since they were filed after the cut-off date. See *Revised Procedures for Processing of Broadcast Applications,* 72 F.C.C. 2d 202, 209–212 (1979); see also *Mid-Florida Television Corp.,* 76 F.C.C. 2d 158, 163 (1980). CTV's petitions for leave to amend will be considered at paragraphs 4–6 and 11, *infra.*

[2] Section 73.610(d) and 73.698, Table IV of the Rules require that the transmitter sites of TCH and CTV be separated by 20 miles. CTV's proposed site was 3.2 miles short-spaced to TCH's proposed site.

Edward Keelan; and $800,000 (net $760,000) loan from the First Bank of New Haven, Connecticut; and $1,000 in existing capital. Although O'Meara has secured a loan equal to his $15,000 subscription, the loan is not earmarked, and he has not demonstrated that he has sufficient net liquid assets to meet his subscription. Since Connecticut Yankee has demonstrated the availability of only $846,000, an appropriate financial issue will be specified.

CTV of Connecticut, Inc.

11. On March 1, 1982, CTV filed a petition for leave to amend its application to report, *inter alia*, several ownership changes.[3] Section 1.65 of the Rules requires applicants to maintain the substantial accuracy and completeness of their applications; however, applicants may not change their comparative status after the cut-off date. Consequently, the applicant cannot derive any comparative advantage from its amendments that were filed after the cut-off date. Therefore, CTV's petition for leave to amend will be granted subject to the comparative restrictions set out above. It is noted, however, that CTV has failed to submit those portions of Section II of its application with respect to its new stockholders. It will be required to do so within 20 days of the mailing of this Order.

12. CTV estimates that $984,680 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment:	
Cash	$295,000
Installment sales contract from Harris Corporation.	
(downpayment)	335,000
(4 months)	75,375
Installment sales contract from Bogner Broadcast Equipment Corp.	
(downpayment)	38,750
(5 months)	12,013
Land lease (5 months)	1,667
Building lease (5 months)	6,250
Legal, engineering, installation, and other miscellaneous costs	95,000
Operating costs (3 months)	225,625
Total	984,680

13. To meet this requirement, CTV intends to rely on a $1,200,000 loan from the Bank East Corporation, which is a holding company. There is no indication that Bank East is a financial institution, equipment manufacturer, or leasing company; therefore, it must demonstrate the net liquid assets to meet its loan commitment. Since it has not done so, we are unable to determine the availability of any funds to CTV, and an appropriate issue will be specified.[4]

14. Since we have not received a determination from the Federal Aviation Administration that CTV's proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter is required.

Conclusion and Order

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the CTV and Connecticut Yankee applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

16. Accordingly, it is ordered, That the joint request filed by Television Corporation of Hartford and CTV of Connecticut, Inc. is granted; reimbursement by TCH to CTV in an amount not to exceed $21,247 is approved; and the application of Television Corporation of Hartford is granted.

17. It is further ordered, That the petition to dismiss filed by Connecticut Yankee Broadcasting Company is denied.

18. It is further ordered, That the petitions for leave to amend filed by CTV and Connecticut Yankee are granted, but no comparative advantage may accrue from those amendments.

19. It is further ordered, That the informal objection filed by AMST is dismissed as moot.

20. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, Connecticut Yankee's and CTV's applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Connecticut Yankee Broadcasting Company:

(a) Three months' interest on the installment sales contract from Comark Communications, Inc.;

(b) In light of the evidence adduced pursuant to (a) above, the total cost of construction and operation;

(c) Whether the applicant has an additional $667,211 plus the cost of three months' interest on the installment sales contract for its construction and three month operating costs;

(d) Whether, in light of the evidence adduced pursuant to (a)–(c) above, the applicant is financially qualified.

2. To determine with respect to CTV of Connecticut, Inc.:

(a) Whether the applicant has $984,680 for its construction and three month operating costs;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified;

(c) Whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

21. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 2(c).

22. It is further ordered, That, within 20 days of the mailing of this Order, CTV shall submit those portions of Section II of its application that pertain to the new stockholders reflected in CTV's March 1, 1982, amendment.

23. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

24. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

[3] Quentin Nash's 3% ownership interest would be increased to 22% and Enid Stewart's interest would be increased from 2% to 3%. New stockholders would include Pamela Blum (5%), Meritt Bates (0.5%), Mark Piken (4%), John Gelsinon (4%), and Sarah Daly (0.5%).

[4] The financial information contained in CTV's application fails to show that CTV is financially qualified. On March 1, 1982, CTV amended its application to certify that it was financially qualified. Because the only information on file shows that CTV is not qualified, and because it has not stated that its financial plan has been amended, we cannot credit its certification.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-11933 Filed 4-30-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-186; BC Docket No. 82-212 et al.; File No. BRH-826]

Faith Center, Inc. et.al.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issuus

Adopted: April 15, 1982.

Released: April 22, 1982.

In re applications of Faith Center, Inc., Has: 99.5 MHz, Channel 258, 100 kW (H&V), 240 feet, BC Docket No. 82-212, File No. BRH-826, for renewal of license for Station KHOF(FM), Los Angeles, California; Inspiration Media of Southern California, Inc., Los Angeles, California, Req: 99.5 MHz, Channel 258, 30 kW (H&V), 669 feet, BC Docket No. 82-213 File No. BPH-10774; Coronado Broadcasting of Southern California, Inc., Los Angeles, California, Req: 99.5 MHz, Channel 258, 29.8 kW (H&V), 660 feet, BC Docket No. 82-214, File No. BPH-801103AM, for construction permits.

1. The Commission has before it for consideration the above-captioned license renewal application of Faith Center, Inc. ("Faith Center") for Station KHOF(FM), Los Angeles, California; a mutually exclusive application for a construction permit for the same frequency, filed by Inspiration Media of Southern California, Inc. ("Inspiration") on October 31, 1977; and another mutually exclusive application for a construction permit for the same frequency, filed by Coronado Broadcasting of Southern California, Inc. ("Coronado") on November 3, 1980. Also before the Commission are faith Center's application for review of the Broadcast Bureau Chief's action of October 25, 1979, reinstating Inspiration's application *nunc pro tunc* to October 31, 1977, Inspiration's response to that application for review, Inspiration's Motion to Return Coronado's application, Coronado's opposition to that motion, and Inspiration's reply.[1] Faith Center contends that Inspiration's application was properly returned as incomplete when originally filed, was therefore filed late, and should not be entertained. Inspiration argues that Coronado's application is three years late and should not be considered, while Coronado contends that it was timely filed, as it was tendered during the period immediately after Faith Center's supplemental renewal application was due.

Faith Center's Application for Review

2. Inspiration's construction permit application was initially filed on October 31, 1977, in time to be considered in conjunction with Faith Center's renewal application.[2] On June 1, 1978, that application was returned as unacceptable for filing by the Chief of the Broadcast Bureau, due to Inspiration's failure to include certain engineering exhibits (terrain profiles, topographic maps, city of license boundaries). Inspiration had attempted to incorporate by reference documents from the file of another station, other than the renewal applicant's, which is not permissible. (See Instruction E, FCC Form 301). On June 28, 1978, Inspiration filed an amendment to its application which included the missing materials, along with a petition for reconsideration of the Bureau's action, and on July 12, 1978, Faith Center timely filed an opposition. On October 25, 1979, the Chief of the Broadcast Bureau reinstated Inspiration's application *nunc pro tunc*, finding that Inspiration's application was substantially complete when originally filed, as the engineering data missing from its application, and submitted as an amendment with its petition for reinstatement, did not require the issuance of a new file number under Section 1.573 (now § 73.3573) of our rules.[3] *Inspiration Media of Southern California, Inc.*, BC Mimeo No. 22580, released October 25, 1979, 46 RR 2d 573.

3. Faith Center has now filed with the Commission an application for review of the Broadcast Bureau's action. In its application for review Faith Center does not question the Broadcast Bureau's analysis of the facts or of the authority which supported its action; it presents only a bare statement of disagreement with the Bureau's conclusion that Inspiration's application was substantially complete when originally filed. Neither does Faith Center indicate how the Bureau's action is in conflict with case precedent or Commission rules or policy. In a footnote it cites two cases which it considers controlling, but makes no attempt to propose an interpretation for either which conflicts with the Bureau's analysis of those same cases in its decision.[4] We find no flaw in the Bureau's analysis and conclusions, and the application for review will be denied.

Inspiration's Motion To Return Coronado's Application

4. Faith Center's subject renewal application was filed on August 1, 1977. No action was taken on that application, however, before the next renewal period arrived, and thus a supplemental renewal application was due from Faith Center on August 1, 1980. Coronado's competing application was filed on November 3, 1980, during the established "window" for submitting competing applications after Faith Center's supplemental renewal application was due.[5] That was three years after Faith Center's subject renewal applicaton and Inspiration's competing application were filed. Inspiration submits that Coronado's application must be returned as late-

---

[1] Coronado also filed a supplement to its opposition, and Inspiration filed a reply to that supplement, which pleadings are accepted and considered herein with the pleadings they supplement.

[2] Faith Center's renewal application was filed on August 1, 1977. Section 1.516(e) (now § 73.3516[e]) of our rules provided for mutually exclusive applications to be filed by November 1, 1977, the first day of the last full month before expiration of the license term. 47 CFR 73.3516(e).

[3] Section 1.573 provided, in pertinent part, that a new file number must be assigned to an application for a new FM station when it is amended to result in "any change in frequency, station location or class of station or any increase in power, antenna location or height above average terrain (or combination thereof) which would result in a change of 50% or more in the area within the station's predicated 1 mV/m field strength contour." 47 CFR 73.3573.

[4] Those cases are *Ranger v. F.C.C.*, 294 F.2d 240 (D.C. Cir. 1961) and *Gaviota Wireless Communications Co.*, 68 FCC 2d 960, 42 RR 2d 1701 (1978). In its decision the Broadcast Bureau first cited *Ranger v. F.C.C., supra*, in which the Court of Appeals stated that applications approaching "essential completeness but . . . lacking in minor respects" should not be returned, but, rather, held for processing, with the Commission's staff informing the applicant of the deficiencies in the application, allowing it the opportunity to eliminate those deficiencies through amendment. *Inspiration Media, supra*, 46 RR 2d at 574. The Bureau then found that Inspiration's application had been essentially complete, comparing it to the application in *Gaviota Wireless, supra*, which was missing virtually the same improperly incorporated engineering data and was found substantially complete when originally filed and entitled to acceptance *nunc pro tunc*. *Inspiration Media, supra*, 46 RR 2d at 575.

[5] In *Carlisle Broadcasting Associates*, 59 FCC 2d 885, 37 RR 2d 777 (1976), the Commission interpreted the rule which provides for the acceptance of competing applications (and petitions to deny) when a broadcast renewal application is filed, to apply during a station's normal renewal application period even when only a supplemental application is due. A supplemental renewal application would be due when, as here, consideration of a previous renewal application has not been concluded when the next application period commences, and the licensee is not involved in a hearing on that application.

filed, arguing that the submission of its own application at the time of Faith Center's initial renewal application effectively closed the "window" and cut off any further application after that first renewal period. Inspiration also points out that Coronado filed no petition for waiver of the cut-off rules with its application, as our rules require for a late-filed application,[6] and maintains that none should be granted even if requested. It observes that the cut-off period for filing mutually exclusive applications has been waived only in the most compelling of circumstances which, it argues, are not present here.[7]

5. In reply, Coronado acknowledges that it has not sought a waiver of the cut-off rules, but contends that none is needed, as it has filed its application within the appropriate period of time, as prescribed by the Commission's interpretation of the cut-off rule in *Carlisle Broadcasting Associates*, 59 FCC 2d 885, 37 RR 2d 777 (1976).

6. The crtical determination, then, is whether November 1, 1977, was the ultimate cut-off date upon which to file applications mutually exclusive with Faith Center's renewal application. The operative rule (see fn. 2, *supra*) provides that the first day in the last month of Faith Center's expiring term is the deadline for filing applications mutually exclusive with any Faith Center renewal application. Faith Center's license term for KHOF(FM) was over on December 1, 1977. However, because Faith Center's application was deferred beyond that date, its license continued in effect under the provisions of Section 307(d) of the Communications Act of 1934, as amended.[8] The subsequent three year period passed without a grant of the pending renewal application, and, consequently, no further license term expiration occurred to again trigger the rule for mutually exclusive applications by its own terms. However, in *Carlisle Broadcasting Associates, supra*, the Commission held that when a renewal application has been "deferred"[9] for an entire succeeding license term, and thus, no license term expiration occurs and no new renewal application is filed, the required supplemental renewal application is treated as a major amendment, and a "window" opens for the filing of new petitions to deny and mutually exclusive applications in response to that major amendment, during that period in which they would be accepted if the license was not deferred and a normal renewal application was due. Thus, if the *Carlisle* rationale is applied, the period for filing applications (or petitions) against Faith Center would have recurred in 1980, during that period in which Coronado's application was filed.

7. *Carlisle*, however, did not involve a previously filed mutually exclusive application as this case does, and Inspiration attempts to draw two significant distinctions on that basis. First, it argues that Faith Center's renewal application is not simply deferred, as was the application in *Carlisle*, but is, rather, in the equivalent of hearing status with its own application. Thus, it argues, a supplemental renewal application, which triggered the opening of a new window in *Carlisle*, is not due here.[10] Although a hearing date for the applications has not yet been established, a hearing is required by section 309(e) of the Communications Act of 1934, as amended, it argues, and the applications are thus in a preliminary, "predesignation" phase of the hearing process.[11] It goes on to claim that the Commission has not specifically requested a supplemental renewal application from Faith Center, and that this is a further indication that its application is in hearing status; since a licensee whose application is simply deferred would be required to submit a renewal or supplementary renewal application form for its license at its three-year anniversary. In the same vein, it argues that since Faith Center has not filed a supplemental renewal application, there simply is no application submitted to trigger the new filing period under the *Carlisle* rationale.

8. Inspiration next argues that the previous mutually exclusive application creates a critical distinction from *Carlisle* because the rights of a previous new applicant were not a factor in reaching the conclusion in that case. Inspiration argues that it has attained a protected status by virtue of the submission of its application and the running of its cut-off period, which would be violated by the extension of the *Carlisle* rationale to these facts to accept Coronado's application. It contents that the Commission explicitly recognized that the cut-off rules confer such protected status on timely filed competing applications in *Bronco Broadcasting Company, Inc.*[12] It claims further that recognition of the initial cut-off period as an absolute cut-off period whenever a mutually exclusive application is filed during that period, such as here, best promotes the public interest, as engendered in the cut-off rules, by the efficient dispatch of Commission business. Finally, it argues that the need to avoid insulating the incumbent licensee from challenge during an extended deferral, which was a factor in the *Carlisle* decision, is not a factor in this case, as its own application will guarantee competition for Faith Center's license.

9. Inspiration presents several additional arguments for dismissing Coronado's application. First, it contends that cases involving mutually exclusive applications are routinely designated within weeks of the amendment cut-off date, which was set for Inspiration by the Chief of the Broadcast Facilities Division as March 28, 1980. It presses that it is no fault of Inspiration's that the actual hearing designation was not accomplished sooner, and that it should not be made to suffer from the Commission's tardiness by being subjected to the competition from an additional applicant. It argues that the cut-off rule is not designed merely to protect Faith

[6] Section 1.566 (now § 73.3566) of our rules, provided for the automatic return of any application patently not in accordahce with FCC rules, regulations or other requirements, unless accompanied for an appropriate request for waiver. 47 CFR 73.3566.

[7] *See, e.g., Atlantic City Broadcasting Co.*, 48 FCC 2d 57, 30 RR 2d 1531 (1974), *Prairie Broadcasting Co.*, 47 FCC 2d 373, 30 RR 2d 613 (1974); *Community Broadcasting Company*, 44 FCC 1931, 19 RR 911 (1960); cf. *Fidelity Broadcasting Corporation*, 26 FCC 2d 93, 20 RR 2d 477 (1970).

[8] Section 307(d) of the Act provides for the continuation in effect of a broadcast license when the Commission has not completed action on an application by the time the license term expires. 47 U.S.C. 307.

[9] There is occasionally an impediment to the grant of a renewal application which, while it does not require designation for a hearing, must be resolved before the renewal application can be granted. In such circumstances, consideration of an application is "deferred", pending resolution of the impediment to its grant. (Examples are certain technical operations problems, or another outstanding case whose resolution could affect the renewal application consideration.) On rare occasions the impediment may evade resolution during the entire course of the subsequent term.

[10] A licensee which is engaged in a hearing on its renewal application is not required to submit supplemental renewal applications when they come due, and competing applications for its facilities are not accepted, during the course of the renewal hearing proceeding. *Committee for Open Media* v. *FCC*, 543 F.2d 861, 36 RR 2d 1 (D.C. Cir. 1976).

[11] Section 309(e) provides that if a substantial and material question of fact is presented concerning an application, the Commission shall formally designate the application for hearing on the ground or reasons then obtaining. 47 U.S.C. 309. Inspiration contends that this means that Faith Center's application cannot be deferred indefinitely, and that a comparative hearing became inevitable upon the submission of the first competing application. It continues that this requires a determination of which of the two timely applications, Faith Center's or Inspiration's, should be granted, if either, before later applications can be considered.

[12] 50 FCC 2d 529, 32 RR 2d 213 (1974), *recon. den.* 52 FCC 2d 836, 33 RR 2d 952 (1975), *aff'd*, 58 FCC 2d 909, 36 RR 2d 1587 (1976).

Center, but also to permit the Commission and timely-filed applicants to know at a reasonably early stage who all the parties will be and where the proceeding is headed. It further contends that acceptance of Coronado's application would be unfair in that Coronado would have a competitive advantage by virtue of the relative freshness of its application, with that unfair advantage gained by its tardiness in filing. It argues that acceptance of Coronado's application will cause undue delay while the application is processed, as the other applications were allegedly "on the verge" of designation for hearing when Coronado's application was tendered, and will prolong the comparative proceeding. Finally, it warns that acceptance of Coronado's application in this case will discourage any interested party in the future from filing an application mutually exclusive with a renewal application during the initial cut-off period; rather, it argues, a prospective applicant will wait to be the last one to file, therefore having the most current application and the longest time to improve its comparative qualifications.

10. In response, Coronado contends that *Carlisle* is applicable, as the cases are identical in that the extended deferral of consideration of the renewal application in both cases was due to unresolved issues regarding the character qualifications of the licensee, resulting from its activities at another of its stations.[13] It points out that Inspiration has presented no factual evidence that Faith Center's and Inspiration's applications are "on the verge of" being set for hearing. It minimizes the significance of Faith Center's failure to file a supplementary renewal application, arguing that Faith Center should not be permitted to shield itself from competition by itself violating Commission rules. It proposes that any unfairness created by the time lag between submission of the other parties' applications and its own can be cured by permitting the other parties to amend their applications. Finally, it argues that following Inspiration's rationale to distinguish the current situation from *Carlisle* would also prevent the filing of petitions to deny during any subsequent "window" period; thus, the filing of a mutually exclusive application would indefinitely cut off any public challenge to a licensee's later performance, even in the absence of the Commission's scrutiny of its performance in a hearing.

11. Contrary to Coronado's assertions, the underlying cause for the extended deferrals which led to the circumstances at issue in the *Carlisle* case and in this case is not a significant factor in determining the applicability of the *Carlisle* case and its rationale to the present situation. What is significant is the occurrence itself of the extended deferral, and how it affects the operation of our renewal cut-off rule, as qualified in *Carlisle*, and what further impact the existence of the first mutually exclusive application has on the rationale expounded in *Carlisle*.

12. The Commission has long recognized that the public interest is served when there is an opportunity to choose between competing applicants; furthermore, the purpose of the cut-off rules is not to reduce the number or size of comparative proceedings, but to avoid serious disruptions of the processing procedure.[14] Further, as recognized in *Carlisle*, the renewal cut-off rule is less restrictive than the cut-off rules for new facilities.[15] The renewal cut-off rule (see fn. 2, *supra*) was aded in 1969 to provide the Commission and the renewal applicant (and any mutually exclusive applicant) with a date certain by which to determine what, if any, mutually exclusive applications are filed.[16] Thereafter, if a hearing is ordered, administrative necessity demands that further applications and petitions to deny cannot be considered until the hearing is concluded. If the license is subsequently renewed, mutually exclusive applications are entertained with the next renewal application. Finally, if the Commission fails to complete its consideration of the application and it remains deferred throughout the next term, mutually exclusive applications are likewise entertained at the anniversary period, again for a specified period, at the conclusion of which all interested parties and the Commission can identify all concerned parties. The submission of a mutually exclusive application during the first cut-off period does not affect this rationale. In the present case, the hearing process has not yet begun, and thus the acceptance of an additional application, filed during a recognized filing period, does not present a particular disruption of the hearing procedure. Also, the period for accepting competing applications, and thus the qualifying applicants themselves, is specifically identified for all parties and for the Commission. As for Inspiration's argument that acceptance of Coronado's application will cause delay while that application is evaluated, and will prolong the comparative hearing, the Commission can be no more reluctant to include Coronado in the consideration for this license on that basis than it would any other third or fourth or fifth timely filed applicant for any other facility.

13. Contrary to Inspiration's assertions, a supplementary renewal application is due from Faith Center. It is well-established that the Commission can and does, require the submission of a supplemental renewal application by a licensee whose renewal application is deferred throughout its subsequent renewal period, under the authority in Section 307(d) of the Communications Act of 1934, as amended.[17] *WOIC, Inc.*, 39 FCC 2d 355, 26 RR 2d 790 (1970); *Noble Broadcasting Corp.*, 1 FCC 2d 154, 5 RR 2d 915 (1965). While the Commission's staff has occasionally notified a licensee that its supplemental renewal application was overdue, this is not an established Commission policy, and the lack of such a notification cannot be seen as evidence that any formal determination has been made that none is requried. Thus, Inspiration's claim, that we have already acknowledged "hearing status" for these applications by not requesting a supplemental renewal application from Faith Center, is not borne out. Also contrary to Inspiration's assertions, there is no such thing as predesignation hearing status. A hearing is commenced only if and when an Order is released designating such hearing; this Commission has never held otherwise. For these reasons, Coronado's application cannot be cut off on the theory advanced by Inspiration that the

[13] In *Carlisle Broadcasting Associates, supra*, the licensee's renewal application had remained deferred pending other proceedings involving the submission by that licensee of false jurats and harassing investigatory practices. (See 59 FCC 2d at 885, n. 1.) In the present case Faith Center's renewal application has remained deferred, irrespective of Inspiration's mutually exclusive application, pending resolution of issues in other proceedings involving the submission of allegedly false and misleading statements to the Commission, harassment of witnesses, and withholding of evidence. See paragraphs 22, 23, *infra*.

[14] *Report and Order (Docket No. 20205)*, 53 FCC 2d 1089, 34 RR 2d 391 (1975); *Carlisle Broadcasting Associates, supra*.

[15] *Carlisle* points out that " 'cutting-off' an applicant for a new facility expedites the establishment of a new broadcast facility * * *," whereas there is no such consideration in a renewal situation, as here. 59 FCC 2d at 889. This reading follows from the Commission's earlier statement in *Alabama Citizens for Responsive Television*, 53 FCC 2d 457 (1975), that the presumption that the public interest favors a choice of applicants is even greater where there are no countervailing factors, such as prompt inauguration of a new service.

[16] *Notice of Proposed Rulemaking (Docket 18495)*, 16 FCC 2d 858 (1969); *Carlisle Broadcasting Associates, supra* at p. 888.

[17] Section 307(d) provides that " * * * the Commission may require any new or additional facts it deems necessary to make its findings." 47 U.S.C. 307(d).

first two applications are already in hearing status.

14. The fact that Faith Center has not yet filed its supplementary renewal application is not a critical distinction from the *Carlisle* case. Faith Center could not be allowed to escape the jeopardy of a competing application by disregarding our procedures and refusing to file its own application supplement. Furthermore, the "window" period occurs, unless extended.[18] In conjunction with the recurring expiration periods specified in the rules for various geographic areas (47 CFR 73.1020).[19]

15. Although Inspiration claims a "protected status" by virtue of the timely filing of its application, such protected status, while recognized by the Commission, is not a property interest of any kind that vests in applicants upon a particular event for their benefit. Rather, it is simply a complementary effect of our cut-off rules, which are designed to insure that applications can be processed to conclusion, without interruption and the necessity of reprocessing. *Bronco Broadcasting Company, Inc., supra,* 58 FCC 2d at 911. It applies both to renewal applicants and to timely filed competing applicants, but cannot protect them from competition for a facility from other legitimate contenders. In fact, in *Carlisle* we found that the same cut-off provision involved here did not "protect" the renewal applicant from further competing applications filed during the appropriate period three years later. We find no reason to extend any greater "protection" to Inspiration here. On another occasion, the Commission accepted several late-filed applications, despite the presence of an applicant which had timely filed against the renewal applicant. In so doing, the Commission gave no credence to the timely applicant's claim of "right" conferred by the passage of the renewal cut-off date specified in § 73.3516(e). *Baker-Smith Communications Company,* 67 FCC 2d 548, 42 RR 2d 197 (1978).

16. Any "unfairness" that may be considered to result from the acceptance of a significantly "fresher" application is minimized by the current rules governing comparative hearings, which permit amendments as a matter of right by a date specified in the public notice announcing the acceptance for filing of the last-filed mutually exclusive application. 47 CFR 73.3522(a)(2). Inspiration, however, pointedly chose not to file any amendment during the allowable period after notification that Coronado's application was accepted for filing. It contended that as Coronado's application was late-filed, it would ultimately be rejected by the Commission. At the same time, however, it requested that we reserve its right to amend if we accept Coronado's application. Because of the apparent novelty of the situation here, Inspiration's belief that Coronado's application would be rejected was not beyond reason, and we will accept amendments as of right in this case for an additional thirty days after the release of this order.[20]

Inspiration's Application

17. It appears from Inspiration's engineering exhibits and city map that it will not be able to provide a 3.16 mV/m signal to the entire City of Los Angeles as required by § 73.315(a) of the Commission's rules.[21] Inspiration has requested a waiver of that section of the Commission's Rules, but there in insufficient information before us to determine whether a waiver would be appropriate. We believe the matter should be explored at the hearing and an issue will be added accordingly to determine whether circumstances exist which warrant a waiver of that section. In all other respects, Inspiration appears qualified to operate as proposed, and its application will be set for hearing accordingly.

Coronado's Application

18. Coronado has estimated expenses totaling $403,000 to establish the station and operate it for three months. It proposes to meet these expenses with $5,000 in stock payments and loans from five of its principals: $200,000 from Fernando and Bertha Oaxaca, $150,000 from Jaime and Carolina Oaxaca, and $150,000 from Virginia Oaxaca. However, we cannot accept the loan commitments submitted with the application, as they make no mention of collateral necessary to secure these loans, or state that no collateral will be required. See Section III, paragraph 4(a) of FCC Form 301. Furthermore, the principals who have pledged loans to meet Coronado's expenses have failed to demonstrate their ability to make those loans. It is well established that when individual commitments are relied upon, there must be a reasonable basis to conclude that the individuals are able to meet the amount of their commitment. *Central Texas Broadcasting Co., et al.,* 74 FCC 2d 393, 46 RR 2d 951 (1979). The balance sheets submitted by the Oaxacas fail to segregate current from long term liabilities, and to properly describe or indicate the ready marketability of the non-cash assets on which they rely.[22] In the absence of this information, the net liquid assets shown by all of the Oaxacas together does not begin to approach the necessary $403,000.[23] Accordingly, an issue will be added to the comparative hearing to determine Coronado's financial ability to build and operate the station for three months, as proposed.

19. It appears from Coronado's engineering exhibits that it will not be able to provide a 3.16 mV/m signal to the entire City of Los Angeles as required by § 73.315(a) of the Commission's rules.[24] A waiver of the rule has been requested, but there is insufficient information before us to determine whether a waiver would be appropriate. We believe the matter

[18] See *RKO General, Inc.,* 78 FCC 2d 1, 47 RR 2d 921 (1980); *Faith Center,* FCC 80-460, released August 12, 1980.

[19] As previously noted in fn. 2, § 73.3516(e) of our rules provides that an application mutually exclusive with a renewal application must be submitted "by the end of the first day of the last full calendar month of the expiring license term." Where the renewal application is late-filed the period for filing mutually exclusive applications (and petitions to deny) is extended in accordance with § 73.3516(e)(1). 47 CFR 73.3516.

[20] This right to amend is an addition to the right to amend to cure deficiencies first raised in the designated order, provided by § 73.3522(b)(2) of our rules. We note, in this regard, that prior to the public notice of Coronado's cut-off date, Coronado expressed its view that such a period for amendment would be appropriate to resolve Inspiration's alleged disadvantage.

[21] "The transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, a minimum field strength of * * * 3.16 mV/m will be provided over the entire principal community to be served." 47 CFR 73.315(a). The total land area outside of Inspiration's predicted 3.16 mV/m signal but within the city is 8.24 square miles—1.8% of the city's 465 square mile area. The population outside the signal but within the city has not been determined.

[22] The Oaxacas have variously: relied on real estate and personal property without demonstrating their value or offering a plan of sale; relied on a stated value of stock without identifying the name and number of shares of each stock or the exchange on which they are traded, making current marketability undeterminable; relied on accounts receivable without showing that they will provide a readily available source of funds; and relied on "below ground oil assets" without independently establishing their value. *See* Section III, paragraph 4(b), FCC Form 301.

[23] While a recent balance sheet submitted by Fernando Oaxaca does show net liquid assets otherwise sufficient to cover his loan commitment to Coronado, he also has made a commitment of $450,000 for the purchase and operation of another broadcast station whose assignment was approved on August 28, 1981. His balance sheet does not show sufficient net liquid assets to cover both commitments.

[24] The total land area outside the 3.16 mV/m signal but within the city is 11.2 square miles—2.4% of the city's 465 square mile area; the population outside the signal but within the city is approximately 150,000 persons—roughly 5% of the population of Los Angeles.

should be explored at the hearing and an issue will be added accordingly to determine whether circumstances exist which warrant a waiver of that section. In all other respects, Coronado appears qualified to operate as proposed, and its application will be set for hearing accordingly.

Faith Center's Application

20. As previously noted in paragraph 14, Faith Center has not filed the supplemental renewal application which was due on December 1, 1980. That information is essental to permit us to assess Faith Center's performance since it last filed an application with us. Accordingly, we will order Faith Center to submit its supplementary renewal application within thirty days of the release of this order.

21. In addition to KHOF(FM), Los Angeles, California, Faith Center has been the licensee of Stations KVOF-TV, San Francisco, California, KHOF-TV, San Bernardino, California, and WHCT-TV, Hartford, Connecticut. By *Order and Notice of Apparent Liability*, FCC 78-674, released October 11, 1978, the Commission designated the renewal application (File No BRCT-747, BC Docket No. 78-326) of Faith Center for KHOF-TV for hearing on issues to determine whether Faith Center had conducted fraudulent over-the-air fund raising and had refused to cooperate with Commission investigators. However, the issues were never resolved. The Administrative Law Judge dismissed the KHOF-TV application with prejudice, on the basis of the licensee's failure to prosecute its application by failing to respond to the Judge's order compelling responses to Broadcast Bureau discovery. FCC 80M-459, released March 7, 1980. The Commission affirmed the Judge's order, without resolution of the issues raised. *In re Faith Center, Inc. (KHOF-TV), 82 FCC 2d 1, 48 RR 2d 709 (1980).*[25] Subsequently the Commission designated Faith Center's renewal application for WHCT-TV for hearing. *In re Faith Center, Inc (WHCT-TV)* FCC 80-680, released December 1, 1980. In so doing, the Commission revisited the issues raised in the KHOF-TV proceeding, finding that:

> In view of the fact that these basic qualification issues remain outstanding agaist Faith Center, questions are raised as to whether [Faith Center] possesses the qualifications to be or remain the licensee of Station WHCT-TV. Thus, the Commission is unable to find that a grant of the Station WHCT-TV license renewal application would serve the public interest, convenience and necessity. Accordingly, the captioned application must be dsignated for hearing based upon those issues left unresolved in the KHOF-TV proceeding.

Id. at 2 (footnotes omitted). As the Commission has granted Faith Center's application for the distress sale of WHCT-TV,[26] those issues still remain unresolved. Accordingly, those issues will be added to the present case (issues 4 a through c, *infra*), so that we can determine whether Faith Center has the basic qualifications to remain the licensee of KHOF(FM).

22. Additionally, after the Administrative Law Judge's dismissal of Faith Center's application for KHOF-TV, the Broadcast Bureau offered further evidence of abuse of process and misrepresentation by Faith Center in that case.[27] As the Commission affirmed the Judge's dismissal of Faith Center's application, however, it found it unnecessary to address the new issues, but obeserved that:

> While the Commission believes that the contradictions between the material submitted by the Broadcast Bureau and by Faith raises [sic] a substantial question of fact [with regard to the alleged misconduct], we are not able to resolve these questions without further hearings.

In re Faith Center, Inc. (KHOF-TV), supra at 39. As those additional unresolved substantial questions of fact are also material to determining Faith Center's qualifications to remain a licensee, they will be added here (issues 4 d through j).

23. Except as indicated by the issues specified below, the applicants appear to be legally, financially, and technically qualified to costruct and/or operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing as specified below.

24. Accordingly, it is ordered, That the application for review filed by Faith Center, Inc. is denied.

25. It is further ordered, That the Motion to Return filed by Inspiration Media of Southern California, Inc. is denied.

26. It is further ordered, That Faith Center, Inc. shall submit, within thirty days of the release of this order, a supplemental renewal application covering the 1977-1980 term for California broadcast stations.

27. It is further ordered, That pursuant to sction 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of Inspiration Media of Southern California, Inc. will provide coverage of the city sought to be served, as required by § 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant waiver of this provision.

2. To determine with respect to Coronado Broadcasting of Southern California, Inc.:

a. The source and availability of sufficient funds to meet anticipated expenses, and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine whether the proposal of Coronado Broadcasting of Southern California, Inc. will provide coverage of the city sought to be served, as required by § 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant waiver of this provision.

4. To determine with respect to Faith Center, Inc.:

a. All the facts and circumstances surrounding Faith Center, Inc.'s failure to permit Commission access to certain licensee books, records and employees in connection with BC Docket No. 78-326.

b. Whether Faith Center, Inc., failed to submit information requested by the Commission in the Commission's letter dated June 15, 1978.

c. Whether in its over-the-air fundraising broadcasts on KHOF-TV, Faith Center, Inc., violated or is in violation of, Title 18, United States Code, Section 1343.

d. Whether Faith Center misrepresented facts to the Commission with respect to the availability of tapes, documents and records during the course of discovery in BC Docket No. 78-326.

e. Whether Faith Center misrepresented facts to the Commission in answers, objections and responses to interrogatories in BC Docket No. 78-326.

f. Whether Faith Center officers, directors, agents and/or employees instructed, advised and/or directed Faith Center personnel and/or other individuals to avoid service of subpoenas by United States Marshals in connection with depositions in BC Docket No. 78-326.

[25] *Recon. den.* 86 FCC 2d 891 (1981); *aff'd sub nom. Faith Center, Inc.* v. *F.C.C.*, D.C. Cir., Case Nos. 81-1648, 1649, April 7, 1982.

[26] File No. BALCT 800425KH, March 15, 1982, pursuant to *In re Faith Center*, FCC 81-594, released December 23, 1981 (50 RR 2d 987); appeal pending *sub nom. LDA Communications, Inc.* v. *F.C.C.*, D.C. Cir., Case No. 82-1083.

[27] That evidence is discussed in *In re Faith Center Inc. (KHOF-TV, supra* at 37-39.

g. Whether Faith Center instituted law suits to harrass and/or intimidate potential Commission witnesses and/or inhibit a Commission investigation;

h. Whether Faith Center has utilized Wescott Christian Center as an artifice or alter ego to avoid producing tapes, documents, papers, materials and answers to interrogatories;

i. Whether Faith Center misrepresented facts to the Commission in statements filed with the Commission on July 21 and July 22, 1980;

j. Whether Faith Center caused documents, records and tapes to be transported to certain locations to prevent Commission access to such documents, records and tapes.

k. Whether, in light of the evidence adduced under the preceding issues, Faith Center has engaged in an obstruction and/or abuse of the Commission's processes;

l. Whether, in light of the evidence adduced under the above issues, Faith Center has the requisite qualifications to remain a Commission licensee.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

28. It is further ordered, That the applicants herein shall be permitted to amend their respective applications as a matter of right for thirty days after release of this order.

29. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

30. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

31. It is further ordered, That the Broadcast Bureau shall send by Certified Mail-Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties to this proceeding.

Federal Communications Commission[1]

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Henry M. Rivera

In the Matter of Renewal Application of Faith Center, Inc. for Station KHOF (FM), Los Angeles, California, and Mutually Exclusive Applications for New Facilities on the Same Frequency by Coronado Broadcasting of Southern California, Inc. and Inspiration Media of Southern California, Inc.

I join in the result this item reaches because it is consistent with existing precedent. I feel constrained to question, however, whether the Commission should continue to concern itself with an applicant's access to financing during the licensing process, as this item does by specifying a financial issue against Coronado Broadcasting of Southern California, Inc.

The Commission, in 1965, established the so-called *Ultravision* [1] policy in the area of financial qualifications. In the *Ultravision* case, the agency decreed that applicants for broadcast licenses would be required to demonstrate that they had the ability to meet construction costs and operating costs for one year, without replying on projected revenues. The Commission's basic rationale in fashioning this standard was to ensure that parties had adequate resources to operate the station so as to prevent the interruptions of service that might result in its absence.

In 1978 [2] and 1979,[3] respectively, the Commission reduced the showing required of radio and television applicants from one year to three months. It reasoned that it was unable to conclude that the instability (failure rate) in the broadcast industry that may have existed when *Ultravision* was adopted still exists, or more importantly, that failure rate in broadcasting has been substantially affected by the *Ultravision* policy. Rather, it determined that station success or failure is more directly affected by market forces and quality of management than the licensee's liquidity. Moreover, the Commission preceived a strong demand for new AM, FM and UHF stations. The Commission retained the minimal 3-month showing, presumably to ensure that an applicant is prepared to build and operate promptly so that the frequency in question will not lie fallow.

It is the existing financial standard necessary, given market forces adverted to above? Even the 3-month showing may act as an entry barrier to entrepreneurs interested in entering the broadcast industry. It is probably safe to surmise that once an applicant receives a CP, he will be able to obtain financing. In contrast, at the outset of a comparative hearing, lenders may be hesitant to give assurances of financing because there is no clear likelihood that the applicant will win or, even if he wins, when that will be. As long as the Commission specifies a period of time by which the CP holder must build his station, and strictly enforces that time limit, it would prevent parties from unreasonably delaying provision of service to the public.

The time has come for the Commission to revisit its financial qualifications standards.[4]

[FR Doc. 82-11934 Filed 4-30-82, 8:45 am]

BILLING CODE 6712-01-M

[1] A separate statement of Commissioner Rivera is attached.

[1] *Ultravision Broadcasting Co.*, 1 FCC 2d 544 (1965).

[2] "New Financial Qualifications Standard for Aural Broadcast Applicants," FCC 78-556 (August 2, 1978).

[3] "New Financial Qualifications Standard for Broadcast Television Applicants," FCC 79-299 (May 11, 1979).

[4] Section 308(b) of the Act gives the Commission wide latitude in prescribing basic qualifications. *See* 47 U.S.C. 308(b) (All applications "shall set forth such facts as the Commission * * * *may prescribe* as to the citizenship, character and financial, technical and other qualifications of the applicant to operate the station * * *") (emphasis added).

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-3085-EM]

Arkansas; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Arkansas (FEMA-3085-EM), dated April 23, 1982, and related determinations.

DATED: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief

Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 23, 1982, the President declared an emergency as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from severe storms and tornadoes on April 2, 1982, is of sufficient severity and magnitude to warrant an emergency declaration under Pub. L. 93–288. I therefore declare that such an emergency exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to loan or donate Government-owned mobile homes to the State of Arkansas for the purpose of providing temporary housing under the provisions of section 404 of Pub. L. 93–288. You are further authorized to allocate, from funds available for these purposes, such amounts as you find necessary for administrative expenses.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Alton S. Ray, Jr., of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Arkansas to have been affected adversely by this declared emergency.

The Counties of Ashley, Boone, Crittenden, Faulkner, Hempstead, Howard, Little River, Lonoke, Monroe, Sevier and St. Francis for assistance as authorized by the President's declaration.

(Catalog of Federal Domestic Assistance No. 83–300, Disaster Assistance).

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–11891 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–657–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an major disaster for the State of California (FEMA–657–DR), dated April 24, 1982, and related determinations.

DATED: April 24, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 24, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from fires beginning on April 21, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of California.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Joseph G. Delmonte of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of California to have been affected adversely by this declared major disaster.

Orange County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83–300, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–11892 Filed 4–30–82; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passsengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Special Expeditions, Inc., and Lindblad Travel, Inc., c/o Special Expeditions Inc., 133 East 55th Street, New York, New York 10022.

This Certificate expires April 2, 1983.

Dated: April 27, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–12007 Filed 4–30–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquistion of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(A)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation,* Cleveland, Ohio; to acquire 100 percent of the voting shares or assets of AmeriTrust Company of Toledo, Toledo, Ohio. Comments on this application must be received not later than May 23, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Industrial Bancshares, Inc.,* Kansas City, Kansas; to acquire an additional 3.53 percent of the voting shares of Commercial National Bank of Kansas City, Kansas City, Kansas. Comments on this application must be received not later than May 23, 1982.

2. *Mission Bancshares, Inc.*, Mission, Kansas; to acquire an additional 3.53 percent of the voting shares or assets of Commercial National Bank of Kansas City, Kansas City, Kansas. Comments on this application must be received not later than May 23, 1982.

3. *Valley View Bankshares, Inc.*, Overland Park, Kansas; to acquire an additional 3.53 percent of the voting shares or assets of Commercial National Bank of Kansas City, Kansas City, Kansas. Comments on this application must be received not later than May 23, 1982.

C. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of McAllen State Bank, McAllen, Texas. Comments on this application must be received not later than May 23, 1982.

Board of Governors of the Federal Reserve System, April 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11881 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered inacting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222.

1. *First of Austin Bancshares, Inc.*, Austin, Texas; to acquire 100 percent of the voting shares or assets of First National Bank of Cedar Park, Cedar Park, Texas. Comments on this application must be received not later than May 27, 1982.

2. *Harris County Bankshares, Inc.*, Houston, Texas; to acquire 51 percent of the voting shares or assets of Harris County Bank-Northwest, National Association, Houston, Texas. Comments on this application must be received not later than May 27, 1982.

3. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of National Bank of Commerce-Wurzbach, San Antonia, Texas. Comments on this application must be received not later than May 27, 1982.

4. *Republic of Texas Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of Tyler Bank & Trust Co., Tyler, Texas. Comments on this application must be received not later than May 27, 1982.

5. *Victoria Bancshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of Hay's County National Bank, San Marcos, Texas. Comments on this application must be received not later than May 27, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Mercantile Texas Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of The Merchants and Planters National Bank of Sherman, Sherman, Texas. Comments on this application must be received not later than May 27, 1982.

Board of Governors of the Federal Reserve System, April 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11886 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

Banco Del Pacifico International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Banco del Pacifico International, Miami, Florida. Banco del Pacifico International would operate as a subsidiary of Banco del Pacifico, Guayaquil, Ecuador. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11882 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *U.C.B. Banc Corp.*, East Palestine, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Commerical & Savings Bank, East Palestine, Ohio. Comments on this application must be received not later than May 23, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *HC Financial Corp.*, LaBelle, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of Hendry County Bank, LaBelle, Florida. Comments on this application must be received no later than May 23, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bancshares of Eastern Arkansas, Inc.*, West Memphis Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank in West Memphis, West Memphis, Arkansas. Comments on this application must be received not later than May 23, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ruidoso Bank Corporation*, Ruidoso, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Ruidoso State Bank, Ruidoso, New Mexico. Comments on this application must be received not later than May 23, 1982.

Board of Governors of the Federal Reserve System, April 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11884 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

Republic International Bank of New York (California); Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Republic International Bank of New York (California), Los Angeles, California, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Beverly Hills, California. Republic International Bank of New York (California) operates as a subsidiary of Republic National Bank of New York, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11883 Filed 4-30-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

President's Council on Physical Fitness and Sports

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: May 4, 1982, 9:30 a.m. to 4:00 p.m.

ADDRESS: New Executive Office Building, Room 2008, 726 Jackson Place, NW., Washington, D.C. 20500.

FOR FURTHER INFORMATION CONTACT: Mr. C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, 400 Sixth Street, SW., Room 3030, Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12345 dated February 2, 1982. The functions of the Council are: (1) To recommend to the President and the Secretary of HHS as necessary, steps to accelerate carrying out provisions of the Executive Order and (2) Advise the Secretary on matters pertaining to ways and means of enhancing opportunities for participation in physical fitness and sports activities and on state, local, and private action to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the new Council members of the 9-point national program of physical fitness and sports; to report on on-going Council programs; and to plan future directions.

Dated: April 26, 1982.

C. Carson Conrad,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 82-11875 Filed 4-30-82; 8:45 am]

BILLING CODE 4160-17-M

Office of Human Development Services

Administration for Children, Youth and Families

[Program Announcement No. 13628-821]

Research and Demonstration Projects for Child Abuse and Neglect Program

AGENCY: Human Development Services Office, Health and Human Services Department (HHS).

SUBJECT: Announcement of Availability of Grant Funds for Research and Demonstration Projects for the Child Abuse and Neglect Program in Fiscal year 1982.

SUMMARY: The Office of Human Development Services (OHDS) announces that applications are being accepted for research and demonstration grants for Fiscal Year 1982 under The Child Abuse Prevention and Treatment Act of 1974, as amended. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1340.

DATE: Closing date for receipt of applications is: July 19, 1982.

Scope of this Announcement

This Program Announcement relates specifically to research and demonstration grants authorized by Section 2(b)(5) and 4(a) of the Child Abuse Prevention and Treatment Act, as amended, which authorize Federal support for research, demonstration and service projects on the prevention and treatment of child abuse and neglect. The OHDS program announcement published in the **Federal Register** of November 16, 1981 (46 FR 56364) called for preapplications for research and demonstration projects to be supported by OHDS discretionary funds. These preapplications were to respond to one or more of several priority areas. Some of these priority areas related to prevention and treatment of child abuse and neglect. OHDS amended that announcement by publishing supplemental information in the **Federal Register** of January 13, 1982 (47 FR 1658), soliciting comments on the proposed research priorities in the area of child abuse and neglect, as required by section 2(b) of the Child Abuse Prevention and Treatment Act. Comments solicited on the proposed priorities were either incorporated in preapplications submitted in response to the November 16 OHDS announcement or submitted separately to ACYF. This announcement contains final Child Abuse and Neglect funding priorities, based on the concept papers which

addressed child abuse and neglect issues and other comments received from the public during the 60-day comment period.

Program Purpose

The purpose of this research and demonstration program is to generate new knowledge and develop and test innovative service approaches that will assist States and communities in improving efforts to prevent and treat child abuse and neglect.

Program Objectives

OHDS solicits applications for projects which reflect any of the following objectives:

1. To increase knowledge in specific areas relating to child abuse and neglect in order to improve State and local policy-making, service delivery systems, diagnostic and treatment skills and/or prevention strategies. Projects should address research selected from the following list of specific areas of inquiry:

a. Investigation into the effectiveness of differential prevention, intervention and/or treatment approaches for various forms of child maltreatment, including sexual exploitation, child neglect, nonorganic failure-to-thrive, emotional maltreatment and adolescent maltreatment;

b. Analysis of patterns and contributing factors associated with intergenerational family violence;

c. Investigation into the relationships of maltreatment and histories of family violence with status offenses and delinquency in adolescents;

d. Investigation into the interrelationships of child maltreatment with family functioning and social skills, extended family supports, social networks and cultural variations; and

e. Development and testing of computer technology to assist communities with programs aimed at facilitating the prevention, identification and/or treatment of child abuse and neglect.

2. To demonstrate comprehensive prevention service strategies for families at risk of child abuse and neglect. The purposes of such strategies should be to promote health family functioning and to remediate those factors linked to child maltreatment. The factors considered to be most amenable to prevention services include family social isolation, low self-esteem of parents, inability of parents to cope with stress, parental lack of problem-solving skills, and inadequate knowledge and skills related to child-rearing. OHDS expects to support comprehensive prevention strategies that clearly engage the involvement of voluntary and church organizations and the private business sector and on projects that will demonstrate a transfer of responsibility for financial support from Federal to private auspices over their two-year project periods.

3. To develop, expand, and disseminate promising approaches to protection of children from abuse and neglect in residential institutions and other out-of-home placements. This priority area represents the intent to support further development and dissemination of child protective measures already begun by previous public and private initiatives. Such measures include, but are not limited to: Improved training for child care workers, foster parents, institutional administrators and licensing officials; systems to facilitate reporting and investigation of individual abusive or neglectful occurrences affecting children in residential or out-of-home placements; and alternative approaches for insuring that corrective steps are taken in cases of confirmed child maltreatment in residential institutions or foster care placements.

Eligible Applicants

Eligible applicants for research and demonstration projects are public and private nonprofit organizations with the capability of carrying out the proposed projects. For projects addressing the further development and dissemination of approaches to protection of children in residential institutions and out-of-home placements (Objective No. 3), priority will be given to applications that involve State agencies responsible for child protection, residential licensing and/or child placement, though the applicants are not limited to State agencies.

Available Funds

OHDS expects to award approximately $2,000,000 in Fiscal Year 1982 for new grants addressing these research and demonstration priorities. Each project will be supported for a period of up to two years. The initial grant sustains the Federal share of the budget for which the first 12 months of the project. Support for the additional 12-month budget period in amounts not to exceed the amount of the first award depends upon the availability of funds, the grantee's satisfactory performance of the project for the first year's grant was awarded, and the determination that continued funding is in the best interest of the Government.

Three to six grants will be awarded for research on specific child abuse and neglect areas (Objective No. 1) in amounts not to exceed $150,000 each and with the total amount for this category not to exceed $500,000 for the initial year.

Up to eight grants will be awarded to support demonstrations of comprehensive prevention services projects (Objective No. 2) in amounts not to exceed $100,000 each and with the total amount for this category not to exceed $800,000 for the initial year. Support for the additional 12-month budget period will be in amounts not to exceed 75 percent of the first year's Federal share, in order to encourage reliance on local, private resources.

Between three and six grants will be awarded to support development and dissemination of approaches to protection of children in residential institutions and out-of-home placements (Objective No. 3) in amounts not to exceed $150,000 each and with a total amount for this category not to exceed $700,000 for the initial year.

Grantee Share of the Project

OHDS requires that each grantee provide a share of the budget for this grant program. The grantee's share will be at least ten percent of the total cost of the proposed project. Grantee-incurred costs or third-party in-kind contributions may be used as the grantee's share of the cost of the project.

The Application Process

Availability of Forms

Applications for grants under the Research and Demonstration Projects for Child Abuse and Neglect Program must be submitted on standard forms provided for that purpose. Application kits which include the forms and specific Program Guidance materials for use in preparing the program narrative sections of applications may be obtained by writing to:

National Center on Child Abuse and Neglect, Attn: Grants Administration Specialist, Children's Bureau/ACYF, P.O. Box 1182, Washington, D.C. 20013, Telephone: (202) 245-2840.

Application Submission

One signed and two copies of the grant application, including all attachments, must be submitted to the address provided below under the section, "Closing Date for Receipt of Applications." OHDS *requests* that applicants enclose five additional copies of the grant application in order to facilitate timely review.

A-95 Notification Process

Applicants for demonstration grants for Objectives No. 2 and No. 3, i.e., comprehensive prevention services and

development and dissemination projects for approaches to protection of children in residential institutions and out-of-home placements, are required, prior to submission of applications, to notify the appropriate State A–95 Clearinghouse of their intent to apply for Federal assistance for this program. Applicants should contact the appropriate State Clearinghouse (listed in 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements. Applicants for research grants under Objective No. 1 are not required to submit notice of intent to apply for A–95 review.

Application Consideration

The Commissioner for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this Program Announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioenr in considering competing applications. The Commissioner consideration may also take into account comments from Federal Regional and Headquarters program office staff. Comments also may be requested from appropriate specialists and constituents inside and outside the Federal government. To the extent possible, the Commissioner's final decisions reflect the mandate of the Child Abuse Prevention and Treatment Act, as amended, "to achieve equitable distribution of assistance * * * among the States, among geographical areas of the Nation, and among rural and urban areas." (Section 4(d).)

Criteria for Review and Evaluation of Applications

Competing grant applications for research and demonstration projects under this program will be reviewed and evaluated against the criteria stated below. The following requirements apply to all applications:

1. The applicants must include letters of agreement to participate from any organizations, individuals or agencies whose participation in the project will be crucial for its effective implementation. This criterion includes organizations providing access to data for research activities.

2. The applicants must include in their budgets provisions for two two-day meetings to be held in Washington, D.C., for the purposes of planning, review and collaboration with other projects.

3. The applicants must certify willingness to provide quarterly program progress reports on a schedule to be established after grant award.

For research on specific child abuse and neglect areas (Objective No. 1):

1. The applicant organization is capable of carrying out the proposed project, including provision of adequate resources and facilities. (5 points)

2. The applicant has defined and justified the importance of the specific issue for study, the results of which, if the proposed project is implemented well, will make an important contribution to the knowledge and practice related to prevention and treatment of child abuse and neglect and which addresses the priority objective of this program announcement. (30 points)

3. The applicant's general methodological approach is appropriate for addressing the issues defined, is feasible within the available resources and is capable of achieving the program objectives. (20 points)

4. The applicant's detailed approach and methodology for carrying out the proposed projects are logical and scientifically sound. Judgments on this criterion are determined by such elements of the work plan as testable hypotheses, a sound data collection plan, assurances of access to data, and a sound data analysis plan. (20 points)

5. The applicant's proposed staff has sufficient knowledge and expertise in (a) the conduct of similar research projects and (b) the field of child abuse and neglect to enable it to carry out the proposed research project. (15 points)

6. The applicant's proposed budget contains estimated costs to the Federal government which are reasonable considering the anticipated benefits and the scope of the project. (10 points)

For demonstrations of comprehensive prevention services and development and dissemination of approaches to protection of children in residential institutions and out-of-home placements (Objectives No. 2 and No. 3):

1. The applicant organization is capable of carrying out the proposed project, including provision of adequate resources and facilities. (10 points)

2. The applicant's presentation of the project's objectives and results or benefits expected clearly relate to the purposes of the Child Abuse Prevention and Treatment Act, as amended, to improve State and local capabilities to prevent and treat child abuse and neglect and address one of the program priorities of this announcement. (10 points)

3. The applicant demonstrates the need for the proposed project, with appropriate descriptions of recipients of proposed project services and community (State or regional) factors which relate to the need for the project. (20 points)

4. The applicant's program narrative describes a work plan which is clear, comprehensive and feasible and has the potential for attaining the project's objectives. (This criterion relates to the application work plan, scheduling of activities and dissemination and utilization plan.) (25 points)

5. The applicant defines a sound internal evaluation plan for effective project management purposes and for assessing project outcomes. (15 points)

6. The applicant's proposed staff have or will have the knowledge, expertise and experience necessary to carry out the proposed project. (10 points)

7. The applicant's proposed budget contains estimated costs to the Federal government which are reasonable considering the anticipated benefits and scope of the project. (10 points)

Closing Date for Receipt of Applications.

The closing date for receipt of applications under this Program Announcement is July 19, 1982.

Applications may be mailed or hand-delivered. OHDS will accept hand-delivered applications during regular working hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays. Hand-delivered applications must be taken to Room 1740, HHS Building, 330 Independence Avenue, SW, Washington, D.C.

Mailed applications will be considered to be received on time if they are either:

1. Received on or before the deadline date; or

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Applications which do not meet these criteria are considered late applications and will not be considered in the current compelition but will be returned to the sender.

Mailed applications must be addressed to: Department of Health and

Human Services, Office of Human Development Services, Grants Management Branch/HHS Building, Room 1740, 330 Independence Avenue SW, Washington, D.C. 20201, Attn: 13628–821.

(Catalog of Federal Domestic Assistance Program Number: 13.628, Child Development—Child Abuse and Neglect Prevention and Treatment)

Dated: April 26, 1982.

Clarence R. Hodges,

Commissioner for Children, Youth and Families.

Approved: April 27, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82–12000 Filed 4–30–82; 8:45 am]

BILLING CODE 4130–01–M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, March—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, a service area correction of a previously qualified HMO is reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(b)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register.** The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. Total Health Care of Detroit, (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 3455 Woodward Avenue, Detroit, Michigan 48201. Service area: Wayne County, Michigan and that portion of Oakland County, Michigan south of Fourteen Mile Road. Date of qualification: March 1, 1982.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. CapCare, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), P.O. Box 489, Bismarck, North Dakota 58502. Service area: Burleigh, Morton, Oliver, Kidder, Mercer Counties, North Dakota and the southern portion of McLean County, North Dakota. Date of qualification: March 16, 1982.

Service Area Correction

1. Health Maintenance Network of Southern California/dba Health Net, P.O. Box 9103, Van Nuys, California 91409. The following zip code should be listed under Tulare and Kern Counties, California: 93215. (See 46 FR 55010 published November 5, 1981, and 46 FR 56507 published November 17, 1981.)

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: April 23, 1982.

Frank H. Seubold,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82–11940 Filed 4–30–82; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Geothermal Resources Lease Sale Coso, and Wendel-Amedee, KGRA's CA 12543

Notice is hereby given that approximately 18,788.85 acres of land in 10 parcels in Inyo, and Lassen, Counties, California, will be offered competitively for lease under the Geothermal Steam Act of 1970 through sealed bids to the qualified responsible bidder of the highest cash amount per parcel. Bids will be received until 10:00 a.m. on May 25, 1982. Full details of the offering and information may be obtained from the office shown in this notice.

For further information contact the California State Office, Division of Operations, Room E–2605, 2800 Cottage Way, Sacramento, California 95825 (916) 484–4492.

Dated: April 23, 1982.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–11869 Filed 4–30–82; 8:45 am]

BILLING CODE 4310–84–M

[INT DEIS 82–18]

San Gorgonio Pass Wind Energy Project, California Desert District, California; Availability of Draft Environmental Impact Statement (DEIS)

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed wind energy project in the San Gorgonio Pass area, Riverside County, California. This statement analyzes the environmental consequences of seven proposals to construct and operate large-scale wind turbine fields on approximately 12,780 acres of public land. The proposed wind farms would include turbine installations, several transmission lines to collect power and interconnect into the local power network, the installation of new substations, and construction of access roads to support system requirements. Alternatives to the proposed project include: development on public lands except where significant surface conflicts exist and no action. Major environmental issues are related to aesthetics, threatened and endangered animal and plant species, bird migration, changes in land use, socioeconomics, noise and communications interference.

Comments on the draft environmental impact statement are being solicited for a period of 30 days from public agencies, interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by June 6, 1982 to the State Director, California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541.

A limited number of copies of the draft environmental impact statement are available upon request at the California State Office.

Copies of this EIS are also available for public reading and review at:

Division of Land and Renewable Resources, Bureau of Land Management, Interior Building, 18th &

C Streets, NW., Washington, D.C. 20240
California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, CA 92505

In addition, a public meeting will be held in Palm Springs on a date to be announced to answer questions the public may have regarding the project and accept public comment on the draft statement.

Dated: April 26, 1982.

Ed Hastey,

Bureau of Land Manpgement, California State Director.

[FR Doc. 82-11888 Filed 4-30-82; 8:45 am]

BILLING CODE 4310-84-M

[W-35483]

Wyoming; Termination of Proposed Withdrawal and Reservation of Lands

Notice of the Bureau of Reclamation, U.S. Department of the Interior, application W-35483 for withdrawal and reservation of the following described land from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), was published as FR Doc. 72-9673 on page 12646 of the issue of June 27, 1972. The applicant has cancelled its application in its entirety.

Sixth Principal Meridian, Wyoming

T. 53 N., R. 101 W.,
Sec. 6, lots 13, 14, and E½SW¼.

The area described contains 160.41 acres in Park County, Wyoming.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2-1(c), at 10:00 a.m. on June 7, 1982, these lands shall be relieved of the segregative effect of this application, however, the lands will not be opened to entry due to an existing coal withdrawal.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

April 21, 1982.

[FR Doc. 82-11890 Filed 4-30-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Cascade Reservoir Land Use Management Plan Payette Division, Boise Project, Idaho; Intent To Prepare an Environmental Statement: Withdrawal

The Bureau of Reclamation published a Notice of Intent to Prepare an Environmental Impact Statement on the proposed Cascade Reservoir Land Use Management Plan on September 5, 1979, (FR Vol. 44, No. 173, p. 51870).

Initially, it was felt that the significance of the action was not so much associated with the environmental consequences of the proposed recreation development and wildlife management areas, but rather with certain controversy as to where the recreation sites would be located and whether they would be developed for day or overnight use. It therefore seemed likely that an EIS would be needed.

Subsequent to publication of the Notice of Intent, comments and concerns expressed at earlier public meetings were reevaluated, and the management plan was revised accordingly. The revised plan was adopted as the "preferred alternative," and in November 1981 an environmental assessment was provided to interested organizations, agencies and individuals for review and comment. Based on that assessment and the comments received, the Bureau concluded that no significant impacts would result from the proposed management plan, and a Finding of No Significant Impact (FONSI) was signed by the Regional Director, Pacific Northwest Region, on February 12, 1982.

Since the FONSI constitutes compliance with the National Environmental Policy Act, we are withdrawing the Notice of Intent and will not prepare an environmental statement.

Dated: April 28, 1982.

Eugene Hinds,

Assistant Commissioner of Reclamation.

[FR Doc. 82-12012 Filed 4-30-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-No. 122)]

Pittsburgh & Lake Erie Railroad Co. and Baltimore & Ohio Railroad Co.; Exemption for Contract Tariff ICC-PLE-C-0011 (Supplement)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff supplement to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed on or before May 18, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Pittsburgh & Lake Erie Railroad Company and the Baltimore and Ohio Railroad Company filed a petition on April 13, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit a supplement to contract tariff ICC-PLE-C-0011 to become effective on one day's notice. The contract involves the movement of coke. The tariff supplement was filed to become effective on May 13, 1982, and adds an additional destination.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper has closed certain facilities and must relocate its stockpiles of coke to other facilities. Petitioners argue that they must move the coke as soon as possible or the shipper may divert the traffic to other modes. An exemption will allow petitioner improved equipment use and provide it additional revenue. Additionally, the shipper's production schedules will be facilitated. We find this to be the type of circumstance which warrants a provisional exemption.

Petitioners' contract tariff ICC-PLE-C-0011 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before May 18, 1982.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: April 26, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-11897 Filed 4-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29686]

Prairie Central Railway Co.; Petition for Exemption Under 49 U.S.C. 10505 for Exemption Under 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the reissuance of stock by Prairie Central Railway Company to its parent corporation, Trans-Action Lines Limited from the requirements of prior Commission approval under 49 U.S.C. 11301.

DATES: This exemption is effective on June 2, 1982. Petitions to reopen must be filed by May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

ADDRESSES: Send petitions for reconsideration to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423.

and (2) Fritz R. Kahn, Suite 1100, 1660 L Street NW., Washington, DC 20036.

Pleadings should refer to F.D. No. 29686.

SUPPLEMENTARY INFORMATION: Locally, copies may be purchased by calling TSI at 289-4357 or by pickup from Room 2227 at Commission headquarters. Outside the metropolitan area, copies may be purchased by calling TSI at 800-424-5403.

Decided: April 23, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-11896 Filed 4-30-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office 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 the protest 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 of 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 ICC Regional 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

Notice No. F-167

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620 Philadelphia, PA 19106.

MC 161434 (Sub-II-1TA), filed April 19, 1982. Applicant: ACME LEASING COMPANY, d.b.a. ACME TRANSPORT, 157 Stanford Pkwy., Findlay, OH 45840. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Carbon dioxide,* between points in Allen, Sandusky and Seneca Counties, OH, on the one hand, and, on the other, points in and east of MN, IA, MO, AR and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Thermice Corporation, 3225 S. Delaware Ave., Philadelphia, PA 19148.

MC 153174 (Sub-2-2-TA), filed April 19, 1982. Applicant: AFFILIATED TRANSPORT SERVICES, INC., P.O. Box 158, Folcroft, PA 19032. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Liquid color dispersions,* from points in the New York, NY, commercial zone to the facilities of Affiliated Transport Services, Inc. in the Philadelphia, PA commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Colorcon P.R., Inc., P.O. Box 8730, Humacao, Puerto Rico 00661.

MC 161573 (Sub-II-1TA), filed April 19, 1982. Applicant: AMERICAN DELIVERY SERVICE, INC., 10 E. Oregon Ave., Phila., PA 19148. Representative: Richard Rueda, 135 N. 4th St., Phila., PA 19106. *Contract; irregular: such commodities as are dealt in or used by retail department stores* between points in NY, NJ and CA on the one hand, and, on the other, points in NY, NJ, CA, AZ, NM and NV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: HRT Industries, Inc., 2525 Military Avenue, Los Angeles, CA 90064.

MC 161591 (Sub-II-1TA), filed April 20, 1982. Applicant: WILLIAM B. AKERS d.b.a. B. A. HAULING, 653 Ramada Road, Vinton, VA 24179. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Chemicals and spray equipment,* between the facilities of WEN-DON Corporation at Roanoke, VA, on the one hand, and, on the other, points in AL, IL, IN, KY, OH, PA, TN, VA and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: WEN-DON Corporation, P.O. Box 13905 Roanoke, VA 24034.

MC 161472 (Sub-2-1TA), filed April 19, 1982. Applicant: BANKS FARMS, INC., Route 2, Hillsville, VA 24343. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Bananas,* between port cities in ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, AL, MS, LA, and TX, on the one hand, and, on the other, points in VA and NC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: D&M Produce Company, 3487 Inventory Road, Norfolk, VA 23502.

MC 96448 (Sub-II-1TA), filed April 19, 1982. Applicant: BROOK LEDGE, INC., R.D. #1, Box 56, Oley, PA 19547. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Horses and equipment and paraphernalia incidental to the transportation, care and display of such horses,* between Philadelphia, PA and points in the commercial zone thereof, on the one hand, and, on the other, Seattle, WA, and points in the commercial zone thereof, for 270 days.

Supporting shipper: Washington Harness Club, 511 Lyon Building, Seattle, WA.

MC 158956 (Sub-2–2TA), filed April 19, 1982. Applicant: JOSEPH CALLAVINI, P.O. Box 256, Back St., Latimer, PA 18234. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517. *Property, in, for, or from bonafide storage in the warehouse facilities of Penn Vine Warehouse,* between Luzerne and Lackawanna Counties, PA, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Penn Vine Warehouse, Hazelton Heights, Hazelton, PA.

MC 146885 (Sub-II–2TA), filed April 19, 1982. Applicant: BEN CAPOBIANCO TRUCKING, INC., 9814–18 Princeton-Glendale Road, Cincinnati, OH 45246. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of glass containers,* (1) between Darke, Fairfield and Wood Counties, OH; Raldolph County, IN; and Reno, PA, on the one hand, and, on the other, all points in CA; and (2) between Darke County, OH and Randolph County, IN, on the one hand, and, on the other, all points in CA, LA, KY, OK, PA, NY, and IL, *for 270 days. An underlying ETA seeks authority for 120 days.* Supporting shippers: Union City Molding & Die Casting Corporation, P.O. Box 231, Union City, IN 47390. Glass Containers Corporation, 535 N. Gilbert Avenue, Fullerton, CA 92634.

MC 152509 (Sub-II–25TA), filed April 19, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). *Contract; irregular: paper, paper products, paper articles and cardboard and pulpboard enclosures,* between pts. in the U.S. (except AK and HI), under continuing contract(s) with Equitable Bag Co., Long Island City, NY, for 270 days. Supporting shipper: Equitable Bag Co., 45–50 Van Dam St., Long Island City, NY 11101.

MC 160862 (Sub-II–1TA), filed April 21, 1982. Applicant: CORSAIR FREIGHTWAYS, CORP., 10 E. Oregon Ave., Phila., PA 19148. Representative: Richard Rueda, 135 N. 4th St., Phila., PA 19106. *Contract; irregular: such commodities as are dealt in or used by retail department stores,* between points in OH on the one hand, and, on the other, points in the states of OH, PA, NY, GA, KY, NC, TN, CT, NJ, MA, DE, MD, WV, SC, AL, MS, IN, IL and WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gold Circle Stores, 6575 Huntley Road, Worthington, OH 43085.

MC 161574 (Sub-II–1TA), filed April 19, 1982. Applicant: INTERNATIONAL CONTAINER SERVICES, INC., 5155 Warner Road, Garfield Heights, OH 44125. Representative: Peter A. Greene, 1920 N Street N.W., Washington, D.C. 20036. *General Commodities, (except classes A and B Explosives),* between New York, NY; Port Elizabeth, NJ; Philadelphia, PA; Baltimore, MD; Norfolk, VA; and Miami, FL, on the one hand, and, on the other, Pittsburgh, PA, and points in OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 146298 (Sub-2–6TA), filed April 19, 1982. Applicant: KESS TRANSPORTATION, INC., Box 5091, Cincinnati, OH 45205. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, D.C. 20005. *General commodities (except classes A & B explosives, household goods, and commodities in bulk),* between the facilities of Co-operative Shippers, Inc., and its members, located at or near points in Hamilton, Butler, Warren and Clermont Counties, OH; Boone, Campbell and Kenton Counties, KY; and Dearborn County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Co-operative Shippers, Inc., 4110 Dane Ave., Cincinnati, OH 45223.

MC 161407 (Sub-II–1TA), filed April 21, 1982. Applicant: MARTINI, INC., Route #309, R.D. #1, Drums, PA 18222. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517. *Foodstuffs and related products,* (1) between Lackawanna Co., PA, on the one hand, and, on the other, Forseyth Co., NC; Campbell Co., KY; New York City, NY; Baltimore Co., MD; and Allen Co., IN; and (2) between Luzerne Co., PA, on the one hand, and, on the other, Peroria Co., IL; Milwaukee Co., WI; Houston County, GA; Monroe Co., NY; and Essex Co., NJ; and (3) between Luzerne Co., PA, on the one hand, and, on the other, Forseyth Co., NC; Campbell Co., KY; and New York City, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): T. Verrastro Beer Dist., 126 North Broad St., W. Hazleton, PA 18201. Tri-Area Beverage, Inc., 67 N. Cedar St., Hazleton, PA 18201. L. T. Verrastro, Inc., 200 S. Blakely St., Dunmore, PA 18512.

MC 155143 (Sub-II–2TA), filed April 20, 1982. Applicant: NEW DIXIE TRANSPORTATION CORP., P.O. Box 112, Providence Forge, VA 23140. Applicant's Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Ammonium sulfate,* from Hopewell, VA to points in NC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Allied Fibers and Plastics Co., P.O. Box 2332 R, Morristown, NJ 07960.

MC 107012 (Sub-II–218–TA), filed April 19, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *general commodities (except classes A & B explosives and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Western Publishing Co., Racine, WI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Publishing Co., Inc., 1200 Mound Ave., Racine, WI 53404.

MC 161592 (Sub-2–1TA), filed April 20, 1982. Applicant: PRESTIGE MESSENGER SERVICE, INC., 3808 Cedar Brook Pl., Baltimore, MD 21236. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. Contract; Irregular. *Shipments weighing 100 lbs. or less,* under contract with Chesapeake & Potomac Telephone Company of Maryland between points in MD, on the one hand, and, on the other, points in VA, DC, WV, NJ, DE and PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chesapeake & Potomac Telephone Company of Maryland, First Floor East, One East Pratt St., Baltimore, MD 21202.

MC 160862 (Sub-II–2TA), filed April 19, 1982. Applicant: RAM EXPRESS CO., 248 Lisa Dr., Pittsburgh, PA 15102. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract; irregular:* (1) *Metal products,* between Mahoning, Belmont and Jefferson Counties, OH; Washington and Westmoreland Counties, PA; Marshall, OH; and Brooke County, WV, on the one hand, and, on the other, pts. in the U.S., under continuing contract(s) with Wheeling-Pittsburgh Steel Corp. of Pittsburgh, PA, and, (2) *Metal products, ores and minerals, non-metallic minerals, and coal and coal products,* between pts. in the U.S., under continuing contract(s) with Marc Rich and Co., Inc., of Pittsburgh, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s):

Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Marc Rich & Co., Inc., 501 Holiday Drive, Pittsburgh, PA 15220.

MC 157657 (Sub-II–ITA) filed April 19, 1982. Applicant: RIVERSIDE TRANSPORTATION, INC., Tredegar St., P.O. Box 2218, Richmond, VA 23217. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, DC 20036. Contract: Irregular: *general commodities (except Classes A & B explosives, household goods and commodities in bulk)* between points in the U.S., under continuing contract(s) with United Forwarding, Inc., Omaha, NE for 270 days. Supporting Shipper: United Forwarding, Inc., 7000 West Center Rd., Suite 445, Omaha, NE 68106.

MC 135276 (Sub-II–1TA), filed April 19, 1982. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Box 10, Frederick, MD 21701. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Light Weight Aggregate* from Woodsboro, MD, on the one hand, and, on the other, points in VA & PA (restricted to traffic originating at or destined to facilities of Lehigh Portland Cement Co. for 270 days. An underlying eta seeks 120 days authority. Supporting Shipper(s): Lehigh Portland Cement Co., Box 1882, 728 Hamilton Mall, Allentown, PA 18105.

MC 146807 (Sub-II–26TA), filed April 19, 1982. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 430 Scranton Life Building, Scranton, PA 18503. *Anthracite filter media* from Delano, PA to Houston, TX for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Maintenance Engineering Corporation, 3807 Clinton Drive, Houston, TX 77020.

MC 161477 (Sub-II–1TA), filed April 19, 1982. Applicant: S & R ENTERPRISES, 1056 Mulberry St., Circleville, OH 43113. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Commodities dealt in or used by department stores and manufacturers or distributors of metal and paper products, except in bulk,* between Columbus, OH and points in its commercial zone; Anaheim, Irvine and Los Angeles, CA; Jacksonville and Miami, FL; Atlanta and Savannah, GA; Wooster, OH; and Jeannette, PA, on the one hand, and, on the other, points in the U.S., except AK and HI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Columbus Industries, Inc., P.O. Box 257, Ashville, OH 43103; Crane Plastics Mfg. Co., 2141 Fairwood Avenue, Columbus, OH 43207; W.M. Industries, Inc., 5616 Peachtree Rd., Atlanta, GA 30341.

MC 145067 (Sub-II–7TA), filed April 21, 1982. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Edward F. V. Pietrowski, 430 Scranton Life Building, Scranton, PA 18503. *Liquid propane gas* between Philadelphia, PA and Bath and Hartford Mills, NY for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Berwick Gas Sales, 320 W. 9th. St., Berwick, PA 18603; Modern Gas Sales, Inc., P.O. Box 1, Avoca, PA 18641.

MC 135046 (Sub-II–4TA), filed April 19, 1982. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Highway, Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Rubber or miscellaneous plastic articles, materials, equipment and supplies used in the manufacture and distribution of rubber or miscellaneous plastic articles,* between Chicago, IL, points in Kendall County, IL, points in Le Sueur County, MN and points in Payne County, OK on the one hand, and on the other, points in the US in and east of MN, IA, MO, OK and TX for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Robb Container Company, 318 Van Emmon St., Yorkville, IL 60560.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 154103 (Sub-3–29TA), filed April 21, 1982. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Contact carrier;* irregular routes; *Textile products, raw materials and supplies or machinery or parts thereof used in the manufacturing and shipping of textile products,* between points in AL, AK, GA, IL, IN, IA, KS, LA, MA, MI, MO, MS, NC, NJ, NY, OK, OH, KY, PA, SC, TN, VA, WV, TX, and CA., under continuing contracts with Union Underwear Company. Supporting shipper: Union Underwear Company, P.O. Box 780, Bowling Green, KY 42101.

MC 161616 (Sub-3–1TA), filed April 21, 1982. Applicant: STEELER'S TRANSPORTS, INC., 2199 Thorncroft, Germantown, TN 38138. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Beverages;* between St. Louis, MO/East St. Louis, IL and Evansville, IN, and points in their respective commercial zones, on the one hand, and on the other, Memphis and Nashville, TN; Little Rock, AR; Tupelo, MS; Kansas City, KS and Oklahoma City, OK and points in their respective commercial zones. Supporting shippers: Crown Distributing Co., Inc., 2921 Fleetbrook, Memphis, TN, 38116; and Taylor Group, Inc., 555 McDonnell Blvd., Hazlewood, MO, 63042.

MC 136482 (Sub-3–1TA), filed April 21, 1982. Applicant: INDUSTRIAL ASPHALT TRANSPORT, INC., P.O. Box 5560 Statesville, NC 28677. Representative: Bill R. Davis, Suite 101 Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. *Roofing and industrial asphalt (except road asphalt), in bulk, in tank vehicles* from Morehead City, NC to points in DE, MD, VA, WV, and Washington, D.C. Supporting shipper: Trumbull Asphalt Division of Owens—Corning Fiberglass Corporation, 59th and Archer Road, Summit, IL 60501.

MC 85530 (Sub-3–2TA), filed April 21, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, N.W., Washington, DC 20005. *Contract Carrier;* Irregular; (1) *Traffic control products, pavement marking compounds, glass beads, materials, equipment, and supplies* used in the installation thereof and (2) *materials, equipment, and supplies used in the manufacture, sale, distribution, and installation of the commodities named in (1), (except commodities in bulk),* between the facilities of Pave-Mark Corporation in Cobb County, GA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Pave-Mark Corporation, Smyrna, GA. Supporting shipper: Pave-Mark Corporation, 3141 Nifda Dr., Smyrna, GA 30081.

MC 159333 (Sub-3–3TA), filed April 22, 1982. Applicant: McINVALE FREIGHT LINES, INC., 5965 Hwy. 18 S., Jackson, MS 39209. Representative: W. M. McInvale (same as applicant). *Fluorescent lighting fixtures, materials and supplies used in the manufacture, sale and distribution thereof,* between the facilities of Daybrite (a Division of Emerson Electric), Tupelo, MS, on the one hand, and, on the other, all points in AZ, CA, IL, OH, PA, TX, VA and WV. Supporting shipper: Daybrite (a Division of Emerson Electric), P.O. Drawer 1687, Tupelo, MS 38801.

MC 145836 (Sub-3–8TA), filed April 21, 1982. Applicant: TRYCO TRUCKING CO., INC., 2508 Starita Road, Charlotte, NC 28213. Representative: Eric

Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Textile mill products and sewing accessories,* between the facilities of Cloth World, Inc., located at or near Amarillo, TX, and Charlotte, NC, and points in their commercial zones, on the one hand, and, on the other, points in NV, AZ, CO, NM and KS. Supporting shipper(s): Cloth World, Inc., P.O. Box 3639, 206 S. Western, Amarillo, TX 79106.

MC 159932 (Sub-3–4TA), filed April 22, 1982. Applicant: CLARENCE KENNEDY, JR., d.b.a. KENNEDY & SON TRUCKING, Route 1, Box 81, Tryon, NC 28782. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Ornaments and decorations, and materials and supplies used in the manufacture and distribution therof,* between the facilities of Rauch Industries, Inc., located at or near Gastonia, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Rauch Industries, Inc., 6048 South York Road, Highway 321 South, Gastonia, NC 28052.

MC 158381 (Sub-3–8TA), filed April 21, 1982. Applicant: YELLOW LAKE, INC., P.O. Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701–1378. *Contract,* Irregular, *Air Filtration Products* between manufacturing and distribution facilities of Precisionaire, Inc. and points in the states of AL, FL, GA, NC, SC, VA, MD, DE, NJ, PA, NY, CT, MA, NH, VT, ME, OH, IN, MI, IL, KY, TN, MS, LA, AR, MO, IA, MN, NE, KS, OK and TX, under continuing Contract(s) with Precisionaire, Inc. Supporting shipper: Precisionaire, Inc., P.O. Box 7568, 2399 26th Avenue, North, St. Petersburg, FL 33734.

MC 161634 (Sub-3–1TA), filed April 22, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, Suite 460, 400 Wendell Court, P.O. Box 43386, Atlanta, GA 30336. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contract:* Irregular: (1) *Clothing and materials, equipment, and supplies used in the manufacture, sale, or distribution thereof,* from Elizabeth, NJ, Charlottesville and Danville, VA, and points in GA, NC, and SC to Salt Lake City, UT, under continuing contract with Pykettes Manufacturing Company of Salt Lake City, UT, (2) *vehicular tires,* from Forest Park, GA to Birmingham, AL, Phonenix, AZ, Compton and San Jose, CA, Denver, CO, Hialeah, FL, Chicago, IL, Louisville, KY, New Orleans, LA, Everett, MA, St. Louis, MO, Edison, NJ, Pineville, NC, Tulsa, OK, Export, PA, Dallas, Ft. Worth, and Houston, TX, Seattle, WA, and Milwaukee, WI, under continuing contract with Delta Tire Corporation of Forest Park, GA, and (3) *ceramic tile,* from Norcross, GA to Birmingham, AL, Los Angeles and San Jose, CA, Denver, CO, North Haven, CT, Washington, DC, Fort Myers, Jacksonville, Jupiter, Miami, and Tampa, FL, La Grange, IL, Boston, MA, Farmington Hills, Grand Rapids, and Sterling Heights, MI, Minneapolis, MN, Fenton, MO, Collingswood and Pennsauken, NJ, Albuquerque, MN, Jamaica, NY, Charlotte and Raleigh, NC, Beechwood, Cincinnati, and Middlesburg, OH, Pittsburgh, PA, Dallas, Forth Worth, and Houston, TX, Salt Lake City, UT, and New Berlin, WI, under continuing contract with Buchtal Corporation USA of Atlanta, GA. Supporting shippers: Pykettes Manufacturing Company, 1025 South 700 West, Salt Lake City, UT 84014, Delta Tire Corporation, South Expressway and Perimeter Highway, Forest Park, GA 30050, and Buchtal Corporation USA, 5780 Peachtree Dunwoody Road, N.E., Suite 450, Atlanta, GA 30342.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Forth Worth, TX 76102.

MC 24583 (Sub-5–7TA), filed April 20, 1982. Applicant: FRED STEWART CO., P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, Suite 411, 221 W. 2nd, Little Rock, AR 72201. Contract, Irregular: *Chemicals in tank vehicles* between all points in the U.S. (except AK and HI), under continuing contract with T & T Chemical Co., El Dorado, AR.

MC 35831 (Sub-5–4TA), filed April 20, 1982. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Lumber and wood products,* between points in AR, LA, MS, OK and TX. Supporting shipper: Bryany Forest Products, Inc., P. O. Box 4967, Shreveport, LA 71104.

MC 116164 (Sub-5–4TA), filed April 19, 1982. Applicant: ARROW TRANSPORTATION CO., 1911 N.W. 58th Avenue, Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract: irregular *Foodstuffs, (except in bulk), and materials and supplies used in the manufacture and distribution thereof* (1) Between Des Moines and Perry, IA on the one hand, and on the other, pts in IL, IN, KS, KY, MI, MO, NE and OH, and (2) From Archbold, OH to pts in IL, IN, IA, KS, KY, MI, MO and NE under continuing contract(s) with Beatrice Foods Co. Supporting shipper(s): Beatrice Foods Co., 1719 West Grand Avenue, Des Moines, IA 50309.

MC 121037 (Sub-5–1TA), filed April 20, 1982. Applicant: CONTINENTAL FREIGHTWAYS, INC., 409 South 80th Street, Houston, TX 77012. Representative: C. W. Faglie, P.O. Box 545, Crowley, TX 76036. *Mercer Commodities, metal products, equipment, machinery, clay, concrete, glass or stone products, drilling mud* between points in TX, LA, MS, AL, AR, MO, OK, KS, NE, NM, WY, CO, MT, AZ, CA, NV, and UT. Applicant intends to tack. Supporting shippers: Schmidt Mfg., Inc., Houston, TX, Superior Waters of Houston, Houston, TX, Gulf Steel Corp., Houston, TX.

MC 125535 (Sub-5–24TA), filed April 19, 1982. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (same as above). Contract: Irregular *(1) Non ferrous metals, scrap non ferrous metals and (2) products used in the distribution of products in (1) above (except commodities in bulk in tank vehicles).* Between points in the U.S. (except AK and HI). Supporting shipper: Monarch Metals, Inc., 4349 Talmedge Road, Toledo, OH 43623.

MC 141157 (Sub-5–1TA), filed April 19, 1982. Applicant: B & E COMPANY, Box 268, Sheffield, IA 50475. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract irregular *Facing and paving brick, clay drain tile and plastic tubing,* Between pts in IA on the one hand, and on the other, pts in MN, MO and NE under continuing contract(s) with Sheffield Brick & Tile Co. Supporting shipper(s): Sheffield Brick & Tile Co., P.O. Box 676, Sheffield, IA 50475.

MC 141255 (Sub-5–4TA), filed April 19, 1982. Applicant: TANDY TRANSPORTATION, INC., 2560 E. Long Avenue, Fort Worth, TX 76111. Representative: Roy Beans (same as applicant). Contract: Irregular. *General Commodities (except A & B Explosives, Household Goods as defined by the Commission, Commodities in bulk, and those requiring special equipment),* between Chicago, IL on the one hand, and on the other, Columbus, OH and their commercial zones. Supporting shipper: Big Bear Stores Co. (and Subsidiaries), 770 W. Goodall Blvd., Columbus, OH 43212.

MC 152277 (Sub-5–5TA), filed April 20, 1982. Applicant: LONG MILE RUBBER COMPANY, 155 South Court, Exchange Park, Dallas, Texas 75245.

Representative: Jim Petty (same as applicant). *Chemicals and related products* from points in Utah, South Dakota, and Wyoming to points in Texas, Oklahoma, New Mexico, and Louisiana.

MC 153987 (Sub-5–2TA), filed April 19, 1982. Applicant: MARION SELMAN d.b.a. SELMAN TRUCKING, P.O. Box 37231, Omaha, NE 68137. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002. *Contract* irregular: *Transportation Equipment,* between pts in the U.S., under continuing contract(s) with Komfort Industries of Texas, Inc., Burleson, TX.

MC 15446 (Sub-5–2TA), filed April 19, 1982. Applicant: DITZFELD TRANSFER, INC., 104 West Pacific, Sedalia, MO 65301. Representative: Jeremiah D. Finnegan, 4225 Baltimore, Kansas City, MO 64111. Contract: Irregular. *Beer, wine, liquor, other beverages and empty containers* between points in the U.S. under continuing contract(s) with Whitaker & Company, Inc. Supporting shipper: Whitaker & Company, Inc., 301–07 East Main, Sedalia, MO 65301.

MC 154647 (Sub-5–1TA), filed April 19, 1982. Applicant: THE LENDEL VINES CO., INC., 103 Henson Drive, Paris, AR 72855. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Foodstuffs and related products* from Denison, TX to Hope, AR and Joplin, MO. Supporting shipper: Safeway Stores, Incorporated, Edible Oil Refinery, 1405 West Washington Street, Denison, TX 75020.

MC 161560 (Sub-5–1TA), filed April 19, 1982. Applicant: SMART-WAY TRUCKIN', INC., 5129 NW 114th St., Grimes, IA 50111. Representative: Alex J. Miller, 555 S. Woodward, Suite 512, Birmingham, MI 48011. *Contract irregular: General Commodities (except household goods and Classes A and B explosives)* between pts in the U.S. (except AK and HI) under continuing contract with Alliance Shippers, Inc., Willow Springs, IL.

MC 161586 (Sub-5–1TA), filed April 20, 1982. Applicant: JACK GREESON, d.b.a. GREESON TRUCKING, 304 N. 8th Street, Midlothian, TX 76065. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Fertilizer* (except in bulk) (1) from Carlsbad, NM to Midlothian, TX and (2) from Midlothian, TX to Suffren, NY; Carlstadt, NJ; Greensboro, NC; Albany, GA; St. Louis and Springfield, MO. Supporting shipper(s): Atlantes Industries, Inc., 500 N. 9th Street, Midlothian, TX 76065.

MC 67234 (Sub-5–23TA), filed April 21, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular: (1) *General Commodities (except Classes A and B explosives) and* (2) *Household Goods as defined by the Commission,* between points in the US (including AK and HI) under continuing contract(s) with Control Data Corporation. Supporting shipper(s): Control Data Corporation, 8100 34th Avenue South, Minneapolis, MN 55402.

MC 67234 (Sub-5–24TA), filed April 21, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular: *Articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation,* between points in the US (including AK and HI) under continuing contract(s) with Sperry Corporation. Supporting shipper(s): Sperry Corporation, P.O. Box 500, Blue Bell, PA 19422.

MC 125535 (Sub-5–25TA), filed April 21, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (Same as above). Contract: Irregular *(1) Ferrous and non ferrous metals and (2) products used in the manufacture and distribution (except commodities in bulk in tank vehicles).* Between points in the US (except AK and HI). Supporting shipper: Gerald Metals, Inc., P.O. Box 579, Haleyville, AL 35565.

MC 125951 (Sub-5–7TA), filed April 23, 1982. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 3035 South 72nd Street, Suite 200, Omaha, NE 68124. Representative: Robert M. Cimino, "Same as Applicant". *Alcoholic beverages and related products,* from Pts in NY, TX, CA; Lawrenceburg, IN, Schenley, PA; Paducah, KY; Chicago, IL; Jacksonville, FL; Detroit, MI; New Orleans, LA to Kansas City, MO; restricted to traffic originating at and destined to the above-mentioned origin and destination Pts. Supporting shipper: General-Standard, Inc., 400 Atlantic, Kansas City, MO 64116.

MC 146336 (Sub-5–15TA), filed April 21, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609–109th Street, Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *Chemicals and related products* between points in the U.S. (except AK and HI) under continuing contracts with NCH Corporation. Supporting shipper(s): NCH Corporation, 2730 Carl Road, Irving, TX 75062.

MC 147019 (Sub-5–1TA), filed April 22, 1982. Applicant: WENGERT TRANSPORTATION, INC. d.b.a. CITY DELIVERY, 651 58th Avenue Court, S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Toilet preparations, cosmetics, costume jewelery and premium items,* from Waterloo, Cedar Rapids, Davenport, Ottumwa, Burlington and Des Moines, IA to all pts in IA. Supporting Shipper(s) Avon Products, Inc., 6901 Golf Road, Morton Grove, IL 60053.

MC 150783 (Sub-5–36TA), filed April 23, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773. *Footwear, handbags, polish and related articles* between points in Canton and/or Brocton, MA on the one hand, and, on the other, points in AZ and CA. Supporting shipper: Morse Shoe Company, Canton, MA 02021.

MC 152773 (Sub-5–2TA), filed April 22, 1982. Applicant: LEROY V. HILL AND ROBERT E. HILL, a partnership, d.b.a. L. V. HILL TRUCKING, 123 North Second Iola, KS 66749. Representative: Charles H. Apt, 301 North Jefferson, Iola, KS 66749. *Sand, Scrap Iron, Foundry Castings and Products,* between all points and places in IL, KS, NE, OK and TX. Supporting shipper: Walton Foundry, Inc., P.O. Box 505, Iola, KS 66749.

MC 153723 (Sub-5–12TA), filed April 23, 1982. Applicant: A & M EMTERPRISERS, INC., P.O. Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72702. *Tape and Wire Recorders; Household Appliances and parts, equipment and supplies used in the manufacture thereof,* Between Pulaski County, AR; Caddo Parish, LA; Jefferson County, KY; Howard County, MD; Tulsa and Oklahoma Counties, OK; Bexar, Dallas and Tarrant Counties, TX; and Portsmouth, VA, on the one hand, and, on the other, points in the U.S. Supporting shipper: General Electric Company, 6901 Lindsey Road, Little Rock, AR 72206.

MC 161600 (Sub-5–1TA), filed April 21, 1982. Applicant: DOUBLE C ENTERPRISES, INC., 950 Crestwood Circle, Lewisville, TX 75028.

Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Cleaning, Scouring and Washing Compounds and Related Articles* between Dallas, TX; New Orleans, LA on the one hand, and, on the other, points in AR, LA, OK and TX. Restricted to shipments originating at or destined to the facilities of Purex Corporation. Supporting shipper: Purex Corporation, 2829 Merrell Dr., Dallas, TX 75220.

MC 161612 (Sub-5–1TA), filed April 21, 1982. Applicant: FRESH WATER CO., INC., Box 508, Sayre, OK 73662. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Fresh water and water for domestic use and human consumption,* between points in OK west of I–35 on the one hand, and, on the other, points in TX. Supporting shippers: Triple A Rentals, 202 S. Randall, Elk City, OK; Grace Petroleum Company, Canute, OK 73626.

MC 161613 (Sub-5–1TA), filed April 21, 1982. Applicant: ROY GREENFIELD d.b.a. ROY GREENFIELD TRUCKING, 918 Eureka, Weatherford, TX 76086. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78786–2207. *Frozen potato products* from points in WA to points in TX. Supporting shipper: William George Company, Inc., P.O. Box 407, Palestine, TX 75081.

MC 161624 (Sub-5–1TA), filed April 22, 1982. Applicant: SCOTTY CAPERTON, P.O. Box 1428, Moody, TX 76557. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *(1) grain storage bins, metal buildings and parts, and (2) chemicals, in drums,* (1) from Kansas City, MO, Birmingham, AL and Galesburg, IL, to points in TX and (2) from Kalamazoo, MI and Chicago, IL, to the facilities of Temple Chemical Co. at or near Temple, TX. Supporting shipper(s): Temple Chemical Co., P.O. Box 3624, Temple, TX 76501, Paul Hopson Builders, Route 2, Box 27A, San Marcos, TX 78666, D.D.H., Inc. d.b.a. Industrial Mill and Supply, 4225 Lowman Street, Corpus Christi, TX 78411 and Agra Builders, P.O. Box 4609, Victoria, TX 77903.

MC 161644 (Sub-5–1TA), filed April 23, 1982. Applicant: HOUSTON MARINE SERVICES, INC., 505 Atrium One, 11811 I–10 East, Houston, TX 77029. Representative: Stephanie N. Josephson, 1818 Coastal Tower, Nine Greenway Plaza, Houston, TX 77046. Contract, Irregular: *petroleum products in bulk, tank vehicles, containers and packages* between points in TX and LA under continuing contracts with BP North America Trading, Inc., Harvey, LA and Shell Oil Company, Houston, TX.

MC 161645 (Sub-5–1TA), filed April 23, 1982. Applicant: A. W. McAFEE, d.b.a. McAFEE TRUCKING, Route 1, Box 49, Lowell, AR 72745. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702, *Cement*— Between Allen and Neosho Counties, KS; Mayes County, OK, on the one hand, and, on the other, points in Benton County, AR. Supporting shipper: Beaver Lake Concrete, Inc., Post Office Box 762, Rogers, AR 72756.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 139666 (Sub-6–1TA), filed April 19, 1982. Applicant: AICRAG CORPORATION, 12312 S.E., Whitaker Way, Portland, OR 97230. Representative: Philip G. Skofstad, 529 S.E. Grand Ave., Portland, OR 97214. *General Commodities,* except classes A and B explosives, hazardous wastes and household goods (1) between Multnomah, Washington and Clackamas Counties, OR, King and Pierce Counties, WA, on the one hand, and, on the other, Cowlitz County, WA, (2) Between Multnomah, Washington and Clackamas Counties, OR on the one hand, and, on the other, Clark, Cowlitz, Lewis, Thurston, Pierce and King Counties, WA for 270 days. Supporting shippers: Weyerhaeuser Corporation, P.O.B. 188, Longview, WA 98632; Familian Northwest, Inc., 750 Industrial Way, Longview, WA 98632; Bearings, Incorporated, 1291 Industrial Way, Longview, WA 98632.

MC 161638 (Sub-6–1TA), filed April 21, 1982. Applicant: BLAKLEY AND SONS, INC., 3031 Isleta Blvd., S.W., Albuquerque, NM 87105. Representative: Larry D. Lucas, 500 Oak St., N.E., Albuquerque, NM 87106. *Contract Carrier,* Irregular routes: *Crushed pumice and pumice by-products* from Sante Fe, NM, to Midland, TX, for the account of General Pumice Corporation, for 270 days. Supporting shipper: General Pumice Corporation, P.O.B. 5135, Santa Fe, NM 87502.

MC 161625 (Sub-6–1TA), filed April 21, 1982. Applicant: DAVID GRESSETT, INC., 5601 San Francisco Rd. NE, Albuquerque, NM 87109. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110. (1) *Food and Related products;* (2) *Such merchandise* as is dealt in and distributed by wholesale, retail, and retail chain grocery stores and food business houses; (3) *Meat by-products inedible* between AZ, CA, CO, LA, NV, NM, TX, UT for 270 days. Supporting shippers: Hutchinson Fruit Company, 7100 Second St. NE, Albuquerque, NM 87107; Karler Packing Company P.O.B. 1005, Albueuerque, NM 87103; MBPXL Corporation, P.O.B. 2519, Witchita, KS 67201; Smith's Management Corporation, 1550 South Redwood Rd., Salt Lake City, UT 84104.

MC 161141 (Sub-6–1TA), filed April 21, 1982. Applicant: TONY INGOGLIA SALAMI AND CHEESE CO., INC., 2335 Del Monte St., West Sacramento, CA 95691. Representative: Donald Ingoglia (same as applicant). *Contact Carrier,* Irregular routes: *chilled and frozen meat and meat by-products* between points in Washoe County , NV and points in the following counties of CA: San Farancisco, Alameda, Sacramento, Marin, San Joaquin and Stanislaus, under continuing contract with Botto & Associates, Inc. for 270 days. Supporting shipper: Botto & Assoc., Inc., 41 W. Yokuts, Stockton, CA 95207.

MC 161554 (Sub-6–1TA), filed April 23, 1982. Applicant: BERT MATTER, INC., TRUCKING, P.O. box 661, Bellingham, WA 98227. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contact carrier* irregular routes, *Construction materials, metal products, clay, concrete, glass and stone products* from points in Whatcom County, WA, to points in OR for the account of Bellingham Marine Inc., of Bellingham, WA for 270 days. Supporing shipper: Bellingham Marine Inc., P.O.B. 8, Bellingham, WA 98225.

MC 161581 (Sub-6–1TA), filed April 19, 1982. Applicant: KEN AND MARGARET OGERS, d.b.a. NORTHWEST ADVENTURES, North 8884 Government Way, Hayden, ID 83835. Representative: Ken Rogers (same as applicant). *Passengers and their baggage in the same vehicle in both charter and special operations including sightseeing and pleasure tours.* Vehicles are not to exceed 14 people excluding the driver. Between points in Kootenai, Bonner, Boundary, Shorehone, Benewah, Latah, Nez Perce, Clearwater, Lewis, and Idaho Counties, IO and Spokane County, WA and points in Sanders County, MT. for 189 days. Supporting shippers: Time to Travel, 4055 Government Was, Coeur d' Alene, ID 83814; Coeur d' Alene Chamber of Commerce, 2nd and Sherman, Coiur d' Alene, ID 83814; Idaho First National Bank, 4th St. Branch, Coeur d' Alene, ID; Western Frontiers, Inc., North Shore Resort Hotel, North Shore Plaza, Coeur d' Alene, ID 83814.

MC 161637 (Sub-G–1TA), filed April 22, 1982. Applicant: ROBERT SAMAC, d.b.a. S.S.T., 905 S. 209th, Seattle, WA 98148. Representative: Boyd Hartman,

P.O.B. 3641, Bellevue, WA 98009. *Salt* from Wendover, UT to Kent, WA for 270 days. Supporting shipper: Maralco Aluminum, Inc., 7730 S. 202nd, Kent, WA 98031.

MC 127687 (Sub-6–1TA), filed April 21, 1982. Applicant: SHUPE & YOST, INC., P.O.B. 1123, Greeley, CO 80631. Representative: Stuart L. Poelman, P.O.B. 3000, Salt Lake City, UT 84110. *Contract carrier,* irregular routes, *salt and salt products* from Lakepoint, UT to points in CO, WY, NE, KS, ND and SD, under continuing contracts with Domtar Industries (Sifto Salt Division), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Domtar Industries, Inc., 4825 N. Scott St., Suite 419, Schiller Park, IL 60176.

MC 152077 (Sub-6–2TA), filed April 20, 1982. Applicant: JACK C. CARPENTER AND BETH C. HANSON, d.b.a. TUDOR WAREHOUSE CO., 920 Tudor Rd., Yuba City, CA 95991. Representative: Marshall G. Berol, 601 California St., Suite 1900, San Francisco, CA 94108. *Contract carrier,* Irregular route, *fertilizer,* between points in AZ, CA, ID, NM, NV, OR, UT, WA for 270 days an underlying ETA seeks 120 days authority. Supporting shipper: Wilson & Geo. Meyer & Co., 270 Lawrence, South San Francisco, CA 94080.

MC 161626 (Sub-6–1TA), filed April 21, 1982. Applicant: VAN–PAK, 4220 Los Angeles St. No. 201, Simi, CA 93063. Representative: Donald R. Hedrick, P.O.B. 4334, Santa Ana, CA 92072. (1) *food and related products,* from points in CA and Brooklyn, NY to points in WA, OR, AZ, NV, CO, TX, IL, IN, MO, OH, OK, MI, MN, PA, TN, WI, MD, NJ, NY, VT, CT, MA, and FL; and (2) *toilet articles and personal care products,* from Los Angeles County, CA to points in the U.S. and DC, for 270 days. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional office listed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–11898 Filed 4–30–82; 8:45 am]

BILLING CODE 7035–1–M

PANAMA CANAL COMMISSION

Privacy Act of 1974; Amendment of a System of Records

AGENCY: Panama Canal Commission.

ACTION: Notice of amendment to system of records.

SUMMARY: The Panama Canal Commission published a new system of records in the **Federal Register** called "Marine Accident Investigation Reports/Statistics, PCC.MRBL–2" on December 9, 1981 at 46 FR 60363, and republished a description of this system in the Panama Canal Commission's annual publication of systems of records on December 28, 1981 at 46 FR 62785. Review of this system notice subsequent to publication suggested that minor changes should be made to the system name, the categories of the records in the system, the manner in which the records are stored and the types of records being safeguarded, to more clearly describe the system. The specific changes to the system being amended are set forth below, followed by the system published in its entirety, as amended.

DATES: The system shall be amended as indicated without further notice in 30 calendar days from the date of this publication (June 2, 1982) unless comments are received which would result in a contrary determination.

ADDRESS: The public should address comments to: K. E. Goldsberry, Agency Records Officer, Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011. Mark all comments "MRBL–2".

FOR FURTHER INFORMATION CONTACT: Virginia Allen, Assistant to the Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004, (telephone 202–724–0104).

SUPPLEMENTARY INFORMATION: The changes being proposed for this system by virtue of this notice, are minor and editorial in nature and do not affect the general character or purpose of the system as originally described, nor do they expand the population of individuals to whom the system applies or change any individual rights. Since the modifications merely provide a more accurate description of the system in question, the changes are not deemed to be within the purview of the provision of 5 U.S.C. 552a(o) of the Privacy Act and Office of Management and Budget (OMB) circular A–108 (Transmittal Memoranda Nos. 1 and 3), which require submission of a report on a new system.

Dated: April 21, 1982.

K. E. Goldsberry,

Chief, Administrative Services Division, Agency Records Officer.

Amendment

PCC/MRBL–2

System name:

Marine Accident Investigation Report/Statistics.

Changes:

System name:

Delete the entire entry and substitute with the following: "Marine Accident Reports and Investigations, PCC/MRBL–2".

Categories of records in the system:

Delete the entire entry and substitute with the following: "Findings of marine accidents that are investigated include: Pilot's name, case number, vessel description (name, type, length, beam), date, time and location of accident, type of accident (grounding, collision, sinking, injury, etc.), direction vessel was traveling, damage type and dollar estimate, fault or no fault, transcript of hearing held by the Board of Local Inspectors, name of injured parties, medical report on injured parties, and other information which may be pertinent to the Board's investigation. Administrative reports prepared by Navigation Division for marine accidents not investigated include: Pilot's name, report number, date and time of accident, vessel description (name, type, length, and beam), accident location, direction vessel was traveling, accident type, signed release (if provided by vessel making no claim)."

Storage:

Delete the entire entry and substitute with the following: "Computer tapes and disks, paper printouts, logs, charts, cassette tapes, paper files, transcripts of Board proceedings with original exhibits and appendices, cassette tapes, and shorthand notes."

Safeguards:

Delete the entire entry and substitute with the following: "On-line access restricted to a limited number of authorized personnel who use a confidential identifying code and access code. One person has been designated to maintain control of all input documents and issuance of report information. All paper records and computer tapes/disks are kept in a locked cabinet or secure area when not in use."

PCC/MRBL–2

SYSTEM NAME:

Marine Accident Reports and Investigations, PCC/MRBL–2.

SYSTEM LOCATION:

Board of Local Inspectors, Bldg. 5140, Diablo, Republic of Panama, and Data Processing Division, Administration Bldg., Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Panama Canal Commission pilots involved in marine accidents during transit operations; and persons injured in marine accidents during transit operations (since 1960).

CATEGORIES OF RECORDS IN THE SYSTEM:

Findings of marine accidents that are investigated include: Pilot's name, case number, vessel description (name, type, length, beam), date, time and location of accident, type of accident (grounding, collision, sinking, injury, etc.), direction vessel was traveling, damage type and dollar estimate, fault or no fault, transcript of hearing held by the Board of Local Inspectors, name of injured parties, medical report on injured parties, and other information which may be pertinent to the Board's investigation. Administrative reports prepared by Navigation Division for marine accidents not investigated include: Pilot's name, report number, date and time of accident, vessel description (name, type, length, and beam), accident location, direction vessel was traveling, accident type, signed release (if provided by vessel making no claim).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3777–3778 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 35 CFR Parts 115 and 117.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The final published report of findings of an investigation is available to the public. Information about an accident under investigation may be disclosed to parties having a legitimate interest therein, such as owners or operators of vessels, insurance underwriters, legal counsel. See also general routine uses in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes and disks, paper printouts, logs, charts, cassette tapes, paper files, transcripts of Board proceedings with original exhibits and appendices, cassette tapes, and shorthand notes.

RETRIEVABILITY:

Pilot's name code, case number, and most other data elements in the system.

SAFEGUARDS:

On-line access restricted to a limited number of authorized personnel who use a confidential identifying code and access code. One person has been designated to maintain control of all input documents and issuance of report information. All paper records and computer tapes/disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

No retention schedule established. Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Board of Local Inspectors, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individuals involved in accident, administrative reports from Marine Transit Operations Division personnel, investigations by the Board.

[FR Doc. 82–11817 Filed 4–30–82; 8:45 am]
BILLING CODE 3640–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Construction-Differential Subsidy Tanker Construction Program; Application by Margate Shipping Co.; Determination by Maritime Subsidy Board That Neither a New nor a Supplemental Environmental Impact Statement is Required

The Maritime Subsidy Board (the Board) has received an application from Margate Shipping Company (Margate) for Construction-Differential Subsidy (CDS) to aid in retrofitting tankers, designated MA Hull Nos. 269, 270 and 271, MA Design T6–S–93a, to comply with requirements for pollution prevention established by the Port and Tanker Safety Act of 1978. The Board has reviewed the application and has determined that the environmental impact of constructing such vessels, which can be categorized as handy size tank vessels, has already been adequately covered in the Environmental Impact Statement for the Tanker Construction Program (EIS) which was published on May 30, 1973, and adopted by the Maritime Administration/Maritime Subsidy Board in Docket No. A–75 on August 30, 1973.

A paper discussing the basis for the Board's decision, and copies of the EIS and Docket No. A–75, are available for public inspection in the Office of the Secretary, Room 7300, Maritime Administration, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590.

(Catalog of the Federal Domestic Assistance Program 11.500)

Dated: November 4, 1981.

By Order of the Maritime Subsidy Board/ Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82–11743 Filed 4–30–82; 8:45 am]
BILLING CODE 4910–81–M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period April 15 through April 23, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: April 19, 1982
Submitting Bureau: Alcohol, Tobacco and Firearms

OMB Number: 1512–0216
Form Number: ATF F 5120.17(702)
Type of Submission: Extension
Title: Monthly Report of Wine Cellar Operations
Purpose: Audit tool in performance of revenue collection and protection mission; used to monitor industry operations; provides raw data for compilation of wine industry statistics
OMB Reviewer: Karen P. Sagett (202) 395–6880, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,
Departmental Reports Management Officer

[FR Doc. 82–11941 Filed 4–30–82; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982

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

	Items
Civil Rights Commission	1
Federal Home Loan Bank Board	2
Federal Maritime Commission	3
Nuclear Regulatory Commission	4

1

U.S. COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

DATE AND TIME: Monday May 3, 1982, 9:30 a.m.–12 noon, 1:30–4 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of Statement on the Impact of Budget Cuts on Civil Rights Enforcement
IV. Review of Statement on Civil Rights Consequences of Proposed Budget Cuts on Education Programs
V. State Advisory Committee Recharter:
  A. Pennsylvania
VI. Colorado Advisory Committee Report Entitled *Federal Affirmative Action*
VIII. Staff Director's Report:
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division (202) 254–6697.

[S–644–82 Filed 4–29–82; 2:14 pm]

BILLING CODE 6335–01–M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 a.m., Thursday, May 6, 1982.

PLACE: Board Room, Sixth Floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Revision to Ohio Working Understanding.
Application for Bank Membership and Insurance of Accounts—Delta Savings and Loan Association, Westminster, California.

[No. 28, April 29, 1982]

[S–643–82 Filed 4–29–82; 10:18 am]

BILLING CODE 6720–01–M

3

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., May 5, 1982.

CHANGES IN THE MEETING: Additions of the following items to the closed session:

1. Docket No. 73–17: Sea-Land Service, Inc. and Gulf Puerto Rico Lines, Inc.—Proposed Rules on Containers and Docket No. 74–40: Puerto Rico Maritime Shipping Authority—Proposed ILA Rules on Containers—Consideration of remand from the court.
2. Docket No. 81–11: "50 Mile Container Rules" Implementation by Common Carriers by Water Serving the Atlantic and Gulf Coast Ports of the United States—Possible Violations of the Shipping Act, 1916, and of the Intercoastal Shipping Act, 1933—Consideration of procedural motions.

[S–645–82 Filed 4–29–82; 3:19 pm]

BILLING CODE 6730–01–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 3, 1982.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Tuesday, May 4:*

1:30 p.m.:
Briefing on Pressurized Thermal Shock

Thursday, May 6:

2:00 p.m.:
Briefing on the Performance Appraisal Team (PAT) Inspection Program (Approximately 1½ hours)

3:30 p.m.
Affirmation/Discussion Session:
Item to be affirmed and/or discussed:

a. Amendments to 10 CFR Chapter I Parts 19, 30, 40, 50, 60, 70, 72 and 150 With Respect to Employees Who Provide Information

ADDITIONAL INFORMATION: By a vote of 3–0, Commissioner Roberts not present, on April 23, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that affirmation of Diablo Canyon—Closing of Newmark Inquiry, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: April 27, 1982.

Walter Magee,
Office of the Secretary.

[S–646–82 Filed 4–29–82; 3:29 pm]

BILLING CODE 7590–01–M

5

CONSUMER PRODUCT SAFETY COMMISSION

Agenda

TIME AND DATE:
Commission Meeting, Tuesday, May 4, 1982, 10:00 a.m.

LOCATION:
Third Floor Hearing Room, 1111–18th Street, N.W., Washington, DC

STATUS: *Open to the Public*

Matters to be considered:

1. *FY 83 Priorities*

The staff will brief the Commission on prorities for fiscal year 1983.

CONTACT PERSON FOR ADDITIONAL INFORMATION:
Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207, Telephone (301) 492–6800.

[S–647–82 Filed 4–30–82; 8:59 am]

BILLING CODE 6355–01–M

federal register

Monday
May 3, 1982

Part II

Small Business Administration

Small Business Size Standards; Size Standards Revisions

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Size Standards Revisions

AGENCY: Small Business Administration.

ACTION: Second advance notice of proposed rulemaking.

SUMMARY: The Small Business Administration is proposing comprehensive revisions in its size standards regulations from those published in the **Federal Register** on March 10, 1980 (45 FR 15442). These new revisions are designed to balance the needs of both small business and the Federal Government. In structuring this second advance notice, specific consideration is given to each industry as a result of numerous public comments to SBA's First Advance Notice of Proposed Rulemaking. SBA also has revised its methodological approach to size standards in recognition of new budgetary limitations. These proposed revisions are structured to simplify SBA administrative rules and increase the effectiveness of SBA programs by steering SBA resources more closely towards smaller firms in the economy.

DATE: Written comments must be submitted by August 2, 1982.

ADDRESS: Address all comments to: Andrew A. Canellas, Director, Office of Industry Analysis, Small Business Administration, 1441 L Street, NW. Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Andrew A. Canellas (202) 653–6373.

SUPPLEMENTARY INFORMATION:

Reason for the Second Advance Notice

This is the second advance notice of SBA's intent to revise its size standards. The widespread changes in size standards from the first notice to this notice incorporate three considerations. First, the large volume of public comment to its first notice has provided SBA with additional information to make informed judgments. Second, SBA has received updated data concerning the nonmanufacturing sector from the Census Bureau which, now, have been incorporated into the size standards process. (New data on manufacturing, mining, and construction will be incorporated into SBA decisions for the proposed rule prior to its future publication but are not incorporated into these present changes since the data have only recently become available.) Third, SBA has adopted a theoretical framework which is significantly different from the basis on which it set size standards in its first advance notice. This new framework focuses on the industrial structure of industries in an attempt to give smaller firms the benefit of SBA's limited resources. SBA believes that it is in the best interest of small business at this time to publish this notice as a second advance notice rather than a proposal to allow additional time for public comment.

Approach to Size Standards

The term "size standards" as used by the Small Business Administration refers to a measure of eligibility for SBA programs based on size of business. The construction of such a measure is based on the premise that smaller concerns often are forced to compete with middle-sized as well as very large firms. It is the SBA's view, in consideration of this fact, that the standard for each industry should be established as low as reasonably possible to best serve small businesses and reflect the purposes of the Small Business Act.

Thus, SBA's objective is to provide assistance to small firms so that these firms have the opportunity to become successful and viable operations in the marketplace. Among other provisions, the Small Business Act states in part that the "* * * security and well-being [of the Nation] cannot be realized unless actual and potential capacity of small business is encouraged and developed." Section 2(a).

The distribution of firms by size, within each industry, is a key element of industrial structure and helps determine where size limits are set. The size standards in this notice are established to focus attention on smaller firms, not only on a relative size basis in which each industry is considered separately, but also on a absolute size basis in which limitations are placed on how high a size standard may be set for broad groups of industries. In the manufacturing and mining industries the upper limits of the size standards now are reduced to a level that eliminates medium-size firms and includes only smaller size firms in each industry category. In most of the nonmanufacturing industries the size standards now are raised sufficiently to encompass all firms with 25 employees or less.

However, special consideration is given to the procurement sensitive industries to reflect the large number of public comments received as well as the special needs of federal agencies involved in small business set-asides.

Since the Agency is facing reduced resources and budgeting restraints, this new outlook and revised methodology are compatible with the Agency's efforts to narrow its clientele more precisely to those smaller firms that need assistance.

Principal Objectives of Revisions

While a new approach to the setting of size standards has been initiated in this second advance notice, five basic considerations are continued from the first advance notice. These five continuing considerations are summarized as follows:

1. Size standards will continue to be set based on 4-digit Standard Industrial Codes rather than a combination of SIC categories and numerous product or activity descriptions which is presently the SBA procedure.

2. A single size standard for each industry is still proposed which is applicable to all SBA programs. This contrasts with the variation in size standard eligibility criteria among various SBA programs which has traditionally occurred. In the past, this variation between program criteria has resulted in certain firms being eligible for some programs, but ineligible for others based on size.

3. The great majority of size standards in this advance notice continues to be stated in terms of number of employees. This is a marked departure from the traditional system in which numerous key size standards are stated in terms of gross revenues. This change is designed both to simplify size standards and provide a more stable size measure resistant to inflation.

The shift to an "employees" measure of size is not without difficulties. One problem is that it is difficult for the SBA to require firms to distinguish between their part-time and full-time workforces and thus part-time and full-time workers are equivalent for determining size standard eligibility.

A second problem is that firms can benefit by subcontracting extensively; thus, retaining SBA eligibility when size standard is expressed in "employees," since employee counts of those working directly for the firm understate the total workforce contributing to the firm's operations. In industries with strong subcontracting patterns and/or many part-time workers, inequities may result, since firms may be ruled ineligible for SBA assistance, while other firms producing a comparable output would be eligible for SBA assistance. SBA adjustment to these two potential problem areas is discussed on pages 9, 10, and 11, respectively.

4. Size standards in our proposed changes specifically reflect the structure of each individual industry. This contrasts with the traditional situation in which generalized measures (e.g. $2.0

million in average annual receipts) often apply to entire groups of industries. For this reason there continues to be more variation in size standards among industries in major industry groups than has been the case in the past.

5. Size standards continue to be based on a detailed analysis of the industrial structure of each industry in question. However, there has been a shift in perspective away from the first advance notice's strong emphasis on competition. (This emphasis on competition has resulted in eligibility for many firms in the medium-size range.) SBA now proposes to concentrate its assistance heavily on smaller firms, thus focusing SBA's limited resources on those firms with the greatest needs.

SBA's new approach utilizes ranges in size standards for broad industry groups. Since manufacturing and, to a lesser extent, mining industries generally are characterized by higher firm size than other industry groups, they have a range of higher sizes. These size standards in manufacturing and mining industries now range from 100 to 500 employees. By contrast, most of the nonmanufacturing industries, including wholesale, retail, and services, range from a 25- to 100-employee size standard. Construction also has lower size standards than manufacturing, although, for special reasons as explained in a later paragraph, construction industries are stated in terms of gross revenues. Thus, the range in size standards within whole divisions of industries reflects the SBA's emphasis on the structure of industries as measured in the average operating sizes of firms within each industry.

This set of five principles continues to be embodied in this Second Advance Notice of Proposed Rulemaking. SBA's revised size standards have been coordinated in conformity to a new overall methodology based on industry structure. Size standards, thus, have become a policy tool to allocate SBA's limited resources to those firms most in need of government assistance within each industry.

Major Issues Published on September 10, 1980

As a result of the high level of public interest generated from its first advance notice, SBA extended its initial comment period and also held public hearings in each of the 10 SBA regions. These hearings were well-attended with participants actively expressing their views. Overall, SBA was to receive over 1,500 comments from both the public hearings and from written correspondence. The comments were directed to 200 of a total of over 800 different industries.

Public interest in this issue was so intense that the SBA decided to elicit additional information in a notice which was published in the **Federal Register** on September 10, 1980 (45 FR 59587). This notice sought out public views in the following subject areas: (1) The proper relationship between size standards and the goal of economic competition, (2) the correct method of measuring competitiveness, (3) the preferred measure of firm size, (4) the degree to which size standards should vary from program to program, (5) the relevance of SBA size standards to the needs of other Federal agencies, and (6) the appropriate implementation schedule for size standards revisions.

Among those comments which were received, SBA notes that very little opposition was raised to using a single size standard for all programs and for using a firm's number of employees as a unit of measurement. (Strong opposition to a single size standard for all programs was received only from some small business investment companies, which generally favor a separate, higher standard for the SBIC program.) Much criticism, however, was received in regard to using the degree of economic competition as a factor in setting size standards, as well as the correct method of measuring competitiveness. As a result of this criticism, SBA now is changing its emphasis to focus its assistance towards small as opposed to medium-sized firms. SBA also explicitly considers the needs of its small business set-aside procurement program.

Changes Made as a Result of Public Response and Reexamination of Data

Very strong public interest also was generated from the specific changes in size standards relating to each industry which were suggested in our first advance notice. A total of 548 changes have now been proposed from our first advance notice. Most of these changes can be clustered into one of eight broad groups of adjustments which are discussed briefly in the following paragraphs.

1. The feeling in many procurement-sensitive industries that the proposed size standards fail to consider the needs of the Federal Government. In this view, the size standards in some cases were set too low, with the result that eligible firms would not be able to satisfy the average Federal procurement. In response to this complaint, the SBA now is proposing to modify the size standards in 51 sensitive industries (most of which are service and construction industries). In considering industries sensitive to government procurement needs, SBA has attempted to set size standards in such sensitive industries at a level to ensure a sufficient number of bidders on procurement set-asides, and satisfactorily meet the agency's procurement needs.

2. Due to the uniqueness of the industry activity, SBA now is stating size standards, in two special cases, in terms of specific product lines or activities rather than 4-digit industries, e.g., naval architecture and marine engineering activities, and procurement activities relating to military apparel. (Dredging, a non-SIC category, already had been listed separately in the March 10, 1980, notice). This reflects the fact that most firms in these activities significantly deviate in size from other firms in their major 4-digit industry. Moreover, these firms are involed in highly procurement-sensitive industries. Thus, in order to meet the needs of the Federal Government and the needs of firms within the various industries, separate size standards are necessary for activities within industries in these few limited cases.

3. Among all 27 industries in the construction division, SBA now has changed to a gross-receipts measure of size in contrast to the normal employee measure. This stems from the high volume of subcontracting that typically occurs in these industries. A dollar volume measure of size prevents a firm with few employees from qualifying for a small business set-aside, because much of its activity is performed through subcontracting; while an equivalent firm, performing a comparable amount of business through its own activities, would be ineligible based on its employee count. Construction would then join farming in having a gross revenue size standard. Both major industry groups would require monitoring from time to time to adjust for inflationary movements.

4. Comments were received from a number of firms in different industry activities whose size standards were omitted in the first advance notice. As a result, SBA now is proposing 10 additional size standards compared to the first advance notice of March 10, 1980.

5. There was widespread sentiment that any realistic concept of what constitutes a small business would result in a higher size standard than the 15-employee level which was proposed for some industries in the first advance notice. SBA now is proposing to raise its floor level from 15 to 25 employees. This proposed change will increase size

standards in 97 service and retail industries.

6. The size standard ceiling of 2,500 employees, as set in the advance notice of March 10, 1980, has been lowered to 500 employees. This includes 303 size standards in the manufacturing, mining, and transportation industries; 287 of these changes were in the manufacturing industries. This ceiling was lowered in order to remove medium-size firms from eligibility. Although the 2,500-employee size standard included firms that were small relative to other firms within their own industry, they were considered medium-size on an absolute basis. Under this revised framework, the size standards for manufacturing and mining industries now range between 100 and 500 employees, instead of the recommended range in the first advance notice of 100 to 2,500 employees.

The lowering of the ceiling also is responsive to a number of comments that SBA has received which stated that firms in excess of 500 employees were not truly small business.

7. Firms in the Small Business Investment Company Program submitted arguments that (1) its program has sufficiently different needs than the other SBA programs to warrant separate size standards, and (2) the new size standards would seriously jeopardize the SBIC program. As a result, SBA now proposes to retain the special size standard measure now used in this program (defined as either $6 million in net worth as well as net income after Federal income taxes of $2 million or less, or the proposed size standard stated in this proposal which may be used by those concerns that do not qualify under either the net worth or net income measure but are eligible under the proposed size standard measure).

8. Many firms in service and trade industries contend that an employee measure of size would unfairly discriminate in their industries against firms with a high incidence of part-time workers. As a result, SBA now as adjusted upward its size standards in a number of industries with a high proportion of part-time workers. However, since the method of measuring a firm's number of employees (which includes an averaging of both full- and part-time employees) has not been clearly understood by many commenters, a more detailed explanation of the method of averaging all employees of the firm is illustrated as follows:

The number of employees includes full-time, part-time, temporary, and any other type of employee who appears on the firm's payroll for any pay period during the preceding 12 months. This is averaged out over the entire year so that temporary, seasonal increases in employment will not usually affect a small firm's size status. The following examples illustrate the procedure for two firms, each of which happens to use 12 pay periods per year.

The number of employees for each pay period is added and the total divided by the number of pay periods. For Firm A, this is 780 divided by 12. For Firm B, this is 300 divided by 12. The relevant company size is not 780 or 300, but 65 employees for Firm A and 25 employees for Firm B. Note also that for Firm B, the relevant size standard is 25 employees on its payroll, even though the firm, at no single period, has 25 employees on its payroll. This illustrates that a firm's eligibility is based on its average employment over the previous 12 months rather than its employment level at a single point in time. Note too, that part-time workers are counted equivalent to full-time workers. If employees are counted differently (such as on a full-time equivalency basis), it could entail substantial recording and paperwork problems for firms on the eligibility margin. Partly to compensate for this problem, SBA's new proposed size standards for industries with a high incidence of part-time work are set higher than they otherwise would be.

Pay period	Firm A (employees)					Firm B (employees)				
	Full time		Part time		Total	Full time		Part time		Total
1	25	+	0	=	25	20	+	0	=	20
2	25	+	10	=	35	30	+	0	=	30
3	25	+	30	=	55	20	+	0	=	20
4	25	+	50	=	75	30	+	0	=	30
5	25	+	100	=	125	20	+	0	=	20
6	25	+	100	=	125	30	+	0	=	30
7	25	+	30	=	55	20	+	0	=	20
8	25	+	0	=	25	30	+	0	=	30
9	25	+	50	=	75	20	+	0	=	20
10	25	+	100	=	125	30	+	0	=	30
11	25	+	10	=	35	20	+	0	=	20
12	25	+	0	=	25	30	+	0	=	30
	300	+	480	=	780	300	+	0	=	300

Notes:
780÷12=65 employees for SBA purposes.
300÷12=25 employees for SBA purposes.

In summary, in this second advance notice, the SBA has both changed the theory behind its size standards and taken into consideration new data which it has received from the Census Bureau. SBA also has taken into consideration many of the public comments relating to specific industries. SBA anticipates that this compromise between new theoretical concepts and practical considerations will result in a better and more realistic set of size standards than is presently in use.

Regulatory Requirement

Under Executive Order 12291 (February 17, 1981), Federal Agencies, including SBA, are required to assess the cost impact of proposed regulatory changes on consumers, individual industries, governments and geographic regions, and whether there might be any adverse impact on competition, employment, productivity, innovation, or foreign trade.

Further, the Regulatory Flexibility Act (5 US.C. 601 et seq.) requires an analysis of the impact of these rule changes on "small entities," expecially in terms of any mandatory cost burdens imposed by the Government.

Although SBA size standards are classified as a regulation, these standards primarily indicate which size firm may be eligible for SBA programs and federal small business procurements. Size standards do not impose any mandatory burden on firms whether large or small. No firm is required or compelled to keep records, make reports, alter its way of doing business, or comply with the provisions of this proposed rule. The decision to participate in SBA programs (including procurement set-asides) and, consequently, to subject one's firm to a size standard test, is completely voluntary.

However, SBA will prepare an impact statement which fulfills the requirements of both E.O. 12291 and the Regulatory Flexibility Act, in order to determine how significant an impact the size standards revisions will have on the economy. This statement will be available at the time the proposed rule is published in the Federal Register. For this reason, the public is invited to comment on the impact of these proposed rules in terms of quantification of any costs to society, feasibility of alternatives, compliance costs on affected firms, and other issues as described in the above paragraph.

Procedural Changes

One key purpose of new size standards is the articulation of a consistent method of setting size standards and the establishment of individual industry standards which reflect this method. In addition, SBA is proposing to change certain procedures to make the administration of size standards more simple and uniform. These changes include:

1. The geographical differential which currently applies to states and territories outside the continental United States now would be terminated (§ 121.3–7).

2. Almost all size standards would be based on the standard industrial classification for industries rather than on written descriptions of activities.

3. The broad-based nonmanufacturer size standard of 250 employees for the loan program (§ 121.3–10(b)) and 500 employees used in procurement (§ 121.3–8(c)) would be replaced by size standards separately structured for each industry.

4. Size criteria for construction and agriculture would be based on average annual receipts for 3 years.

5. The current provision for procurement of construction (§ 121.3–8(a)(1)) specifies that if 75 percent or more (by value) of a construction contract is in a special trade, then the size standard for special trade (as opposed to general construction) shall be used. This provision would be deleted so that construction will be treated like any other procurement, i.e., the controlling size standard shall be that of the activity of greatest value in the contract.

6. The special size standard for surety bond guarantee assistance would be terminated (§ 121.3–15).

7. The 25 percent increase in the size standard for financial purposes applies only in cases where a firm will use the assistance in a labor surplus or redevelopment area (§121.3–7).

Senate Hearings on Size Standards

On May 5, 1981, the Senate Committee on Small Business held hearings in which the public was invited to comment on the Small Business Administration's size standards revisions which had been proposed on March 10, 1980. SBA has thoroughly reviewed and evaluated each testimony and statement presented at this hearing. These statements, where merited, along with the public comments (which were received following the March 10, 1980, advance notice), were incorporated into changes from the first to the second advance notice.

Implementation Period

One of the major issues which the SBA proposed for further discussion in its September 10, 1980, notice was the question of an implementation period for its changes in size standards. While there was not a strong public response to this issue, a majority of those who did respond favored an approach with a time delay to enable affected firms to adjust to changes in size standards. SBA favors this delayed implementation approach. Following this Second Advance Notice of Proposed Rulemaking, SBA will publish a proposed rule in which it will take into consideration comments to this second advance notice. Again, SBA will solicit public comments in response to the proposed rule prior to publishing a final rule.

Thus, SBA anticipates two additional public comment periods—one in response to this second advance notice, and the other in response to the future proposed rule. Furthermore, SBA is recommending in this second advance notice that the implementation date be set 180 days after the date of publication of its final rule. This delay of 180 days would provide a period of adjustment to firms in industries in which size standards have been changed from current levels. Such a delay also would provide time for Federal procurement agencies to adjust to the new size standards.

List of Subjects in 13 CFR Part 121

Small businesses.

Revisions to the Numbered Sections and Paragraphs of Part 121

Accordingly, pursuant to section 3 and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632, 634), it is proposed to amend Part 121 of Title 13 of the Code of Federal Regulations as follows:

§§ 121.3, 121.3–3, 121.3–7, 121.3–8, 121.3–9, 121.3–10 through 121.3–16 and Schedules A through I [Removed]

1. By removing § 121.3, § 121.3–1, § 121.3–3, § 121.3–7, § 121.3–8, § 121.3–9, § 121.3–10 through § 121.3–16, and Schedules A through I.

2. By adding § 121.1 through § 121.6, as set forth below:

PART 121—SMALL BUSINESS SIZE STANDARDS

Sec.

Subpart A—Background

121.1 Purpose and method of establishing size standards.

Subpart B—Organization

121.2 Size standards responsibilities.

Subpart C—Definitions of Small Business

121.3 Standard industrial classifications and size standards.
121.4 Application of small business size standards.
121.5 Definition of small business for procurement assistance and subcontracting programs.
121.6 Definition of small business for the sale of government property.

Authority: Secs. 3 and 5(b)(6), Small Business Act, as amended (15 U.S.C. 632, 634).

Subpart A—Background

§ 121.1 Purpose and method of establishing size standards.

The essence of the American system of private enterprise is free competition * * *. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise * * *.

Small Business Act, Section 2(a)

(a) To implement this policy, Congress established the Small Business Administration (SBA) in 1953 and gave it the responsibility to administer a range of programs designed to achieve these and other social goals. Eligibility for SBA programs requires that a firm be defined as "small." The actual setting of size standards, i.e., the precise specification of "small" is delegated to the Administrator of the SBA.

(b) Size standards are established primarily to define eligibility for SBA programs and Federal procurement purposes. It is clear, both from the Act itself and from the legislative history, that the matter of what is a small business has been left to administrative, rather than legislative, determination. Congress, however, provided broad guidance to the determination of definitions of small business, and these guidelines serve as the primary directive in formulating size standards. These guidelines are stated in Sections 2 and 3 of the Act and are the basis for establishing size standards. These basic criteria are to preserve and expand competition and "the definition [of small business] shall vary from industry to industry to the extent necessary to reflect differing characteristics of such

industries." Thus, size standards vary by industry with particular attention to the characteristic structure of each industry, as well as absolute size of firms. In its most basic sense, this is the approach of establishing size standards.

(c) The process of transposing this philosophy to numerical size standards for individual industries is a complex one. The basic sources of data used in establishing size standards include: *the Standard Industrial Classification Manual,* which is used as a guide in defining industries; U.S. Bureau of the Census, *Concentration Ratios in Manufacturing,* and *Enterprise Statistics;* special tabulations of the *Enterprise Statistics* prepared for SBA by the U.S. Bureau of the Census; U.S. Department of Commerce, *U.S. Industrial Outlook* and *Survey of Current Business;* Internal Revenue Service, *Statistics of Income;* Dun and Bradstreet, *DMI Market Profile;* Economic Information Service, *Marketing Information; Federal Proccurement Data System* statistics, SBA's own extensive files of articles and correspondence on individual industries, and information provided by trade associations.

(d) From these data sources several indicators of each industry's structure and procurement characteristics are available. These factors, among others, are examined for the purpose of setting size standards: average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by size of sales and employees among the firms in the industry, the presence of Federal procurement, and relation to other SBA programs. The development of size standards is not an exact quantitiative procedure. No single measure or simple numerical device is used to establish an industry's size standard. Following an intensive economic analysis, the selection of the size standard for a particular industry is narrowed down to a minimum-maximum range in firm size. The final step in this process is the selection of the specific size standard from within this range based on the considerations described in paragraph (b), above.

(e) Under the Regulatory Flexibility Act (Pub. L. 96–354), Federal agencies promulgating regulations are required to define small business as a "small business concern" under Section 3 of the Small Business Act. SBA size standards may or may not be adaptable or applicable to the particular regulation involved. In such cases where the SBA size standard is not appropriate, the agency may, after consultation with the SBA Office of Advocacy, establish a small business definition which is appropriate to the activities of the agency.

(f) Firms which meet size standards and are eligible for SBA programs should be given prompt and effective assistance. Small businesses, however, should not be protected from competition by becoming dependent on continuing assistance under the Small Business Act. SBA assistance should not be regarded as a permanent subsidy nor as the primary source of a firm's business. It should be used to assist a firm to compete in the regular business world, without SBA assistance.

Subpart B—Organization

§ 121.2 Size standards responsibilities.

(a) The Assistant Administrator, Bureau of Policy, Planning and Budgeting shall:

(1) Develop and recommend small business size standards to the Administrator of SBA for promulgation.

(2) Consider and take appropriate action on written requests to change existing size standards or establish new size standards.

(3) Conduct industry hearings pertaining to size standards.

(4) Perform other related functions (e.g., industry studies) as may be appropriate to administer the SBA size standards program.

(b) Requests to change the existing, or establish new, size standards should be addressed to the Director, Size Standards Branch, 1441 L Street, N.W., Washington, D.C. 20416, and should include information on the economic conditions and structure of the entire national industry, as well as specific reasons and justifications for the change or new size standard. The methodology described in the section on "Purpose and Method of Establishing Size Standards" (§ 121.1) provides basic criteria on the kinds of information desirable to make an appropriate request. If no size standard for an industry has been established in this part, then SBA, upon request, may issue an *ad hoc* or temporary size standard for the industry in question.

(c) The Office of General Counsel, in conjunction with the Assistant Administrator, Bureau of Policy, Planning and Budgeting, shall develop and recommend to the Administrator regulations and procedures to assist in implementing the size standards, and also provide interpretations of such regulations and procedures.

(d) The Size Appeals Board, within the Office of the Deputy Administrator, shall hear and resolve appeals of regional office determinations concerning the small business size status of individual firms. (Protest procedures are described in § 121.10.) The Board resolves appeals concerning the appropriate standard industrial classification for particular small business set-aside procurements, and issues legal interpretations of the size standards regulations.

Subpart C—Definitions of Small Business

§121.3 Standard industrial classifications and size standards.

(a) All size standards are based on industries with size measured by number of employees, except for industries in Divisions A and C, which are based on annual receipts. The column labeled "SIC" follows the standard industrial classification code as published by the U.S. Government in the *Standard Industrial Classification Manual.* The number of employees or annual receipts indicates the maximum allowed for a firm to be considered small.

(b) The "number of employees" is a measure of the average employment of any firm, including the employees of its affiliates whether domestic or foreign.[1] "Employees" includes all persons employed on a full-time, part-time, temporary or other basis during each pay period of the preceding 12 months.

(c) These counts of employment are averaged out over an entire year so that temporary increases in employment will not usually affect a firm's size status.

(d) If a firm has been in existence for less than 12 months, "number of employees" means the average employment of such firm and its affiliates averaged over the period that such firm has been in business.

(e) "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a firm (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source measured on average annual base over a period of its most recently completed 3 fiscal years (whether on a cash, accrual, completed

[1] If a firm has acquired an affiliate during the applicable accounting period, it is necessary, in computing the applicant's number of employees or receipts, to include the affiliate's average annual number of employees or receipts during the entire applicable accounting period rather than only its affiliate's employees or receipts during the period in which it has been an affiliate. The employees or receipts of a former affiliate are not included even if such firm had been an affiliate during a portion of the applicable accounting period.

contracts, percentage of completion, or other acceptable accounting basis) as entered on its regular books of account, and in the case of a firm subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes.

(f) If a firm has been in business less than 3 years, its average annual receipts, for the purpose of a size standard based on 3 years' receipts, shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying by 52.

(g) The following size standards apply to all SBA programs except sales of government property, physical disaster loans, Small Business Investment Companies, and Pollution Control Bonds.

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
	Division A—Agriculture		
	MAJOR GROUP 01—AGRICULTURAL PRODUCTION—CROPS [1]		
0111-0191	Agricultural Production—Crops	(In dollars) $100,000	(In dollars) $100,000
	MAJOR GROUP 02—AGRICULTURAL PRODUCTION—LIVESTOCK [1]		
0211	Beef Cattle Feedlots (Custom)	(In dollars) $1,000,000	(In dollars) $1,000,000
0212-0291	Agricultural Production—Livestock, except 0211	100,000	100,000
	MAJOR GROUP 07—AGRICULTURAL SERVICES		
0723	Crop Preparation Services for Market Except Cotton Ginning		50
0724	Cotton Ginning		50
All Others			25
	MAJOR GROUP 08—FORESTRY		
All SIC's			25
	MAJOR GROUP 09—FISHING, HUNTING, AND TRAPPING		
All SIC's			25
	Division B—Mining		
	MAJOR GROUP 10—METAL MINING		
1011	Iron Ores	1,500	500
1021	Copper Ores	2,500	500
1031	Lead and Zinc Ores	2,500	500
1041	Gold Ores	250	250
1044	Silver Ores	250	250
1051	Bauxite and Other Aluminum Ores	250	250
1061	Ferroalloy Ores, Except Vanadium	250	250
1081	Metal Mining Services	250	250
1092	Mercury Ores	100	100
1094	Uranium-Radium-Vanadium Ores	500	500
1099	Metal Ores, Not Elsewhere Classified	250	250
	MAJOR GROUP 11—ANTHRACITE MINING		
1111	Anthracite	250	250
1112	Anthracite Mining Services	100	30
	MAJOR GROUP 12—BITUMINOUS COAL AND LIGNITE MINING		
1211	Bitminous Coal and Lignite	250	250
1213	Bitminous Coal and Lignite Mining Services	250	100
	MAJOR GROUP 13—OIL AND GAS EXTRACTION		
1311	Crude Petroleum and Natural Gas	250	250
1321	Natural Gas Liquids	2,500	500
1381	Drilling Oil and Gas Wells	200	200
1382	Oil and Gas Field Exploration Service	250	100
1389	Oil and Gas Field Services, N.E.C	250	500
	MAJOR GROUP 14—MINING AND QUARRYING OF NON-METALLIC MINERALS, EXCEPT FUELS		
1411	Dimension Stone	100	250
1422	Crush and Broken Limestone	100	100
1423	Crush and Broken Granite	150	150
1429	Crush and Broken Stone, N.E.C	250	150
1442	Construction Sand and Gravel	100	100
1446	Industrial Sand	250	250
1452	Bentonite	100	100
1453	Fire Clay	100	75
1454	Fuller's Earth	500	500
1455	Kaolin and Ball Clay	500	250
1459	Clay, Ceramic, and Refractory Minerals, N.E.C	200	200

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
1472	Barite	500	500
1473	Fluorspar	500	500
1474	Potash, Soda, and Borate Minerals	2,500	500
1475	Phosphate Rock	2,500	500
1476	Rock Salt	2,500	400
1477	Sulfur	1,000	500
1479	Chemical and Fertilizer Mineral Mining, N.E.C	1,000	500
1481	Nonmetallic Minerals (Except Fuels) Services	1,000	250
1492	Gypsum	1,000	500
1496	Talc, Soapstone, and Pyrophyllite	250	250
1499	Miscellaneous Nonmetallic Minerals, N.E.C	250	200
	Division C—Construction [1]		
	MAJOR GROUP 15—BUILDING CONSTRUCTION—GENERAL CONTRACTORS AND OPERATIVE BUILDINGS		
			(In millions) of dollars)
1521	General Contractors—Single-Family Houses	25	$6.0
1522	General Contractors—Residential Buildings, Other Than Single-Family	150	6.0
1531	Operative Builders	200	6.0
1541	General Contractors—Industrial Buildings and Warehouses	200	12.0
1542	General Contractors—Nonresidential Buildings, Other Than Industrial Buildings and Warehouses	200	6.0
	MAJOR GROUP 16—CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION—GENERAL CONTRACTORS		
			(In millions) of dollars)
1611	Highway and Street Construction, Except Elevated Highways	200	$6.0
1622	Bridge, Tunnel, and Elevated Highway Construction	200	12.0
1623	Water, Sewer, Pipe Line, Communication and Power Line Construction	200	6.0
1629	Heavy Construction, Except Dredging	500	12.0
1629	Dredging	1,000	9.5
	MAJOR GROUP 17—CONSTRUCTION—SPECIAL TRADE CONTRACTORS		
			(In millions) of dollars)
1711	Plumbing, Heating (Except Electric), and Air Conditioning	50	$6.0
1721	Painting, Paper Hanging, and Decorating	50	6.0
1731	Electrical Work	50	6.0
1741	Masonry, Stone Setting, and Other Stonework	50	6.0
1742	Plastering, Drywall, Accoustical, and Insulation Work	50	6.0
1743	Terrazzo, Tile, Marble, and Mosaic Work	25	6.0
1751	Carpentering	50	6.0
1752	Floor Laying and Other Floor Work, N.E.C	50	6.0
1761	Roofing and Sheet Metal Work	50	6.0
1771	Concrete Work	50	6.0
1781	Water Well Drilling	50	6.0
1791	Structural Steel Erection	50	6.0
1793	Glass and Glazing Work	50	6.0
1794	Excavating and Foundation Work	50	6.0
1795	Wrecking and Demolition Work	50	6.0
1796	Installation or Erection of Building Equipment, N.E.C	200	6.0
1799	Special Trade Contractors, N.E.C	50	6.0
	Division D—Manufacturing [2]		
	MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS		
2011	Meat Packing Plants	1,500	500
2013	Sausages and Other Prepared Meat Products	200	200
2016	Poultry Dressing Plants	250	200
2017	Poultry and Egg Processing	500	500
2021	Creamery Butter	1,000	500
2022	Cheese, Natural and Processed	1,000	500
2023	Condensed and Evaporated Milk	2,500	500
2024	Ice Cream and Frozen Desserts	2,500	500
2026	Fluid Milk	500	500
2032	Canned Specialties	2,500	500
2033	Canned Fruits, Vegetables, Preserves, Jams, and Jellies	250	250
2034	Dried and Dehydrated Fruits, Vegetables, and Soup Mixes	750	500
2035	Pickled Fruits and Vegetables, Vegetable Sauces and Seasonings, and Salad Dressings	2,500	500
2037	Frozen Fruit, Fruit Juices, and Vegetables	2,500	500
2038	Frozen Specialties	2,500	500
2041	Flour and Other Grain Mill Products	1,000	500
2043	Cereal Breakfast Foods	2,500	500
2044	Rice Milling	500	250
2045	Blended and Prepared Flour	2,500	500
2046	Wet Corn Milling	2,500	500
2047	Dog, Cat, and Other Pet Food	2,500	500
2048	Prepared Feeds and Feed ingredients for Animals and Fowls, N.E.C	500	500
2051	Bread and Other Bakery Products, Except Cookies and Crackers	1,500	500
2052	Cookies and Crackers	2,500	500
2061	Cane Sugar, Except Refining Only	1,000	500
2062	Cane Sugar Refining	2,500	500
2063	Beet Sugar	2,500	500
2065	Candy and Other Confectionery Products	2,500	500
2066	Chocolate and Cocoa Products	2,500	500
2067	Chewing Gum	2,500	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
2074	Cottonseed Oil Mills	1,000	500
2075	Soybean Oil Mills	2,500	500
2076	Vegetable Oil Mills, Except Corn, Cottonseed, and Soybean	2,500	500
2077	Animal and Marine Fats and Oils	250	500
2079	Shortening, Table Oils, Margarine and Other Edible Fats and Oils, N.E.C	2,500	500
2082	Malt Veverages	2,500	500
2083	Malt	1,000	250
2084	Wines, Brandy, and Brandy Spirits	1,000	500
2085	Distilled, Rectified, and Blended Liquors	2,500	500
2086	Bottled and Canned Soft Drinks and Carbonated Waters	200	200
2087	Flavoring Extracts and Flavoring Sirups, N.E.C	2,500	500
2091	Canned and Cured Fish and Seafoods	1,000	500
2092	Fresh or Frozen Packaged Fish and Seafoods	200	200
2095	Roasted Coffee	2,500	500
2097	Manufactured Ice	500	500
2098	Macaroni, Spaghetti, Vermicelli, and Noddles	500	250
2099	Food Preparations, N.E.C	2,500	500
	Major Group 21—Tobacco Manufactures		
2111	Cigarettes	2,500	500
2121	Cigars	2,500	500
2131	Tobacco (Chewing and Smoking) and Snuff	2,500	250
2141	Tobacco Stemming and Redrying	2,500	500
	Major Group 22—Textile Mill Products		
2211	Broad Woven Fabric Mills, Cotton	2,500	500
2221	Broad Woven Fabric Mills, Man-Made Fiber and Silk	2,500	500
2231	Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing	500	500
2241	Narrow Fabrics and Other Smallwares Mills, Cotton, Wool, Silk, and Man-Made Fiber	250	250
2251	Women's Full Length and Knee Length Hosiery	2,500	500
2252	Hosiery, Except Women's Full Length and Knee Length Hosiery	200	200
2253	Knit Outerwear Mills	250	200
2254	Knit Underwear Mills	2,500	500
2257	Circular Knit Fabric Mills	2,500	250
2258	Warp Knit Fabric Mills	1,000	500
2259	Knitting Mills	1,000	250
2261	Finishers of Broad Woven Fabrics of Cotton	2,500	500
2262	Finishers of Broad Woven Fabrics of Man-Made Fiber and Silk	2,500	500
2269	Finishers of Textiles, N.E.C	750	250
2271	Woven Carpets and Rugs	2,500	500
2272	Tufted Carpets and Rugs	250	500
2279	Carpets and Rugs, N.E.C	1,000	500
2281	Yarn Spinning Mills: Cotton, Man-Made Fibers, and Silk	2,500	500
2282	Yarn Texturizing, Throwing, Twisting, and Winding Mills: Cotton, Man-Made Fibers, and Silk	2,500	500
2283	Yarn Mills, Wool, Including Carpet and Rug Yarn	2,500	500
2284	Thread Mills	2,500	500
2291	Felt Goods, Except Woven Felts and Hats	2,500	250
2292	Lace Goods	250	250
2293	Paddings and Upholstery Filling	250	250
2294	Processed Waste and Recovered Fibers and Flock	1,000	150
2295	Coated Fabrics, Not Rubberized	2,500	250
2296	Tire Cord and Fabric	2,500	500
2297	Nonwoven Fabrics	2,500	250
2298	Cordage and Twine	500	250
2299	Textile Goods, N.E.C	250	250
	Major Group 23—Apparel and Other Finished Products Made from Fabrics and Similar Materials [3]		
2311	Men's, Youths', and Boys' Suits, Coats and Overcoats	250	250
2321	Men's, Youths', and Boys' Shirts (Except Work Shirts) and Nightwear	2,500	500
2322	Men's, Youths', and Boys' Underwear	2,500	500
2323	Men's, Youths', and Boys' Neckwear	250	100
2327	Men's, Youths', and Boys' Separate Trousers	1,000	500
2328	Men's, Youths', and Boys' Work Clothing	2,500	500
2329	Men's, Youths', and Boys' Clothing, N.E.C	200	200
2331	Women's, Misses', and Juniors' Blouses, Waists, and Shirts	200	200
2335	Women's, Misses', and Juniors' Dresses	100	100
2337	Women's, Misses', and Juniors' Suits, Skirts, and Coats	150	150
2339	Women's, Misses', and Juniors' Outerwear, N.E.C	200	200
2341	Women's, Misses', Children's and Infants' Underwear and Nightwear	250	250
2342	Brassieres, Girdles, and Allied Garments	750	500
2351	Millinery	100	100
2352	Hats and Caps, Except Millinery	250	250
2361	Girls', Children's, and Infants' Dresses, Blouses, Waistes, and Shirts	150	150
2363	Girls', Children's, and Infants' Coats and Suits	150	150
2369	Girls', Children's, and Infants' Outerwear, N.E.C	500	250
2371	Fur Goods	100	100
2381	Dress and Work Gloves, Except Knit and All-Leather	500	500
2384	Robes and Dressing Gowns	250	250
2385	Raincoats and Other Waterproof Outerwear Garments	500	500
2386	Leather and Sheep Lined Clothing	100	100
2387	Apparel Belts	250	250
2389	Apparel and Accessories, N.E.C	250	250
2391	Curtains and Draperies	500	500
2392	Housefurnishings, Except Curtains and Draperies	500	250
2393	Textile Bags	250	150
2394	Canvas and Related Products	250	250
2395	Pleating, Decorative and Novelty Stitching, and Tucking for the Trade	250	150

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
2396	Automotive Trimmings, Apparel Findings, and Related Products	1,000	500
2397	Schiffli Machine Embroideries	100	100
2399	Fabricated Textile Products, N.E.C	500	500
—	Government Apparel Market	—	[3] 500
	Major Group 24—Lumber and Wood Products, Except Furniture		
2411	Logging Camps and Logging Contractors	150	150
2421	Sawmills and Planing Mills, General	200	200
2426	Hardwood Dimension and Flooring Mills	150	150
2429	Special Product Sawmills, N.E.C	1,000	100
2431	Millwork	200	200
2434	Wood Kitchen Cabinets	150	150
2435	Hardwood Veneer and Plywood	750	250
2436	Softwood Veneer and Plywood	2,500	500
2439	Structural Wood Members, N.E.C	100	100
2441	Nailed and Lock Corner Wood Boxes and Shook	250	150
2448	Wood Pallets and Skids	100	100
2449	Wood Containers, N.E.C	500	250
2451	Mobile Homes	2,000	500
2452	Prefabricated Wood Buildings and Components	500	500
2491	Wood Preserving	500	250
2492	Particleboard	2,500	500
2499	Wood Products, N.E.C	200	200
	Major Group 25—Furniture and Fixtures		
2511	Wood Household Furniture, Except Upholstered	250	500
2512	Wood Household Furniture, Upholstered	200	200
2514	Metal Household Furniture	250	250
2515	Mattresses and Bedsprings	500	250
2517	Wood Television, Radio, Phonograph, and Sewing Machine Cabinets	2,500	500
2519	Household Furniture, N.E.C	200	200
2521	Wood Office Furniture	500	500
2522	Metal Office Furniture	2,500	500
2531	Public Building and Related Furniture	500	250
2541	Wood Partitions, Shelving, Lockers, and Office and Store Fixtures	100	100
2542	Metal Partitions, Shelving, Lockers, and Office and Store Fixtures	200	200
2591	Drapery Hardware and Window Blinds and Shades	2,500	500
2599	Furniture and Fixtures, N.E.C	150	150
	Major Group 26—Paper and Allied Products		
2611	Pulp Mills	2,500	500
2621	Paper Mills, Except Building Paper Mills	2,500	500
2631	Paperboard Mills	2,500	500
2641	Paper Coating and Glazing	2,500	250
2642	Envelopes	500	500
2643	Bags, Except Textile Bags	2,500	500
2645	Die-Cut Paper and Paperboard and Cardboard	750	250
2646	Pressed and Molded Pulp Goods	2,500	500
2647	Sanitary Paper Products	2,500	500
2648	Stationery, Tablets, and Related Products	500	500
2649	Converted Paper and Paperboard Products, N.E.C	500	500
2651	Folding Paperboard Boxes	2,500	500
2652	Set-up Paperboard Boxes	100	100
2653	Corrugated and Solid Fiber Boxes	250	250
2654	Sanitary Food Containers	2,500	500
2655	Fiber Cans, Tubes, Drums, and Similar Products	2,500	500
2661	Building Paper and Building Board Mills	2,500	500
	Major Group 27—Printing, Publishing, and Allied Industries		
2711	Newspapers: Publishing, Publishing and Printing	250	250
2721	Periodicals: Publishing, Publishing and Printing	1,000	500
2731	Books: Publishing, Publishing and Printing	250	250
2732	Book Printing	500	500
2741	Miscellaneous Publishing	500	500
2751	Commercial Printing, Letterpress, and Screen	150	150
2752	Commercial Printing, Lithographic	150	150
2753	Engraving and Plate Printing	250	250
2754	Commercial Printing, Gravure	2,500	500
2761	Manifold Business Forms	2,500	500
2771	Greeting Card Publishing	2,500	500
2782	Blankbooks, Looseleaf Binders and Devices	500	500
2789	Bookbinding and Related Work	100	100
2791	Typesetting	100	100
2793	Photoengraving	100	100
2794	Electrotyping and Stereotyping	250	100
2795	Lithographic Platemaking and Related Services	250	100
	Major Group 28—Chemicals and Allied Products		
2812	Alkalies and Chlorine	2,500	500
2813	Industrial Gases	2,500	500
2816	Inorganic Pigments	2,500	500
2819	Industrial Inorganic Chemicals, N.E.C	2,500	500
2821	Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers	2,500	500
2822	Synthetic Rubber (Vulcanizable Elastomers)	2,500	500
2823	Cellulosic Man-Made Fibers	2,500	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
2824	Synthetic Organic Fibers, Except Cellulosic	2,500	500
2831	Biological Products	2,500	500
2833	Medicinal Chemicals and Botanical Products	2,500	500
2834	Pharmaceutical Preparations	2,500	500
2841	Soap and Other Detergents, Except Specialty Cleaners	2,500	500
2842	Specialty Cleaning, Polishing, and Sanitation Preparations	2,500	500
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants	500	500
2844	Perfumes, Cosmetics, and Other Toilet Preparations	2,500	500
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	2,500	500
2861	Gum and Wood Chemicals	2,500	500
2865	Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners)	2,500	500
2869	Industrial Organic Chemicals, N.E.C	2,500	500
2873	Nitrogenous Fertilizers	2,500	500
2874	Phosphatic Fertilizers	2,500	500
2875	Fertilizers, Mixing Only	750	500
2879	Pesticides and Agruculture Chemicals, N.E.C	2,500	500
2891	Adhesives and Sealants	200	200
2892	Explosives	2,500	500
2893	Printing Ink	2,500	500
2895	Carbon Black	2,500	500
2899	Chemicals and Chemical Preparations, N.E.C	250	250
	Major Group 29—Petroleum Refining and Related Industries		
2911	Petroleum Refining [4]	2,500	500
2951	Paving Mixtures and Blocks	150	150
2952	Asphalt Felts and Coatings	2,500	500
2992	Lubricating Oils and Greases	500	500
2999	Products of Petroleum and Coal, N.E.C.	1,000	500
	Major Group 30—Rubber and Miscellaneous Plastics Products		
3011	Tires and Inner Tubes	2,500	500
3021	Rubber and Plastics Footwear	2,500	500
3031	Reclaimed Rubber	750	100
3041	Rubber and Plastics Hose and Belting	2,500	500
3069	Fabricated Rubber Products, N.E.C.	250	250
3079	Miscellaneous Plastics Products	250	250
	Major Group 31—Leather and Leather Products		
3111	Leather Tanning and Finishing	200	200
3131	Boot and Shoe Cut Stock and Findings	150	150
3142	House Slippers	500	250
3143	Men's Footwear, Except Athletic	2,500	500
3144	Women's Footwear, Except Athletic	2,000	500
3149	Footwear, Except Rubber, N.E.C	750	500
3151	Leather Gloves and Mittens	250	250
3161	Luggage	500	500
3171	Women's Handbags and Purses	150	150
3172	Personal Leather Goods, Except Women's Handbags and Purses	500	500
3199	Leather Goods, N.E.C.	100	100
	Major Group 32—Stone, Clay, Glass, and Concrete Products		
3211	Flat Glass	2,500	500
3221	Glass Containers	2,500	500
3229	Pressed and Blown Glass and Glassware, N.E.C	2,500	500
3231	Glass Products, Made of Purchased Glass	2,500	500
3241	Cement, Hydraulic	2,500	500
3251	Brick and Structural Clay Tile	200	200
3253	Ceramic Wall and Floor Tile	1,000	500
3255	Clay Refractories	2,500	500
3259	Structural Clay Products, N.E.C.	2,000	500
3261	Vitreous China Plumbing Fixtures and China and Earthenware Fittings and Bathroom Accessories	2,500	500
3262	Vitreous China Table and Kitchen Articles	750	500
3263	Fine Earthenware (Whiteware) Table and Kitchen Articles	1,000	250
3264	Porcelain Electrical Supplies	2,500	500
3269	Pottery Products, N.E.C.	250	150
3271	Concrete Block and Brick	100	100
3272	Concrete Products, Except Block and Brick	150	150
3273	Ready-Mixed Concrete	100	100
3274	Lime	2,500	500
3275	Gypsum Products	2,500	500
3281	Cut Stone and Stone Products	100	100
3291	Abrasive Products	2,500	500
3292	Asbestos Products	2,500	500
3293	Gaskets, Packing, and Sealing Devices	1,500	500
3295	Minerals and Earths, Ground or Otherwise Treated	500	500
3296	Mineral Wool	2,500	500
3297	Nonclay Refractories	2,500	500
3299	Nonmetallic Mineral Products, N.E.C.	250	250
	Major Group 33—Primary Metal Industries		
3312	Blast Furnaces (Including Coke Ovens), Steel Works, and Rolling Mills	2,500	500
3313	Electrometallurgical Products	2,500	500
3315	Steel Wire Drawing and Steel Nails and Spikes	250	250
3316	Cold Rolled Steel Sheet, Strip, and Bars	2,500	500
3317	Steel Pipe and Tubes	2,500	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
3321	Gray Iron Foundries	2,500	500
3322	Malleable Iron Foundries	2,500	500
3324	Steel Investment Foundries	2,500	500
3325	Steel Foundries, N.E.C	2,500	500
3331	Primary Smelting and Refining of Copper	2,500	500
3332	Primary Smelting and Refining of Lead	2,500	500
3333	Primary Smelting and Refining of Zinc	2,500	500
3334	Primary Production of Aluminum	2,500	500
3339	Primary Smelting and Refining of Nonferrous Metals, N.E.C	500	500
3341	Secondary Smelting and Refining of Nonferrous Metals	2,500	500
3351	Rolling, Drawing, and Extruding of Copper	2,500	500
3353	Aluminum Sheet, Plate, and Foil	2,500	500
3354	Aluminum Extruded Products	2,500	500
3355	Aluminum Rolling and Drawing, N.E.C	2,500	500
3356	Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum	2,500	500
3357	Drawing and Insulating of Nonferrous Wire	250	250
3361	Aluminum Foundries (Castings)	200	200
3362	Brass, Bronze, Copper, Copper Base Alloy Foundries (Castings)	250	250
3369	Nonferrous Foundries (Castings), N.E.C	150	100
3398	Metal Heat Treating	2,500	500
3399	Primary Metal Products, N.E.C		
	Major Group 34—Fabricated Metal Products, Except Machinery and Transportation Equipment		
3411	Metal Cans	2,500	500
3412	Metal Shopping Barrels, Drums, Kegs, and Pails	500	500
3421	Cutlery	2,500	500
3423	Hand and Edge Tools, Except Machine Tools and Hand Saws	1,000	500
3425	Hand Saws and Saw Blades	1,000	250
3429	Hardware, N.E.C	2,500	500
3431	Enameled Iron and Metal Sanitary Ware	2,500	500
3432	Plumbing Fixture Fittings and Trim (Brass Goods)	750	500
3433	Heating Equipment, Except Electric and Warm Air Furnace	750	500
3441	Fabricated Structural Metal	250	250
3442	Metal Doors, Sash, Frames, Molding, and Trim	250	250
3443	Fabricated Plate Work (Boiler Shops)	1,000	500
3444	Sheet Metal Work	150	150
3446	Architectural and Ornamental Metal Work	100	100
3448	Prefabricated Metal Buildings and Components	2,500	500
3449	Miscellaneous Metal Work	750	500
3451	Screw Machine Products	100	100
3452	Bolts, Nuts, Screws, Rivets, and Washers	500	500
3462	Iron and Steel Forgings	2,500	500
3463	Nonferrous Forginis	2,500	500
3465	Automotive Stampings	2,500	500
3466	Crowns and Closures	2,500	500
3469	Metal Stampings, N.E.C	200	200
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	100	150
3479	Coating, Engraving, and Allied Services, N.E.C	150	150
3482	Small Arms Ammunition	2,500	500
3483	Ammunition, Except for Small Arms, N.E.C	2,500	500
3484	Small Arms	2,500	500
3489	Ordnance and Accessories, N.E.C	2,500	500
3493	Steel Springs, Except Wire	500	500
3494	Valves and Pipe Fittings, Except Plumbers' Brass Goods	500	500
3495	Wire Springs	500	250
3496	Miscellaneous Fabricated Wire Products	200	200
3497	Metal Foil and Leaf	2,500	150
3498	Fabricated Pipe and Fabricated Pipe Fittings	500	250
3499	Fabricated Metal Products, N.E.C	200	200
	Major Group 35—Machinery, Except Electrical		
3511	Steam, Gas, and Hydraulic Turbines and Turbine Generator Set Units	2,500	500
3519	Internal Combustion Engines, N.E.C	2,500	500
3523	Farm Machinery and Equipment	2,500	500
3524	Garden Tractors and Lawn and Garden Equipment	2,500	500
3531	Construction Machinery and Equipment	2,500	500
3532	Mining Machinery and Equipment, Except Oil Field Machinery and Equipment	2,500	500
3533	Oil Field Machinery and Equipment	2,500	500
3534	Elevators and Moving Stairways	2,500	500
3535	Conveyors and Conveying Equipment	500	500
3536	Hoists, Industrial Cranes, and Monorail Systems	2,500	500
3537	Industrial Trucks, Tractors, Trailers, and Stackers	2,500	500
3541	Machine Tools, Metal Cutting Types	750	500
3542	Machine Tools, Metal Forming Types	500	500
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds	100	100
3545	Machine Tool Accessories and Measuring Devices	250	250
3546	Power Driven Hand Tools	2,500	500
3547	Rolling Mill Machinery and Equipment	1,000	500
3549	Metalworking Machinery, N.E.C	200	200
3551	Food Products Machinery	200	200
3552	Textile Machinery	750	500
3553	Woodworking Machinery	500	250
3554	Paper Industries Machinery	500	500
3555	Printing Trades Machinery and Equipment	750	500
3559	Special Industry Machinery, N.E.C	250	250
3561	Pumps and Pumping Equipment	750	500
3562	Ball and Roller Bearings	2,500	500
3563	Air and Gas Compressors	2,500	500
3564	Blowers and Exhaust and Ventilation Fans	750	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
3565	Industrial Patterns	100	100
3566	Speed Changers, Industrial High Speed Drivers, and Gears	2,500	500
3567	Industrial Process Furnaces and Ovens	750	500
3568	Mechanical Power Transmission Equipment, N.E.C	2,500	500
3569	General Industrial Machinery and Equipment, N.E.C	200	200
3572	Typewriters	2,500	500
3573	Electronic Computing Equipment	2,500	500
3574	Calculating and Accounting Machines, Except Electronic Computing Equipment	2,500	500
3576	Scales and Balances, Except Laboratory	1,000	250
3579	Office Machines, N.E.C	2,500	500
3581	Automatic Merchandising Machines	750	500
3582	Commercial Laundry, Dry Cleaning, and Pressing Machines	1,000	500
3585	Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment	2,500	500
3586	Measuring and Dispensing Pumps	2,500	250
3589	Service Industry Machines, N.E.C	250	250
3592	Carburetors, Pistons, Piston Rings, and Valves	2,500	500
3599	Machinery, Except Electrical, N.E.C	100	100
	Major Group 36—Electrical and Electronic Machinery, Equipment, and Supplies		
3612	Power, Distribution, and Specialty Transformers	2,500	500
3613	Switchgear and Switchboard Apparatus	2,500	500
3621	Motors and Generators	2,500	500
3622	Industrial Controls	2,500	500
3623	Welding Apparatus, Electric	1,500	500
3624	Carbon and Graphite Products	2,500	500
3629	Electrical Industrial Apparatus, N.E.C	1,000	250
3631	Household Cooking Equipment	2,500	500
3632	Household Refrigerators and Home and Farm Freezers	2,500	500
3633	Household Laundry Equipment	2,500	500
3634	Electric Housewares and Fans	2,500	500
3635	Household Vacuum Cleaners	2,500	500
3636	Sewing Machines	1,000	250
3639	Household Appliances, N.E.C	2,500	250
3641	Electric Lamps	2,500	500
3643	Current-Carrying Wiring Devices	2,500	500
3644	Noncurrent-Carrying Wiring Devices	2,500	500
3645	Residential Electric Light Fixtures	250	250
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures	500	500
3647	Vehicular Lighting Equipment	2,500	250
3648	Lighting Equipment, N.E.C	2,500	500
3651	Radio and Television Receiving Sets, Except Communication Types	2,500	500
3652	Phonograph Records and Pre-recorded Magnetic Tape	1,000	500
3661	Telephone and Telegraph Apparatus	2,500	500
3662	Radio and Television Transmitting, Signaling, and Detection Equipment and Apparatus	750	500
3671	Radio and Television Receiving Type Electron Tubes, Except Cathode Ray	2,500	500
3672	Cathode Ray Television Picture Tubes	2,500	500
3673	Transmitting, Industrial, and Special Purpose Electron Tubes	2,500	500
3674	Semiconductors and Related Devices	2,500	500
3675	Electronic Capacitors	2,500	500
3676	Resistors, for Electronic Applications	2,500	500
3677	Electronic Coils, Transformers, and other Inductors	250	250
3678	Connectors, for Electronic Applications	2,500	500
3679	Electronic Components, N.E.C	2,500	500
3691	Storage Batteries	2,500	500
3692	Primary Batteries, Dry and Wet	2,500	500
3693	Radiographic X-ray, Fluoroscopic X-ray, Therapeutic X-ray, and Other X-ray Apparatus and Tubes; Electromedical and Electrotherapeutic Apparatus.	2,500	500
3694	Electrical Equipment for Internal Combustion Engines	2,500	500
3699	Electrical Machinery, Equipment, and Supplies, N.E.C	250	250
	Major Group 37—Tranportation Equipment		
3711	Motor Vehicles and Passenger Car Bodies	2,500	500
3713	Truck and Bus Bodies	500	500
3714	Motor Vehicle Parts and Accessories	2,500	500
3715	Truck Trailers	2,500	500
3721	Aircraft	2,500	500
3724	Aircraft Engines and Engine Parts	2,500	500
3728	Aircraft Parts and Auxiliary Equipment, N.E.C	2,500	500
3731	Ship Building and Repairing	2,500	500
3732	Boat Building and Repairing	200	200
3743	Railroad Equipment	2,500	500
3751	Motorcycles, Bicycles, and Parts	2,500	500
3761	Guided Missiles and Space Vehicles	2,500	500
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts	2,500	500
3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment, N.E.C	2,500	500
3792	Travel Trailers and Campers	250	250
3795	Tanks and Tank Components	2,500	500
3799	Transportaiton Equipment, N.E.C	750	500
	Major Group 38—Measuring, Analyzing, and Controlling Instruments; Photographic Medical, and Optical Goods; Watches and Clocks		
3811	Engineering, Laboratory, Scientific, and Research Instruments and Associated Equipment	750	500
3822	Automatic Controls for Regulating Residential and Commercial Environments and Appliances	2,500	500
3823	Industrial Instruments for Measurement, Display, and Control of Process Variables, and Related Products	2,500	500
3824	Totalizing Fluid Meters and Counting Devices	2,500	500
3825	Instruments for Measuring and Testing of Electircity and Electrical Signals	2,500	500
3829	Measuring and Controlling Devices, N.E.C	2,000	500
3832	Optical Instruments and Lenses	2,500	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
3841	Surgical and Medical Instruments and Apparatus	2,000	500
3842	Orthopedica, Prosthetic, and Surgical Appliances and Supplies	2,500	500
3843	Dental Equipment and Supplies	750	500
3851	Ophthalmic Goods	2,500	500
3861	Photographic Equipment and Supplies	2,500	500
3873	Watches, Clocks, Clockwork Operated Devices, and Parts	2,500	500
	MAJOR GROUP 39—MISCELLANEOUS MANUFACTURING INDUSTRIES		
3911	Jewelry, Precious Metal	250	250
3914	Silverware, Plated Ware, and Stainless Steel Ware	2,500	500
3915	Jewelers' Findings and Materials, and Lapidary Work	100	100
3931	Musical Instruments	2,500	500
3942	Dolls	250	250
3944	Games, Toys, and Children's Vehicles; Except Dolls and Bicycles	2,500	500
3949	Sporting and and Athletic Goods, N.E.C	750	500
3951	Pens Mechanical Pencils and Parts	750	500
3952	Lead Pencils, Crayons, and Artists' Materials	1,000	500
3953	Marking Devices	250	250
3955	Carbon Paper and Inked Ribbons	2,000	500
3961	Costume Jewelry and Costume Novelties, Except Precious Metal	150	150
3962	Feathers, Plumes, and Artificial Trees and Flowers	250	250
3963	Buttons	250	250
3964	Needles, Pins, Hooks and Eyes, and Similar Notions	1,500	500
3991	Brooms and Brushes	250	250
3993	Signs and Advertising Displays	100	100
3995	Burial Caskets	250	250
3996	Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings, N.E.C	2,500	500
3999	Manufacturing Industries, N.E.C	200	200
	Division E—Transportation, Communications, Electric, Gas, and Sanitary Services		
	MAJOR GROUP 40—RAILROAD TRANSPORTATION		
4011	Railroads, Line-haul Operating	1,000	500
4013	Switching and Terminal Establishments	250	250
	MAJOR GROUP 41—LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION		
4111	Local and Suburban Transit	150	150
4119	Local Passenger Transportation, N.E.C	50	50
4121	Taxicabs	50	50
4131	Intercity and Rural Highway Passenger Transportation	200	200
4141	Local Passenger Transportation Charter Service	50	100
4142	Passenger Transportation Charter Service, Except Local	50	100
4151	School Buses	50	50
4171	Terminal and Joint Terminal Maintenance Facilities for Motor Vehicle Passenger Transportation	50	50
4172	Maintenance and Service Facilities for Motor Vehicle Passenger Transportation	50	50
	MAJOR GROUP 42—MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING		
4212	Local Trucking Without Storage	100	100
4213	Trucking, Except Local	250	150
4214	Local Trucking With Storage	100	100
4221	Farm Product Warehousing and Storage	50	50
4222	Refrigerated Warehousing	25	25
4224	Household Goods Warehousing and Storage	25	25
4225	General Warehousing and Storage	100	100
4226	Special Warehousing and Storage, N.E.C	50	50
4231	Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation	50	50
	MAJOR GROUP 44—WATER TRANSPORTATION		
4411	Deep Sea Foreign Transportation	750	500
4421	Transportation to and Between Noncontiguous Territories	400	250
4422	Coastwise Transportation	100	100
4423	Intercoastal Transportation	500	500
4431	Great Lakes-St. Lawrence Seaway Transportation	500	500
4441	Transportation on Rivers and Canals	250	250
4452	Ferries	200	200
4453	Lighterage	200	200
4454	Towing and Tugboat Service	200	200
4459	Local Water Transportation, N.E.C	50	50
4463	Marine Cargo Handling	200	200
4464	Canal Operation	100	100
4469	Water Transportation Services, N.E.C	50	50
	MAJOR GROUP 45—TRANSPORTATION BY AIR		
4511	Air Transportation, Certified Carriers	2,500	500
4521	Air Transportation, Noncertified Carriers[6]	200	500
4582	Airports and Flying Fields	125	125
4583	Airport Terminal Services	200	200
	MAJOR GROUP 47—TRANSPORTATION SERVICES		
4712	Freight Forwarding	250	250
4722	Arrangement of Passenger Transportation	50	50
4723	Arrangement of Transportation of Freight and Cargo	100	100
4742	Rental of Railroad Cars With Care of Lading	1,500	500
4743	Rental of Railroad Cars Without Care of Lading	2,500	500

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
4782	Inspection and Weighing Services Connected With Transportation	50	50
4783	Packing and Crating	100	50
4784	Fixed Facilities for Handling Motor Vehicle Transportation, N.E.C	500	500
4789	Services Incidental to Transportation, N.E.C	100	100
	MAJOR GROUP 48—COMMUNICATIONS		
4832	Radio Broadcasting	50	50
4833	Television Broadcasting	100	100
4899	Communication Services, N.E.C	100	100
	MAJOR GROUP 49—ELECTRIC, GAS, AND SANITARY SERVICES		
4941	Water Supply	50	50
4952	Sewerage Systems	50	50
4953	Refuse Systems	100	100
4959	Sanitary Services, N.E.C	25	25
4961	Steam Supply	50	50
4971	Irrigation Systems	25	25
	Division F—Wholesale Trade		
	MAJOR GROUP 50—WHOLESALE TRADE—DURABLE GOODS		
5012	Automobiles and Other Motor Vehicles	50	75
5013	Automotive Parts and Supplies	50	100
5014	Tires and Tubes	25	25
5021	Furniture	25	25
5023	Home Furnishings	20	25
5031	Lumber, Plywood, and Millwork	25	50
5039	Construction Materials, N.E.C	25	25
5041	Sporting and Recreational Goods and Supplies	25	25
5042	Toys and Hobby Goods and Supplies	20	25
5043	Photographic Equipment and Supplies	25	75
5051	Metals Service Centers and Offices	25	100
5052	Coal and Other Minerals and Ores	25	50
5063	Electrical Apparatus and Equipment, Wiring Supplies and Construction Materials	20	75
5064	Electrical Applicances, Television and Radio Sets	25	50
5065	Electronic Parts and Equipment	25	50
5072	Hardware	25	25
5074	Plumbing and Heating Equipment and Supplies (Hydronics)	25	50
5075	Warm Air Heating and Air Conditioning Equipment and Supplies	15	25
5078	Refrigeration Equipment and Supplies	25	25
5081	Commercial Machines and Equipment	15	75
5082	Construction and Mining Machinery and Equipment	25	75
5083	Farm and Garden Machinery and Equipment	15	25
5084	Industrial Machinery and Equipment	20	60
5085	Industrial Supplies	25	60
5086	Professional Equipment and Supplies	25	60
5087	Service Establishment Equipment and Supplies	20	25
5088	Transportation Equipment and Supplies, Except Motor Vehicles	20	50
5093	Scrap and Waste Materials	25	50
5094	Jewelry, Watches, Diamonds and Other Precious Stones	15	25
5099	Durable Goods, N.E.C	15	25
	MAJOR GROUP 51—WHOLESALE TRADE—NONDURABLE GOODS		
5111	Printing and Writing Paper	50	100
5112	Stationery Supplies	20	50
5113	Industrial and Personal Service Paper	25	60
5122	Drugs, Drug Proprietaries, and Druggists Sundries	25	50
5133	Piece Goods (Woven Fabrics)	20	25
5134	Notions and Other Dry Goods	25	25
5136	Men's and Boys' Clothing and Furnishings	25	25
5137	Women's, Children's and Infants' Clothing and Accessories	25	25
5139	Footwear	20	25
5141	Groceries, General Line	50	100
5142	Frozen Foods	20	25
5143	Dairy Products	25	50
5144	Poultry and Poultry Products	25	25
5145	Confectionery	20	25
5146	Fish and Seafoods	15	25
5147	Meats and Meat Products	20	50
5148	Fresh Fruits and Vegetables	50	25
5149	Groceries and Related Products, N.E.C	25	50
5152	Cotton	15	25
5153	Grain	15	25
5154	Livestock	15	25
5159	Farm-Product Raw Materials, N.E.C	15	25
5161	Chemicals and Allied Products	25	75
5171	Petroleum Bulk Stations and Terminals	20	50
5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals	15	50
5181	Beer and Ale	20	25
5182	Wines and Distilled Alcoholic Beverages	50	50
5191	Farm Supplies	20	25
5194	Tobacco and Tobacco Products	20	25
5198	Paints, Varnishes, and Supplies	25	25
5199	Nondurable Goods, N.E.C	25	25

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
	Division G—Retail Trade		
	MAJOR GROUP 52—BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS		
5211	Lumber and Other Building Materials Dealers	25	25
5231	Paint, Glass, and Wallpaper Stores	25	25
5251	Hardware Stores	20	25
5261	Retail Nurseries, Lawn and Garden Supply Stores	20	25
5271	Mobile Home Dealers	15	25
	MAJOR GROUP 53—GENERAL MERCHANDISE STORES		
5311	Department Stores	300	500
5331	Variety Stores	100	500
5399	Miscellaneous General Merchandise Stores	25	100
	MAJOR GROUP 54—FOOD STORES		
5411	Grocery Stores	50	100
5422	Freezer and Locker Meat Provisioners	15	25
5423	Meat and Fish (Seafood) Markets	15	25
5431	Fruit Stores and Vegetable Markets	15	25
5441	Candy, Nut, and Confectionery Stores	25	25
5451	Dairy Products Stores	25	25
5462	Retail Bakeries—Baking and Selling	25	25
5463	Retail Bakeries—Selling Only	25	25
5499	Miscellaneous Food Stores	15	25
	MAJOR GROUP 55—AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS		
5511	Motor Vehicle Dealers (New and Used)	50	50
5521	Motor Vehicle Dealers (Used Only)	15	25
5531	Auto and Home Supply Stores	20	25
5541	Gasoline Service Stations	15	25
5551	Boat Dealers	15	25
5561	Recreational and Utility Trailer Dealers	15	25
5571	Motorcycle Dealers	15	25
5599	Automotive Dealers, N.E.C.	15	25
	MAJOR GROUP 56—APPAREL AND ACCESSORY STORES		
5611	Men's and Boys' Clothing and Furnishings Stores	20	25
5621	Women's Ready-to-Wear Stores	25	25
5631	Women's Accessory and Specialty Stores	25	25
5641	Children's and Infants' Wear Stores	25	25
5651	Family Clothing Stores	50	50
5661	Shoe Stores	25	25
5681	Furriers and Fur Shops	15	25
5699	Miscellaneous Apparel and Accessory Stores	25	25
	MAJOR GROUP 57—FURNITURE, HOME FURNISHINGS, AND EQUIPMENT STORES		
5712	Furniture Stores	20	25
5713	Floor Covering Stores	20	25
5714	Drapery, Curtain, and Upholster Stores	20	25
5719	Miscellaneous Home Furnishing Stores	25	25
5722	Household Appliance Stores	15	25
5732	Radio and Television Stores	15	25
5733	Music Stores	20	25
	MAJOR GROUP 58—EATING AND DRINKING PLACES		
5812	Eating Places	50	100
5813	Drinking Places (Alcoholic Beverages)	15	25
	MAJOR GROUP 59—MISCELLANEOUS RETAIL		
5912	Drug Stores and Proprietary Stores	20	25
5921	Liquor Stores	15	25
5931	Used Merchandise Stores	25	25
5941	Sporting Goods Stores and Bicycle Shops	15	25
5942	Book Stores	25	25
5943	Stationery Stores	25	25
5944	Jewelry Stores	20	25
5945	Hobby, Toy, and Game Shops	20	25
5946	Camera and Photographic Supply Stores	15	25
5947	Gift, Novelty, and Souvenir Shops	15	25
5948	Luggage and Leather Goods Stores	20	25
5949	Sewing, Needlework, and Piece Goods Stores	25	25
5961	Mail Order Houses	150	150
5962	Automatic Merchandising Machine Operators	150	150
5963	Direct Selling Establishments	50	50
5982	Fuel and Ice Dealers, Except Fuel Oil Dealers and Bottled Gas Dealers	15	25
5983	Fuel Oil Dealers	100	50
5984	Liquefied Petroleum Gas (Bottled Gas) Dealers	25	25
5992	Florists	25	25
5993	Cigar Stores and Stands	20	25
5994	News Dealers and Newsstands	20	25
5999	Miscellaneous Retail Stores, N.E.C.	20	25

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
	Division H—Finance, Insurance, and Real Estate [6]		
	MAJOR GROUP 63—INSURANCE		
6331	Fire, Marine, and Casualty Insurance	—	500
	MAJOR GROUP 64—INSURANCE AGENTS, BROKERS, AND SERVICE		
6411	Insurance Agents, Brokers, and Service	—	25
	MAJOR GROUP 65—REAL ESTATE		
6515	Operators of Residential Mobile Home Sites	100	25
	Division I—Services		
	MAJOR GROUP 70—HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES		
7011	Hotels, Motels, and Tourist Courts	50	75
7021	Rooming and Boarding Houses	25	25
7032	Sporting and Recreational Camps	15	25
7033	Trailering Parks and Camp Sites for Transients	15	25
7041	Organization Hotels and Lodging Houses, on Membership Basis	50	50
	MAJOR GROUP 72—PERSONAL SERVICES		
7211	Power Laundries, Family and Commercial	50	50
7212	Garment Pressing, and Agents for Laundries and Dry Cleaners	15	25
7213	Linen Supply	150	150
7214	Diaper Service	50	25
7215	Coin-operated Laundries and Dry Cleaning	15	25
7216	Dry Cleaning Plants, Except Rug Cleaning	25	25
7217	Carpet and Upholstery Cleaning	15	25
7218	Industrial Launderers	150	150
7219	Laundry and Garment Services, N.E.C	15	25
7221	Photographic Studios, Portrait	15	25
7231	Beauty Shops	15	25
7241	Barber Shops	15	25
7251	Shoe Repair Shops, Shoe Shine Parlors, and Hat Cleaning Shops	15	25
7261	Funeral Service and Crematories	15	25
7299	Miscellaneous Personal Services	25	25
	MAJOR GROUP 73—BUSINESS SERVICES		
7311	Advertising Agencies	25	50
7312	Outdoor Advertising Services	25	50
7313	Radio, Television, and Publishers' Advertising Representatives	75	75
7319	Advertising, N.E.C	50	50
7321	Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies	50	50
7331	Direct Mail Advertising Services	50	50
7332	Blueprinting and Photocopying Services	20	25
7333	Commercial Photography, Art, and Graphics	15	25
7339	Stenographic Services; and Reproduction Services, N.E.C	15	25
7341	Window Cleaning	15	50
7342	Disinfecting and Exterminating Services	20	25
7349	Cleaning and Maintenance Services to Dwellings and Other Buildings, N.E.C	50	200
7351	News Syndicates	100	50
7361	Employment Agencies	25	25
7362	Temporary Help Supply Services	250	150
7369	Personnel Supply Services, N.E.C. [7]	200	300
7372	Computer Programming and Other Software Services	100	150
7374	Data Processing Services	100	150
7379	Computer Related Services, N.E.C	100	150
7391	Research and Development Laboratories [8]	100	150
7392	Management, Consulting, and Public Relations Services	25	50
7393	Detective Agencies and Protective Services	100	200
7394	Equipment Rental and Leasing Services	15	25
7395	Photofinishing Laboratories	75	75
7396	Trading Stamp Services	100	75
7397	Commercial Testing Laboratories	50	75
7399	Business Services, N.E.C	25	25
	MAJOR GROUP 75—AUTOMOTIVE REPAIR, SERVICES, AND GARAGES		
7512	Passenger Car Rental and Leasing, Without Drivers	25	50
7513	Truck Rental and Leasing, Without Drivers	50	50
7519	Utility Trailer and Recreational Vehicle Rental	15	25
7523	Parking Lots	20	25
7525	Parking Structures	25	25
7531	Top and Body Repair Shops	15	25
7534	Tire Retreading and Repair Shops	25	25
7535	Paint Shops	15	25
7538	General Automotive Repair Shops	15	25
7539	Automotive Repair Shops, N.E.C	15	25
7542	Car Washes	15	25
7549	Automotive Services, Except Repair and Car Washes	15	25
	MAJOR GROUP 76—MISCELLANEOUS REPAIR SERVICES		
7622	Radio and Television Repair Shops	15	25

SIC	Description	Size standards, No. of employees [1]	
		Advance notice (3/10/80)	Second advance notice
7623	Refrigeration and Air Conditioning Service and Repair Shops	15	25
7629	Electrical and Electronic Repair Shops, N.E.C	20	25
7631	Watch, Clock, and Jewelry Repair	15	25
7641	Reupholstery and Furniture Repair	15	25
7692	Welding Repair	15	25
7694	Armature Rewinding Shops	20	25
7699	Repair Shops and Related Services, N.E.C	15	25
	MAJOR GROUP 78—MOTION PICTURES		
7813	Motion Picture Production, Except for Television	50	50
7814	Motion Picture and Tape Production for Television	50	50
7819	Services Allied to Motion Picture Production	50	100
7823	Motion Picture Film Exchanges	75	75
7824	Film or Tape Distribution for Television	50	50
7829	Services Allied to Motion Picture Distribution	50	25
7832	Motion Picture Theaters, Except Drive-in	50	50
7833	Drive-in Motion Picture Theaters	25	25
	MAJOR GROUP 79—AMUSEMENT AND RECREATION SERVICES, EXCEPT MOTION PICTURES		
7911	Dance Halls, Studios, and Schools	15	25
7922	Theatrical Producers (Except Motion Pictures), Bands, Orchestras, and Entertainers	25	25
7929	Bands, Orchestras, Actors, and Other Entertainers and Entertainment Groups	25	100
7932	Billiard and Pool Establishments	15	25
7933	Bowling Alleys	20	25
7941	Professional Sports Clubs and Promoters	50	25
7993	Coin-operated Amusement Devices	15	25
7996	Amusement Parks	75	75
7999	Amusement and Recreation Services, N.E.C	25	25
	MAJOR GROUP 80—HEALTH SERVICES		
8011	Offices of Physicians	15	25
8021	Offices of Dentists	15	25
8031	Offices of Osteopathic Physicians	15	25
8041	Offices of Chiropractors	15	25
8042	Offices of Optometrists	15	25
8049	Offices of Health Practitioners, N.E.C	15	25
8051	Skilled Nursing Care Facilities	200	100
8059	Nursing and Personal Care Facilities, N.E.C	200	100
8062	General Medical and Surgical Hospitals	500	300
8063	Psychiatric Hospitals	500	300
8069	Specialty Hospitals, Except Psychiatric	500	300
8071	Medical Laboratories	25	25
8072	Dental Laboratories	15	25
8081	Outpatient Care Facilities	100	100
8091	Health and Allied Services, N.E.C	100	100
	MAJOR GROUP 81—LEGAL SERVICES		
8111	Legal Services	15	25
	MAJOR GROUP 82—EDUCATIONAL SERVICES		
8299	Schools and Educational Services, N.E.C.[9]	15	50
	Major Group 89—Miscellaneous Services		
8911	Engineering, Architectural, and Surveying Services, Except Naval Architectural and Marine Services	50	150
8911	Naval Architectural and Marine Engineering Services	—	200
8931	Accounting, Auditing, and Bookkeeping Services	25	100
8999	Services, N.E.C	25	25

[1] All size standards are shown in "Number of Employees" except for Agriculture Production (Crops and Livestock) and Construction, which are expressed in "Average Annual Receipts."
[2] SIC Division D, Manufacturing: "Rebuilding on a factory basis or equivalent." For rebuilding machinery or equipment on a factory basis, use SIC code applicable for new manufactured product.
[3] In addition to the individual SIC category size standards for Major Group 23, a separate size standard of 500 employees is established for the Federal procurement of government apparel.
[4] SIC–2911: For purposes of Government procurement, the firm may not have more than 500 employees nor may it have more than 50,000 barrels per day crude oil or bona fide feedstock capacity. Such capacity may be from owned or leased facilities or from facilities made available to it under an arrangement such as, but not limited to, an exchange agreement; or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased. Arrangements on a refined-product-for-refined-product basis are not permitted. The product to be delivered in the performance of the contract must be at least 90 percent refined by the bidder from either crude oil or bona fide feedstocks.
[5] SIC–4521: Includes services requiring the use of one or more helicopters or fixed-wing aircraft.
[6] Most industries in Division H—Finance, Insurance, and Real Estate—are excluded from SBA assistance.
[7] If one of the activities in base maintenance, as defined in SIC–7369, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.
[8] SIC–7391: For research and development contracts requiring the delivery of the manufactured product, the size standard to use is that of the manufacturing industry in which the specific product is classified.
[9] SIC–8299: Includes flight training services.

§ 121.4 Application of small business size standards.

The provisions within this section apply to the following SBA programs: Financial Assistance, Small Business Investment Companies, Surety Bonding, Pollution Control, and Minority Small Business and Capital Ownership Development. For the Procurement Assistance and Property Sales Progams—see, respectively, § 121.5 and § 121.6. The following regulations are set forth in question-and-answer format for ease of comprehension.

(a) How do I determine if my firm is a small business eligible for SBA assistance? Since SBA size standards are set on an industry basis, you must first determine in which industry your firm is classified. To do this, refer to the *Standard Industrial Classification*

Manual.[1] Upon determining your firm's primary industry by the four-digit code, refer to the table contained in § 121.3 for the size standard.

(b) What if my firm is engaged in a number of different industries? If an applicant for SBA assistance is engaged in a number of product lines or industries, or has affiliates engaged in different product lines or industries, the size standard shall be that of the firm and its affiliates' primary industry.[2]

(c) Must I include employees or receipts in affiliated firms? Yes. Employees or receipts of the firm applying for assistance, as well as all employees or receipts of firms affiliated with the applicant firm, must be included in the employee or receipts count. For an explanation of what would constitute an affiliate, refer to § 121.7.

(d) Am I an exception to the size standards? Maybe. There are four exceptions:

(1) A firm which applies for an SBA loan to refinance an existing SBA loan but which, since the date of the original financing, has by natural growth (as distinguished from, e.g., merger), grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA administratively determines that refinancing is necessary to protect the Government's financial interest.

(2) The applicable size standards for the purpose of all financial assistance programs of the Small Business Administration, except the 8(a) Program and the Surety Bond Guarantee Assistance Program, are increased by 25 percent whenever the concern agrees to use the assistance within a "labor surplus area," or "redevelopment area."[3]

(3) A small business, for the purpose of receiving financial or other assistance from small business investment companies or development companies, or pollution control guarantee assistance under Pub. L. 94–305, is one which:

(i) Together with its affiliates, does not have net worth in excess of $6 million, and does not have an average income after Federal income taxes for the preceding 2 years in excess of $2 million (average net income to be computed without benefit of any carryover loss); a firm is also eligible for these programs if it qualifies under the size standard for its industry listed in the preceding § 121.3 of this part.

(4) A small business, for purpose of pollution control guarantee assistance under Pub. L. 94–305, is one that qualifies as small under the Small Business Investment Companies' definition in § 121.4(f)(3)(a), above.

(e) At what time and by whom is size status of the applicant firm and its affiliates determined for purposes of SBA financial assistance? The applicant firm's size status will be determined at the SBA District Office, by an SBIC, or by any other SBA office that may take final action on the financing request. The determination is made at the time of application for SBA financial assistance. Subsequent changes in size will not affect a firm's size status.

(f) How do size standards apply to the 8(a) program within the Minority Small Business and Capital Ownership Development program? At the time of entry to the MSB/COD programs and during the time your firm is in the program, it must meet the size standard for its primary industry as set forth in § 121.3. When a firm completes the 8(a) program or is informed by SBA that it is no longer in the program, the firm must, for future financial, procurement, or other assistance, meet the applicable SBA size standards.

§ 121.5 Definition of small business for SBA procurement assistance and subcontracting programs.

(a) How do I know if my firm is a small business eligible to bid on Federal contracts set aside for small business?

(1) For purposes of bidding on set-aside contracts, the applicable size standard as listed in § 121.3 will be the one for the industry that best depicts the products or service being procured. The firm's primary activity is not the controlling factor in determining small business eligibility for bidding on set-aside contracts.

(2) If your firm (together with all affiliates) meets the corresponding size standard for that industry set forth in the solicitatation by SIC code, then you are eligible to bid on the set-aside contract. Size is determined on the date of written self-certification as a small business as part of a firm's submission of a bid or offer.

(b) Who determines the appropriate SIC code and size standard for a set-aside procurement and, if there is a disagreement with the contracting officer's code selection, who resolves the disagreement?

(1) The determination of the appropriate SIC classification of a product or service shall be made by the contracting officer of the agency letting the contract. Both the SIC classification and the applicable employee size standard shall be set forth in the solicitation, and the determination by the contracting officer is final unless appealed to the SBA in the manner provided in § 121.10.

(2) Clarification of an unclear or incomplete classification or size standard action by the contracting officer may be supplied by an SBA field office, or the Size Appeals Board or its Chairperson, as necessary, in connection with a size determination or size appeal.

(c) What if the procurement calls for more than one item with different SIC codes and employment standards? If a procurement calls for more than one item, and the solication permits the bidder to bid separately on each item, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item, and a bidder is required to bid on all items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest precentage of the total contract value.

(d) Does my firm need to be certified by SBA prior to bidding on set-asides?

(1) No. SBA provides a self-certification procedure in which your firm certifies that it is a small business for that particular bid or proposal within the meaning of SBA Rules and Regulations.

(2) A firm which meets the size standards set forth in the solication and has not been determined ineligible as a result of a formal size determination, may represent that it is small business. In the absence of a written protest or other information which would cause the contracting officer to question the veracity of the self-certification, he shall accept the self-certification at face value for the particular procurement involved.

(3) Firms self-certifying their small business status should be aware of the following provisions:

(i) If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to SBA by filing a formal protest pursuant to § 121.9. Other bidders or offers also may file a

---

[1] *The Standard Industrial Classification Manual* is intended to cover the entire field of economic activities. It classifies and defines all activities by industry categories and is the source used by SBA in defining industries for size standards. (You may obtain a copy of the publication from the U.S. Government Printing Office or in the reference section of most libraries.)

[2] The primary industry shall be based upon the distribution of annual receipts and/or employees of the firm.

[3] "Redevelopment area," for the purpose of small business size determinations, means a geographical area within the United States which has been designated as a "redevelopment area" in accordance with the Public Works and Economic Development Act of 1965 (Pub. L. 89–136, Sec. 401, 75 Stat. 48). "Labor surplus areas" are defined semiannually in the Department of Labor Publication "Area Trends." These determinations are presently made in the Employment and Training Division, U.S. Department of Labor.

protest with the contracting officer, who will refer it to the SBA.

(ii) If a firm has been determined by SBA to be ineligible as a small business under a particular size standard and it has already self-certificated as a small business on a pending procurement subject to the same or lower "number of employees" size standard, it shall immediately notify the contracting officer of such adverse size determination and shall not thereafter self-certify on a procurement subject to the same or a lower employee size standard until it has applied for recertification under § 121.8 based on a significant change in its ownership, management, or contractual relations, and has been determined eligible by SBA.

(e) Does SBA distinguish between manufactures and nonmanufactures (wholesalers) for procurements reserved for small business? Yes, there is a distinction. Any firm which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when:

(1) Its number of employees does not exceed the employment standard for the appropriate wholesale industry identified with the product being procured as defined in § 121.3, and

(2) In the case of Government procurement reserved for small businesses, such nonmanufacture (wholesaler) must furnish, in the performance of the contract, the products of a small business manufacturer [4] or producer as defined in this section for the set-asides. The supplied products must be manufactured or produced in the United States.

(3) The Government often purchases items in the form of kits such as, but not limited to, tool kits and survival kits which are not manufactured items but merely assemblages of separate manufactured items. Accordingly, a firm which purchases some of all of such items and packages them into kit form is considered to be a nonamanufacturer for size determination purposes. Such a firm can qualify as a small business only if it meets all other qualifications of a small nonmanufacturer set forth in these regulations and if more than 50 percent of the total value of the kit and its contents are accounted for by items manufactured by small business, as defined.

(f) Are there exceptions to the provision regarding nonmanufacturers? Yes. There are two exceptions to the nonmanufacturing provision:

(1) If the procurement has anticipated value of less than $10,000 and is subject to, and is actually processed under, "small purchase procedures" as presently defined in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product.

(2) For the purpose of receiving a Certificate of Competency on an unrestricted procurement, a small business dealer meeting the size standard for its primary industry set forth in this section, may furnish any domestically produced or manufactured product. The applicable size standard for a COC shall be that of the item being procured.

(g) For subcontracting purposes, a firm is small if its total number of employees or receipts does not exceed the size standard for the product or service it is providing on the procurement.

§ 121.6 Definition of small business for the sale of Government property.

The Property Sales Program is divided into three distinct areas: Timber, Mineral Rights, and General Property Sales, each with specific size standards and related requirements. While size standards for other SBA programs define eligibility by specific industry, the Property Sales Program focuses on potential bidders who represent a variety of industries. Consequently, for the Property Sale Program, size standards are aggregated into major industrial groups for each type of property sales.

(a) At what point in time must my firm meet the size test for the sales of government-owned property? The size status of a firm (including its affiliates) is determined as of the date of written self-certification as a small business as part of a firm's submission of a bid or offer.

(b) How do I determine if my firm is a small business eligible to bid on a preferential timber sale? In order to be classified as a small business, your firm must primarily be engaged in the logging or forest products industry [5] and, together with your affiliates, have less than 500 employees. To determine your primary industry, see § 121.4(b).

(c) Are there any other requirements that must be met when a small business wins a preferential timber sale? Yes. There are a few additional requirements and they are as follows:

(1) When the timber purchase is for resale, the small business must agree that it will not sell [6] more than 30 percent of the timber purchased to large business (those exceeding 500 employees).

(2) When timber from a preferential sale is for processing, the small business must do so with its own facilities [7] or the facilities of another small business. § 121.6(c)(1) also applies to all processed timber.

(d) How do I determine if my firm is a small business eligible to bid on special salvage timber sales? Your firm would be a small business eligible to bid on Special Salvage Timber Sales if it is primarily engaged in the logging or forest products industry and, together with any affiliates, does not employ more than 25 employees during any pay period during the 12 months preceding the sale.

(e) Are there any other requirements? Yes. The provisions set forth in § 121.6(a) apply with one exception—special salvage timber may be disposed of without restriction when there are less than two eligible small business mills in the marketing area.

(f) How do I determine if my firm is a small business eligible to bid on the sale of mineral rights? Your firm is a small business eligible to bid on the sale of mineral rights if it meets the employee size standard set forth below. When bidding on:

(1) Coal leases—your firm, together with all affiliates, must not exceed 250 employees;

(2) Uranium leases—your firm, together with all affiliates, must not exceed 100 employees.

---

[4] For size determination purposes, there can only be one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials, and/or miscellaneous parts or components, into such end item. Whether a bidder on a particular procurement is the manufacturer or nonmanufacturer for the purpose of a size determination is not for determination by the contracting officer. The decision shall be made by the appropriate SBA regional administrator or his delegatee, and need not be considered with the contracting officer's decision as to whether such firm is or is not a manufacturer for the purpose of the Walsh-Healy Act, etc.

[5] "Forest products industry" means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

[6] The term "sell" includes but is not limited to the exchange of sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or controlling interest in) a concern after it has been awarded one or more set-aside sales of timber.

[7] This provision assumes that the successful bidder remain small business until the products have been manufactured. Requirements for disposal of timber from preferential sale are set forth in § 121.6(c)(1).

(3) Royalty oil—your firm, together with all affiliates, must not exceed 500 employees and not have more than a 50,000 barrels-per-day crude oil [8] or bona fide feedstock capacity.[9]

(g) For the sale of any other type of government property, what is a small business? If your firm is primarily engaged in manufacturing and, together with all affiliates, employs 500 or fewer employees, it is eligible to bid on the sale of Government property. Firms (together with all affiliates) primarily engaged in industries other than manufacturing must have 50 or fewer employees.

Dated: April 21, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-11522 Filed 4-30-82; 8:45 am]

BILLING CODE 8025-01-M

[8] "Crude-oil capacity" means the maximum daily average crude throughput of a refinery in complete operation, with allowance for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.

[9] "Bona fide feed stocks" means crude and any other hydrocarbon material actually charged to refinery processing units, as distinguished from materials used as components in products to be delivered after merely filtering, settling, or blending.

federal register

Monday
May 3, 1982

Part III

Department of Energy

Federal Energy Regulatory Commission

Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 1b, 2, 3, 3a, 3c, 4, 12, 16, 25, 32, 33, 34, 35, 41, 45, 131, 152, 153, 154, 156, 157, 158, 250, 270, 271, 275, 281, 282, 284, 286, 292, 375, 385, and 388

[Docket No. RM78-22-000; Order No. 225]

Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings

April 28, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is adopting a final rule which reorganizes, revises, and updates the Rules of Practice and Procedure for Commission proceedings. This final rule is both a major step in the Commission's efforts to reorganize the Commission's procedural rules and a partial revision of those rules. Specifically, the final rule removes all general rules of practice and procedure from 18 CFR Part 1 and places them in Part 385. With respect to oil pipeline filings and proceedings, the Commission is applying its procedures to such matters, and discontinuing use of the procedural regulations of the Interstate Commerce Commission, 49 CFR Part 1100, except for the *ex parte* rules and modified procedures. The Commission is also redesignating its public information regulations from 18 CFR Part 1 to Part 388. This final rule is in response to the need to expedite proceedings and to make procedural rules more easily understood by those affected by Commission action.

DATE: The final rule is effective August 26, 1982.

FOR FURTHER INFORMATION CONTACT:
James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033
Mary Jane Reynolds, Office of Commissioner Hughes, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., (202) 357-8388.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting a final rule which reorganizes, revises, and updates the Rules of Practice and Procedure for Commission proceedings, effective 120 days after issuance. This final rule is both a major step in the Commission's efforts to reorganize the Commission's procedural rules and a partial revision of those rules. Specifically, the final rule removes all general rules of practice and procedure from 18 CFR Part 1 and places them in Part 385. With respect to oil pipeline filings and proceedings, the Commission is applying its procedures to such matters, and discontinuing use of the procedural regulations of the Interstate Commerce Commission (ICC), 49 CFR Part 1100, except for the *ex parte* rules and modified procedures. The Commission is also redesignating its public information regulations from 18 CFR Part 1 to Part 388.

The comprehensive reorganization of the Commission's procedural rules will help avert difficulties that arise under the existing rules. The Department of Energy Organization Act (DOE Act) confers upon the Commission most functions of the Federal Power Commission (FPC), in addition to the oil pipeline ratemaking functions of the ICC. Savings provisions in the DOE Act (42 U.S.C. 7295) transfer to the Commission the FPC and ICC regulations governing the proceedings previously conducted by those agencies. Those regulations apply until replaced by the Commission's own procedural rules. Accordingly, the Commission has been operating under two unrelated sets of rules which are, in many respects, confusing and do not accurately reflect current Commission practice.

The Commission issues this final rule in response to the need to expedite proceedings and to make procedural rules more understandable. The rule provides various means of expediting cases set for hearing, including delegating to the Chief Administrative Law Judge the authority to consolidate and sever and permitting a presiding administrative law judge to phase cases and to dispose summarily of issues or an entire proceeding without full hearing. In addition to the final rule, the Commission's Office of the General Counsel has also implemented certain internal procedures specifically designed to achieve prompt resolution of cases set for hearing.

The first aspect of the Rules of Practice and Procedure which the Commission is revising by rulemaking is the procedures for cases set for hearing and the general filing requirements applicable to all Commission functions. A subcommittee of the Advisory Committee on the Rules of Practice and Procedure focused its attention on the procedures which govern hearings held before decisional authorities at the Commission. The deliberations of that subcommittee contributed significantly to formulation of the Notice of Proposed Rulemaking which was issued in this docket on March 9, 1981.[1]

II. The Reorganization Scheme

As indicated in the Notice of Proposed Rulemaking, the Commission envisions a new organizational scheme for its rules of practice and procedure and any rules generally applicable to all Commission activities. Under this rule, Subchapter A [2] contains definitions and rules of construction applicable throughout all Commission regulations, and statements of general policy and interpretations. Subchapter W contains the rules relating to the organization and internal management of the Commission. Subchapter X contains rules of interest to members of the public, including the conduct of Commission business, rules applicable to people practicing before the Commission, including the rules of practice and procedure, rules governing investigations, and rules governing Freedom of Information Act requests.

The following general table of contents indicates the location of Parts 375, 376,[3] 385, and 388 and where other revised provisions which have not yet been promulgated are tentatively assigned. As indicated, some existing Commission Rules, such as Standards of Conduct for Commission Employees, will also be recodified.

TITLE 18—CODE OF FEDERAL REGULATIONS

Chapter 1—Federal Energy Regulatory Commission, Department of Energy

Subchapter A

Part

1—Definitions Used in this Chapter.
2—General Policy and Interpretations.
3—[Reserved]. (Currently contains miscellaneous provisions to be removed or redesignated)
* * * * *

Subchapter W

Part

375—The Commission.
376—Organization, Mission, and Functions; Operations During Emergency Conditions.
377—National Security Information.

[1] 46 FR 17023, March 17, 1981.

[2] All Commission regulations are contained in 18 CFR Chapter I, except for some provisions of 49 CFR Chapter X which, under this final rule, remain applicable to certain aspects of oil pipeline proceedings.

[3] Parts 375 and 376 were transferred from Subchapter A. Redesignation of these parts was the Commission's first step in reorganizing its rules. 45 FR 21216, April 1, 1980.

378—Privacy Act Regulations.
379—Standards of Conduct for Commission Employees.
380—National Environmental Policy Act Rules.
381—384 [Reserved]

Subchapter X

Part

385—Rules of Practice and Procedure.
386—Investigations.
387 [Reserved].
388—Freedom of Information Act Rules.
389-399 [Reserved].

This rulemaking provides only limited reorganization of the Commission's rules. It removes rules in Subchapter A, Part 1, and places them in Subchapter X, Parts 385 and 388. The new Subparts A, B, E, F, G and T of Part 385 are revised but the other rules recodified in Part 385 and all of Part 388 are taken from Part 1 and renumbered, so as to integrate them, without substantive change, into the new organizational structure. A table at the back of this preamble shows the derivation of these revised regulations.

The following table indicates how the new provisions which are *not* substantively revised correspond to the existing regulations. The only changes made to the provisions contained in these subparts are technical, conforming, and clarifying. These renumbered provisions will be the subject of additional rulemakings. At that time, the Commission will request comment on the merits of revisions to these procedures. Even though some of the redesignated provisions are currently effective on an interim basis, this renumbering does not affect the status of any interim rule.

Renumbered provision	Old provision
Part 385:	Part 1:
Subpart H—Shortened procedures	§ 1.32.
Subpart I—Commission review of remedial orders.	§ 1.38.
Subpart J—Commission review of adjustment request denials.	§ 1.40.
Subpart K—Petitions for adjustment under the NGPA.	§ 1.41.
Subpart M—Cooperative procedure with state commissions.	§ 1.37.
Subpart S—Miscellaneous	§ 1.7(d), § 1.19(a), §§ 1.21, 1.23, §§ 1.24, 1.35.
Subpart U—Appearance and practice before the Commission.	§ 1.4 (except (d)).
Subpart V—Ex Parte communications; Separation of functions of staff.	§ 1.4(d), § 1.30(f).
Part 388: Public Information and request	§ 1.36.

III. Summary of the Rule and Comments

A. Comments Generally

The Commission received 98 comments on the proposed rules, in addition to the suggestions of the Advisory Committee. The comments generally express strong support for the revisions.[4]

Commenters encourage the Commission to develop procedural rules which employ streamlined, tailor-made decision-making procedures that will help avoid the kinds of delays that would result if decisions were made in the traditional manner of the court system. A variety of persons, including the Commission's administrative law judges (hereinafter judges), recognize that many practices designed to expedite litigation at the Commission have been developed in spite of, rather than because of, the existing rules of practice and procedure. For example, the existing rules do not address summary disposition by the judges, oral issuance of initial decisions, the phasing of proceedings, correction of any initial decision by a judge, or the privileged status of comments on settlement offers and of the offers themselves. The final rule is designed to formalize many of the procedural innovations already recognized *de facto* by the bar and the Commission.

Two commenters deal with issues presented by the rulemaking generally.[5] The first commenter believes that a special set of rules should be adopted to govern proceedings before the Oil Pipeline Board. The Commission recognizes there may be a need for rules for Oil Pipeline Board proceedings. The development of such rules, however, will prove time-consuming and controversial. The Commission will not therefore postpone this final rule pending development of separate rules for oil pipeline filings and proceedings.

The second commenter proposes an extensive reallocation of responsibilities between the Commission and the administrative law judges. In general, the commenter prefers that the Commission remove itself from the day-to-day procedures in a hearing and limit its participation in any case to review of the initial decision. This review would be unlike the review now carried out by the Commission; instead the Commission would review an initial decision where "(1) A finding of material fact is not supported by substantial evidence [;] (2) The decision is contrary to law or to duly promulgated rules or decisions [;] (3) A substantial question of law, policy, or discretion is involved [; or] (4) A prejudicial error of procedure was committed." [6] As part of its overall proposal, this commenter favors additional authority for the Chief Judge, automatic referral of non-controversial proceedings to the consent agenda, and earlier narrowing of issues.

The Commission has determined that these proposals should not be adopted. While many of the suggestions conform with the Commission's efforts to provide greater latitude to the judges in the conduct of hearings, the Commission is not, in this rulemaking, prepared to delegate its decision-making authority to the extent suggested in this comment. Other proposals submitted would also entail changes in Commission practice that are beyond the scope of this rulemaking.

B. Specific Provisions and Comments

The final rule revises the table of contents for Chapter 1, Title 18 of the Code of Federal Regulations, to accommodate the redesignation of the Rules of Practice and Procedure to Part 385. Definitions are added to the Rules of General Applicability in § 1.101. Only the definition of "person" received comment. That definition is moved to § 385.102 so as to limit its application to the procedural rules. The definition of "person" includes municipalities as persons. Any use of the term "person" in the substantive provisions of Chapter I may be limited by the governing enabling legislation. For example, a municipality is not a "person" under section 3(4) of the Federal Power Act.

The major revisions in this docket affect the new Subparts A, B, E, F, G, and T of Part 385.

Subpart A

Subpart A describes the applicability of Part 385 and contains the definitions used throughout the procedural rules.

Rule 103 initiates a new method for citation of the Rules of Practice and

[4] The Commission has placed in the public file of this rulemaking the extensive staff summary and analysis of the comments relied on in formulating the final rule and preamble. The Commission concurs in the staff recommendations and views expressed in the analysis, to the extent that the analysis is not inconsistent with the procedures adopted in this preamble and final rule. The record of this proceeding is available for public inspection at the Commission's Division of Public Information.

[5] Some comments also focus on the Commission's regulatory lag, suspension policy, the need for frequent rate filings, and rejection of attrition allowances. This raises substantive ratemaking issues that cannot be properly addressed in the context of this procedural rulemaking.

[6] The suggestion has been made that the Commission should delegate its decisional authority to judges or employee boards, subject to certiorari-type review by the Commission. For a discussion of this view, see memorandum of George F. Bruder to the Subcommittee in Hearing Procedures of the Advisory Committee on Rules of Practice and Procedure, on "Delegation of Decision Making", July 16, 1979. See also George Ernest Marzloff, *Delay in Review of Initial Decisions: The Case for Giving More Finality to the Findings of Fact of the Administrative Law Judge*, 35 Wash. and Lee L. Rev. 393 (1978).

Procedure. Each section is referred to as a "Rule." The rules are numerical and each rule's designation includes only the numbers to the right of the decimal point in the regulation; for example, § 385.103 is Rule 103. This is also consistent with existing ICC practice.

Rule 101 makes clear these new rules apply to all Commission proceedings, except investigations. It also provides that, if these rules conflict with a specific provision contained in the other rules, the other provision governs, to the extent of any inconsistency. In addition, it retains the ICC modified procedures for oil pipeline cases and makes the ICC *ex parte* rules applicable to oil pipeline proceedings.

New Rule 101(c) provides transitional provisions which explains how a decisional authority may apply these new rules before and after their effective date. The new Part 385 applies to all proceedings, including those that are pending on the date on which the new Part 385 becomes effective. The final rule, however, provides decisional authorities, including presiding judges, some discretion to apply the new or old rules to filings submitted before, or proceedings pending on, the effective date, in light of any inequities that may result from the imposition of either set of requirements on a filing or proceeding.

A paragraph is inserted at Rule 101(d) to indicate that any references to Title 49 of the Code of Federal Regulations, Chapter 10 of which governs oil pipeline filings and proceedings, pertains to the rules of the Interstate Commerce Commission effective as of September 30, 1977, the day before the inception of the Commission. On October 1, 1977, the Commission obtained jurisdiction over oil pipeline rates and, with that, the ICC regulations governing those matters then in effect. Subsequent amendments by the ICC do not affect oil pipeline filings or proceedings.

Rule 101(e) allows the Commission to waive, for good cause, any provision of this part and to provide for procedures different from those contained in these rules. There were numerous comments on this waiver rule. While some commenters opposed it in its entirety, others suggested the waiver was too broad and that standards for waiver more meaningful than "good cause" should be added. Concern was expressed that use of the waiver authority could prejudice persons appearing before the Commission or that the provision might imply waiver of statutory requirements. Many commenters recognized the Commission's need for flexibility and endorsed the rule.

Given the wide variety of circumstances in which the Commission might be called on to exercise its authority under its rules, the need for a general provision outweighs the objections to its adoption. Moreover, this rule is a codification of existing Commission practice. With respect to the contention that the rule implies authority to waive statutory requirements under any circumstances, the phrase "to the extent permitted by law" adequately recognizes the limits of Commission authority.

Rule 101 brings oil pipeline filings and proceedings, still subject to the substantive ICC regulations in 49 CFR Chapter X, under the Commission's Rules of Practice and Procedure. Rule 101 discontinues use of the ICC rules of practice for these matters. However, until the Commission adopts new substantive *ex parte* rules, the ICC *ex parte* rules will apply in oil pipeline matters in lieu of the Commission's *ex parte* provisions, as one commenter proposed.

Rule 102 contains definitions of terms used throughout this part: decisional authority, participant, party, person, presiding officer, and respondent. The definitions of party and participant continue the current practice of treating Commission staff, for some purposes, differently from parties to a proceeding. Several commenters discussed whether Commission staff should be treated as a party to a proceeding. The argument in support of doing so is based on a concern that staff, if not treated as a party, may be given preferential treatment. That, of course, is not the object of the final rule and the Commission believes that the rule will not lead to preferential treatment because of staff's status in a proceeding. However, the Commission does not believe it appropriate for staff to be considered a party because staff might then be vested with certain rights not in keeping with its role in Commission proceedings, such as the right to file protests or seek rehearing of Commission orders.

Subpart B

Subpart B contains the requirements for the various types of pleadings, for tariff or rate examination, notices of tariff or rate examination, orders to show cause, and also the procedures and criteria for intervention and summary disposition.

Rule 201 is the applicability provision. It states that the Rule 201 applies to pleadings and other specified formal filings, interventions, and summary dispositions.

Rule 202 states the types of pleadings recognized at the Commission. These do not vary from pleadings presently in use at the Commission, except for the addition of notices of protest which are used in certain oil pipeline proceedings. Comments on rulemakings are not pleadings; nor are commenters parties or participants.

Rule 203 collects in one place the requirements for pleadings and tariff or rate filings, which are presently scattered throughout the Commission's rules and are frequently duplicative. A new provision, § 385.203(b) or Rule 203(b), recognizes combined pleadings explicitly, but requires separate designation of each item in such pleadings.

Rule 204 specifies the purposes for which an application must be filed, including obtaining any license, certificate, or permit from the Commission. Rule 205 sets forth the requirement that a tariff or rate filing must be filed for any change in rates, tariffs, terms or conditions of service, or similar approvals. The requirement, which has no explicit counterpart in present rule, in no way abridges the right of any regulated entity to change a rate or tariff.

Rule 206 deals with complaints and reflects, in substance, the present requirement. Commenters express concern that the rule may broaden the authority of the Commission to adjudicate a complaint by expanding the category of persons who may complain. They note that the Natural Gas Act and the Federal Power Act specify persons who have an express statutory right to complain. Moreover, the present rule speaks only of complaints against licensees, utilities, and natural gas companies, while the new rules permit complaints against any person violating any statute, rule, order, or other law under which the Commission has or may have jurisdiction.

The Commission's authority is necessarily limited to that provided by statute. It should be noted, in this regard, that the new rule merely takes cognizance of the fact that these rules will also govern proceedings under statutes other than the Natural Gas Act and the Federal Power Act. In addition, existing § 1.6(a) is no more restrictive about who may file a complaint than Rule 206.

Rule 206 also provides a procedure for dismissing a complaint, if satisfied. Some commenters request alternative provisions. One commenter would allow a respondent to obtain a dismissal of a complaint on the basis of unsupported statements. Others believe that

Commission action on the alleged satisfaction is not necessary because the Commission may not be a participant. Representatives of the oil pipelines believe they should not apply to oil pipelines proceedings because such proceedings rarely involve interveners. The Commission, however, retains the provisions because each of the proposals would diminish protection of any potential complaining party's interest.

Petitions under new Rule 207 will continue to be used for the purposes for which they are presently used. The Commission notes two points, however. First, petitions are to be distinguished from motions. A petition may be used in the particular circumstances listed and will also be used in any instance for which there is no other procedure provided. Thus, if the rules permit a person a make a motion, a petition may not be used. Second, a petition is the appropriate pleading to file where a person is requesting that the Commission initiate a proceeding to propose and adopt a rule of general applicability. However, the new rules do not provide specific procedures which would govern rulemakings, once initiated. The Commission will in the future, as in the past, announce special provisions in particular rulemaking proceedings.

Rule 208 provides for notices of protest to tentative oil pipeline valuations. These pleadings are used only in proceedings to protest oil pipeline valuations under the Interstate Commerce Act.

Rule 209, dealing with notices of tariff or rate examination and orders to show cause, does not change existing Commission practice. This rule merely distinguishes between those cases in which the Commission may examine the validity of a rate or tariff and the cases in which the Commission, by means of an order to show cause, is initiating a proceeding against a person authorized by the Commission to act subject to certain limitations or conditions. The Commission communication by which a proceeding against such a person is initiated need not be designated an "Order to Show Cause" if it otherwise indicates that it constitutes the initiation of such a proceeding, *i.e.*, that the Commission is contemplating action against the person, or the authorization held by that person, due to suspected non-compliance with statute or a Commission rule or order. In contrast, a variety of Commission communications may request from appropriate persons information about possible violations of statute, rule, or order, without initiating a show cause proceeding.

In connection with Rule 209, a commenter questioned the use of the word "will" as opposed to "shall" in the proposed rules. The final rule adopts the system of using "will" to describe the Commission's intent or to predict an action or event. "Must" is used to convey a "directive" and is mandatory. Since "shall" has both qualities, it is, therefore, avoided.

The new Rule 210, governing methods of notice and dates in notices, does not differ substantively from the present rule. A Commission notice issued under this rule will generally contain the dates for filing protests or filing for intervention.

Some commenters are concerned about the rule on protests, Rule 211. Although the rule makes clear that protests are not considered in deciding a case, if a proceeding is set for hearing, and that protestors are not automatically parties, the commenters prefer that all protests be served on the parties and an opportunity to answer protests be afforded. The new rule is similar to the present rule on this subject. While the Commission understands the commenters' concern, the policy considerations weigh in favor of the rule as adopted. The Commission's experience suggests that Rule 211 will not prejudice any parties and that the additional procedures suggested by the commenters, such as including protests in the record, are not needed. The matters stated in a protest are not evidence upon which a case can be decided.

Rule 212 is the rule governing motions generally. It differs in a number of ways from the present rule. Under the present rule, a motion may be made only after a hearing has begun and, unless provided otherwise elsewhere in the regulations, may address only procedural matters and interlocutory relief. Rule 212 does not contain these limitations. Under the final rule, a motion may be made by any person who is a participant in the proceeding or who has filed a timely motion to intervene which is pending. While, under the existing rule, a motion cannot be granted which would finally dispose of a proceeding, Rule 217 permits motions for summary disposition.

Like the existing rule, Rule 212 allows motions to be made to the Commission as well as to a subordinate official. If a motion is made to the Commission after a hearing has begun and it is not acted on within 30 days, the motion is deemed denied. This automatic denial provision is in the existing rule and represents a practical response to the burden that would result if the Commission were required to rule on each motion. The automatic denial provision does not apply to motions before a hearing is commenced. The existing rules also allow a presiding officer to refer a motion to the Commission for its action. Under the revised rules, this procedure is available in Rule 714 on certified questions.

Rule 213, pertaining to answers, is quite different in form, but very similar in substance, to the present rule. Many of the commenters would have the Commission permit answers to protests, arguing that a protest which is full of errors, misstatements, or false implications might influence the Commission in deciding whether to set a case for hearing. Such an unfortunate result, it is claimed, could be avoided if parties could answer. The Commission believes that, if issues are genuine and contested, they should be addressed in a hearing. Moreover, the person against whom the protest is directed is not harmed by the protest. If a hearing does not result from the protest, that person's interests are not prejudiced. If a hearing is conducted, that person has the opportunity to rebut any arguments raised. The Commission's decision is also influenced by the abbreviated statutory time limits under which the Commission must decide whether to set some matters for hearing.

Rule 213 also requires that an answer to a motion be filed within 15 days. A number of the commenters advocate thirty days for filing an answer. This is one of several instances in which commenters on the proposed rule felt that the time limits were too short. They argue that, for parties who are far from Washington, the delays in the mail can deny them adequate time to prepare an answer, or any other filing to which a time limit applies. In the Commission's opinion, the need to expedite Commission proceedings merits the imposition of stringent time limits, even though the Commission recognizes that the rule may, in some instances, require an effort for parties to comply. The Commission is therefore retaining, throughout this revision, the time limits in the proposed rule. In exceptional cases, extensions of time are allowed under Rule 208.

Intervention is provided for in Rule 214. Under the existing Commission procedures, a petition must be granted in order for a person to obtain intervention, except that a state commission and the Secretary of Energy may intervene by notice. Since it is rare in Commission practice for a petition to

intervene to be denied, the Commission, in Rule 214, is providing for automatic intervention, unless an answer in opposition is filed within 15 days. This change was generally approved by the commenters.

Rule 214 does not modify the provision that state commissions may intervene on notice, if notice is filed within the prescribed time. However, state commissions will now be treated in the same manner as other persons, if they file to intervene after the time prescribed. State commissions strongly disapprove of this modification based on the view that the right of states to intervene at any time by notice is imbedded in the principle of state-Federal comity. In support of their position, they point to the unique perspectives which state commissioners bring to any proceeding. It is argued that a state commission may be the only intervener which directly represents consumer interests. On another level, the state commissioners believe that they have special problems which make it difficult for them to file within the time prescribed. In contrast, certain industry commenters believe that equitable principles dictate subjecting state commissions to the same requirements as other persons.

The Commission recognizes that this is a difficult issue. It is true that state commissions have special problems in responding expeditiously and, further, that they should receive special consideration in the interest of comity. However, Commission proceedings have been seriously disrupted by the late intervention of state commissions. The Commission is adopting the rule as proposed, believing that the rule strikes a balance between the need for timely intervention and the special circumstances of the state commissions. Rule 214 permits intervention by notice so long as the notice is timely and withdraws this privilege if a state commission intervenes late. Of course, the Commission will entertain motions to intervene filed out of time by state commissions. The decision whether to grant or deny such motions will depend on factors specified in Rule 214(d), including any prejudice to the parties and any burdens imposed by late interventions.

Rule 214(d) sets forth, for the first time, general criteria to be applied by the decisional authority in exercising discretion to grant late intervention.

Rule 215 governs amendments of pleadings. It is somewhat more precise than the existing rule. Under Rule 215, answers are permitted to amendments and motions to oppose the acceptance of an amendment are allowed. Any unopposed amendment becomes effective as an amendment 15 days after filing. The judge has 20 days from the date of filing to rule on the acceptance or rejection of any opposed amendment.

Rule 216 governs withdrawal of pleadings and provides that such a withdrawal becomes effective in 15 days, unless, within that period, the decisional authority disallows it. If someone objects to the withdrawal within that time, it becomes effective only when the decisional authority accepts the withdrawal. Provision is made in the rule for leaving material in the record.

Rule 217 sets forth a rule for summary disposition applicable to proceedings set for hearing under Subpart E or where the Commission is itself the decisional authority. Rule 217 does not apply to staff actions delegated under Part 375 of the regulations. Although no comparable provision appears in the present rules, the Commission's judges have developed a practice which parallels this provision closely. It should be noted that when the summary disposition is by a judge or a decisional authority other than the Commission, an initial decision will be prepared so that Commission review will be conducted under the same procedures as if an initial decision had been rendered after a hearing. The summary disposition rule deals with decisions on the merits in pending cases. Thus, it does not, as some comments fear, apply to rejection of filings before a proceeding is properly initiated.

While the rule requires that, normally, opportunity for comment will be afforded on any proposed summary disposition considered by a decisional authority other than the Commission, where no participant has moved for such disposition, it allows the Commission to use greater discretion in ascertaining whether notice and comment are practicable and necessary when it considers summary disposition.

Subpart E

Subpart E contains the rules for proceedings which the Commission sets for hearing under the subpart. Under Part 385, these are proceedings in which a decision is made by a presiding officer after an on-the-record hearing, unless otherwise disposed of. Proceedings to set rates or to grant certificates or licenses under the Federal Power Act, the Natural Gas Act, or the Interstate Commerce Act, will generally be conducted under these rules. Subpart E deals with hearings, consolidation and severance, presiding officers, witnesses, testimony, exhibits, evidence, stipulations, and transcripts. The subpart rearranges and simplifies prior corresponding sections of the Commission's rules (§§ 1.20–1.27).

Generally, hearings under Subpart E will be held before an administrative law judge, although hearings may be held before the Commission or a designated Commissioner. This is provided in Rule 501.

Rule 502 identifies the persons who may initiate a hearing as follows: the Commission, the Secertary upon direction of the Commission, or the Oil Pipeline Board. A hearing is initiated by an order or notice which must contain certain general information about the proceedings. The notice must set forth the "nature of the proceeding", among other things. Some commenters have suggested the notice also contain a non-inclusive list of issues. The Commission recognizes the merit of such a proposal and notes that the rule does not prohibit such a list. Nevertheless, we do not believe that requiring a list of issues would be advisable since, at least in some cases, a list might be premature or incorrect and, thus, misleading.

Rule 503 vests in the Chief Administrative Law Judge the power to consolidate or sever proceedings. Generally, commenters support this provision. A right to interlocutory appeal of a decision to consolidate or sever is available under Rule 503, as one commenter suggested.

Rule 504 catalogs the duties and powers of the judge presiding over a case. Perhaps the most controversial provision is that which allows the judge to prescribe the order of presentation (Rule 504(a)(3)). Some persons argue any prescribed order of presentation should reflect the burden of proof in a proceeding. However, the Commission supports the alternative view point that giving the ALJs flexibility to determine the order of presentation will avoid fruitless conflict which unnecessarily delays proceedings.

Rule 504(b)(5) refers to the judge's power concerning discovery. The Commission's recodified discovery rules are Rules 1905 and 1906, which are unchanged from those previously appearing at §§ 1.23 and 1.24, although their coverage is extended to include oil pipeline matters. The Commission recognizes that the discovery rules should be revised and updated. The comments submitted pursuant to the Commission's inquiry varied on whether the Commission should apply the Federal Rules on Discovery. Some commenters fully endorse use of the Federal Rules, but others endorse them only with qualification. Still others claim the Federal Rules inappropriate for administrative proceedings. The

Commission believes a separate proposed rulemaking will be necessary to develop a set of useful discovery rules for Commission proceedings.

The power of any judge and Rule 504(b)(17) to limit the number of persons representing similar interests who may examine a witness, make motions, or make objections raised considerable comment. These commenters fear that someone may be precluded from participation on the basis of a "similar interest" which is not sufficiently similar for a party to be justifiably foreclosed from examination because another party had exercised that privilege. This may be a valid concern in some cases, but the Commission believes that this provision is important to expediting hearings. In any event, the rule does not limit argument of any person to the judge on such "similar interest" grounds.

Rule 505 sets forth the rights of the participants to present evidence. In accordance with the comments, it has been revised to make clear that participants also have the right to present objection and argument.

Rule 506 sets forth the rules on examination of witnesses during a hearing. Paragraphs (a) and (b) have been reversed from the proposed rule to reflect the custom of submitting prepared written direct and rebuttal testimony. Revised paragraph (b) provides that, during a hearing, oral testimony, including cross-examination of any witness whose direct testimony was written, must be conducted under oath, in the presence of the judge, with an opportunity for all participants to question the witness. The Commission emphasizes that this rule deals with that portion of the hearing over which the judge is presiding. It does not affect the taking of testimony during discovery, when the judge is typically not present.

In the Notice of Proposed Rulemaking, the Commission sought comment on proposed Rule 506 (c) and (d) which covered trial depositions and interrogatories as testimony. The comments were largely negative and presented serious questions about the role of the judge in relation to depositions, the fairness of deposition procedures, and the relationship of both procedures and future rules of discovery. Consequently, these provisions are not adopted, but will be examined in a future rulemaking.

Rule 507 governs prepared written testimony. Although comment is divided on whether to treat such testimony as an exhibit or to have it copied into the transcript, the Commission has decided to treat written testimony as an exhibit in order to help reduce transcript costs.

Rule 508 is a revised and updated rule on exhibits, including public documents, items incorporated by reference and official notice of fact. Public documents includes reports or other documents on file with the Commission. Any public document offered in evidence must be shown to be reasonably available to the public. There is no substantive change from the existing rule, other than to require a participant to provide copies of an exhibit before the exhibit is marked for identification.

Rule 509 recodifies the existing rule on evidence. Some commenters suggest adoption of the Federal Rules of Evidence, while others find those Rules lacking in the kind of flexibility needed for administrative proceedings. The Commission will consider the possible use of the Federal Rules or the adoption of other rules at a later time.

Rule 510 contains various miscellaneous provisions including those dealing with the transcript, copies of exhibits, payment of subpoenaed witnesses and closing of the record. Rule 501 generally reflects current Commission practice.

Subpart F

Subpart F contains provisions on conferences, offers of settlement and settlement judges, and refusal to make admissions.

Rule 601 governs conferences and revises existing rules for purposes of clarification. Rule 601 is intended as a broad rule providing flexibility to the Commission and presiding officers in proceedings. A conference can be convened for any purpose relating to the proceeding. For instance, the rule may be applied whether or not a case has been set for hearing. It may also be applied in a pre-hearing mode, to limit or clarify issues and for settlement. Some commenters advocated mandatory pre-hearing conferences and a specification of issues to be considered. Consistent with the philosophy of this rulemaking, the judges are afforded great latitude in utilizing these procedural devices.

Many commenters are concerned about the requirement in Rule 601 that attorneys, or other representatives, appearing at a conference must be authorized to act on behalf of their principal on matters arising during the conference. Although this rule may present difficulties in cases where a principal in unwilling or unable to delegate such authority, the Commission believes that this authorization requirement is necessary if any conference is to serve a useful purpose with respect to settling questions in a given proceeding. In response to other comments, the rule will excuse a party's absence from a conference only pursuant to a waiver of the rule. In addition, the rule will operate to waive an absent party's objections to matters decided in conference only if those matters were noticed in advance.

Rule 602, governing settlement offers, continues the procedures for submission of settlement agreements previously adopted by the Commission. Commission experience with this rule has been favorable, and settlements are now handled expeditiously.

While the proposed rule delegated the authority to approve oil pipeline settlements to the Oil Pipeline Board, with a right of appeal to the Commission, the Commission has determined upon further consideration that such a delegation is premature. The delegation is, therefore, not provided in the final rule. As a result, oil pipeline settlements are to be treated like all other settlements and decided by the Commission.

Under the existing § 1.18, the judge, before certifying a contested offer to the Commission, must find, among other things, that there is both substantial evidence in the record and no contested issue of material fact, with respect to the proceeding or portion of the proceeding. Since this provision may prove logically inconsistent, the revised rule now allows the judge to certify to the Commission a settlement offer which, although contested, is determined to contain no genuine issue of material fact. In other words, the judge may certify a contested settlement on the same basis as an uncontested settlement. Under both circumstances, the judge is not required to find substantial evidence.

Rule 603 carries forward the existing rule on settlement negotiations before a settlement judge. Technical corrections have been made to allow its use in cases not set for hearing. This change is consistent with the existing rule.

Rule 604 continues, but reorganizes for clarity, the existing rule governing a party's refusal to make admissions or stipulations. Although some parts of the rule might better fit in evidence or discovery provisions, the Commission will adopt the substance of the rule as proposed. When discovery or evidentiary rules are revised, Rule 604 will be considered.

Subpart G

Subpart G governs initial and final decisions and administrative review of these decisions in cases set for hearing under Subpart E and in other proceedings designated by the

Commission, as stated in Rule 701. Rule 703 sets forth the content of any decision generally.

Rule 704 affords participants the right to file briefs or make oral argument before the initial decision. There is considerable controversy over Rule 704(b)(1) which allows the judge to substitute oral argument for either initial or reply briefs. Many commenters urge that oral argument be available only in addition to written briefs, and that two rounds of written briefs be provided to the participants as a matter of right. Commenters do not believe oral argument and written briefs to be interchangeable.

The Commission appreciates these concerns. Certain issues, particularly complex fact situations, lend themselves to written better than oral presentation. However, a judge should have the flexibility to determine whether oral argument or written briefs suit the particular situation. It is unnecessary to ensure the right to file a brief in any and all cases. In that regard, Rule 704 also permits the judge, if appropriate, to dispense with reply briefs and oral replies, and to limit issues dealt with in such reply briefs and oral replies. Informed exercise of this discretion will help expedite proceedings.

Rules 705 and 706 contain additional provisions about briefs and their contents. It should be noted that Rule 705 allows the judge to call for additional briefs, such as pre-trial briefs, in those cases where they would be appropriate. Although commenters were split on the issue, Rule 706 also provides that, unless waived, initial briefs will include proposed findings of fact and conclusions of law as a means of easing the burdens of decision writing.

Rule 707 pertains to oral argument set by the judge before an initial decision and the inclusion of such argument in the record.

Rules 708 through 710 deal with initial decisions with respect to who prepares the decision, other types of decisions which may be substituted for initial decisions, and waiver of initial decisions. Rule 708 allows an oral initial decision by a presiding officer. The officer must promptly reduce the decision to writing for certification. Any initial decision is a final Commission action 10 days after exceptions are due under Rule 711, unless exceptions are filed or the decision is stayed by the Commission. Under Rule 710, participants may request that a final decision be issued without issuance of an initial decision.

Rule 711 applies to exceptions from initial decisions. Commenters focused primarily on one aspect of the rule which, though virtually the same as existing § 1.31(c), apparently would lead to deviations from existing Commission practice in one respect. As under the existing rule, failure to take exception from an initial decision will result in waiver of the right to take exception at a later time. However, as one commenter argues, the existing rule may be "a sleeping giant honored more in the breach than in the observance."

The Commission is aware that this provision in Rule 711(d) may encourage more exceptions than have previously been filed, as participants seek to protect their rights to take exception. Nevertheless, this waiver provision is useful in avoiding delay by preventing parties from holding back positions and arguments until the rehearing stage. The Commission is better served by being apprised early of the positions of all participants. The rule should also alleviate the need for so many extensive orders on rehearing which arise under the current rules. The rule is not "unfair", as some commenters allege. On the contrary, it is unfair to other participants and wasteful of the Commission's time and resources for anyone to keep the Commission uninformed of facts and arguments which should otherwise have been presented to the Commission at the hearing and exceptions stages. It is important to note, in this regard, that Rule 711(a) avoids the imposition of the burden which commenters foresee, the need to prepare extensive exceptions which merely duplicate the exceptions of other participants. The rule allows a so-called "me too" exception which would incorporate by reference any other participant's exceptions.

Rule 711(a) also limits briefs to the Commission on and opposing exceptions to 100 pages. This represents an increase over existing page limits because briefs on and opposing exceptions must now be double-spaced under Rule 2003. In addition, briefs to the Commission may not incorporate by reference arguments made in initial or reply briefs or include any attached portions of initial or reply briefs. These changes are made in the interest of more succinct argumentation.

Rule 712 allows the Commission to review an initial decision even in those cases where no participant takes exception. If the Commission chooses to review such a decision, it must stay the effectiveness of the initial decision. The stay must be issued within 10 days after the due date for briefs on exception. Contrary to some suggestions, the Commission will not limit, by this rule, the length of any stay. The appropriate length of a stay depends on case-specific facts and the costs or benefits of the stay.

Rule 713 contains the rules for rehearing. Rehearing is taken of final decisions which are identified in Rule 713(a). Rehearing may also be taken of any initial decision, if no exceptions are taken and the Commission does not initiate review. No answers to requests for rehearing are permitted, although the Commission may determine to allow parties to brief or argue certain issues raised on rehearing. Normally, all issues are ventilated in briefs on exception. To alleviate a potential administrative burden on the Commission, a request for rehearing is denied by operation of law after 30 days if no Commission action is taken within that time.

Rules 714 and 715 govern certified questions and interlocutory appeals. These procedures allow a question raised in a proceeding pending before a judge, or other presiding officer, to be determined by the Commission at a time prior to presentation of the entire case to the Commission for decision or review. Oral as well as written views of participants may be discussed in the judge's memorandum appended to the question certified. Rule 715 sets forth the relevant standard by which a presiding officer or the motions Commissioner, as appropriate, determines whether to permit appeal to the Commission. The standard is whether there are extraordinary circumstances that make prompt Commission review of a contested ruling necessary to prevent detriment to the public interest or irreparable harm to a person. As under the existing rules, the motions Commissioner is designated by the Chairman to rule on behalf of the Commission in these limited circumstances.

Rule 716 allows the Commission or administrative law judge to reopen an evidentiary record. Some commenters oppose the rule because it does not impose a time limit on reopening. In the interest of administrative finality, the Commission does not contemplate reopening records after decisions are final. Nevertheless, to impose a bar against reopening a proceeding after a final decision may unduly limit the Commission's authority and flexibility to act. In this respect, the rule is adopted as proposed.

Subpart T

Subpart T differs in the scope of its applicability from revised and rewritten Subparts B, E, F, and G. This subpart, as well as the subparts which follow it, applies to all Commission proceedings and establishes formal requirements for

all filings of the Commission. It is basically a mechanical provision which sets forth how documents are prepared, filed, docketed, noticed, and served.

One commenter advocated new provisions designed to inform interested persons of hearings and contested issues, such as by publication of hearing calendars. While the Commission favors improved dissemination of information to the public, such administrative matters are not appropriate for these rules. These rules do not therefore contain provisions for hearing calendars, even though such publications may be helpful in other contexts.

Rule 2001 prescribes where and when filings must be made. It also governs rejection of filings and the basis for rejection. The rule is procedural and therefore does not set forth a substantive legal standard for rejection. Those provisions which govern whether a filing is rejected as, say, patently deficient or a substantive nullity, are found elsewhere in the Commission's regulations.

Rule 2002 specifies captions for filings. Rule 2003 sets forth standards for paper size and for the format of documents filed. Rule 2003(b) significantly changes existing practice by requiring all filings to be double-spaced, including briefs to the Commission on and opposing exceptions. However, any tariff or rate filing may be single-spaced. Rule 2004 governs the number of originals and copies filed. Rule 2005 provides subscription and verification requirements. The Commission's docket system is described in Rule 2006.

Computation of all time periods prescribed in the chapter is governed by Rule 2007. In a change from existing practice, any half-day holiday that affects Commission operations will be counted as other holidays for purposes of computing when a time period ends. The rule also specifies when a Commission rule or order is considered issued or effective. Extensions of time are governed by Rule 2008.

Constructive notice is provided for under Rule 2009. Generally, the Commission provides notice only in the form of Federal Register publication. However, actual notice or other forms of constructive notice, such as newspaper notice under Part I of the Federal Power Act, may be provided. Actual notice is given by service, directly or by mail, under Rule 2010. Service lists and certification of service are also governed by Rule 2010.

IV. Miscellaneous Provisions

The final rule makes many technical and conforming changes throughout the Commission's rules to reconcile cross-references to the redesignations to Part 385.

In addition, the rule would delete §§ 2.59 and 2.62 which deal with natural gas pipeline rate and certificate procedures. These now obsolete provisions were adopted in 1962 in an effort to expedite hearings and have fallen into disuse. The revisions made by this rule make them entirely superfluous and they are, therefore, revoked.

V. Table of Derivations

The following table indicates, to the extent practicable, how the revised regulations are derived from the old regulations or whether a provision is entirely new.

Part 385	Old part 1
Rule	
101	New.
102:	
(a)	New.
(b)	§ 1.1(f)(2).
(c)	New.
(d)	§1.1(f)(6).
(e)	§ 1.1(f)(12), (15).
103	New.
201	New.
202	New.
203(a):	
(1)	§ 1.15(a).
(2)	§ 1.5(b)(1); § 1.6(b); § 1.10(a); § 1.15(a).
(3)	§ 1.5(b); § 1.7(a); § 1.10; § 1.12(a).
(4)	New.
(5)	§ 1.6(b); § 1.7 (a), (c); § 1.9(a).
(6)	§ 1.5(b); § 1.6(b); § 1.7 (a), (c); § 1.9 (c), (e); § 1.12(a).
(7)	§ 1.5(c); § 1.7; § 1.8(c); § 1.9; § 1.11; § 1.12.
(8)	§ 1.7(d).
(9)	New.
(10)	§ 1.5(b)(3).
203(b):	
(11)	New.
203(c):	
(1)	§ 1.5(b)(1).
(2)	§ 1.5(b)(1).
(3)	§ 1.5(b)(2); § 1.7(c).
204	§ 1.1(f)(6); § 1.5(a).
205	New.
206:	
(a)	§ 1.6(a).
(b)	New.
(c)	§ 1.9(a).
(d)	§ 1.9(h).
207	§1.7(a).
208	New.
209	§ 1.6(d).
210	§ 1.8(d); § 1.19(b).
211:	
(a)	§ 1.10 (a), (b).
(b)	New.
212:	
(a)	§ 1.12(a).
(b)	§ 1.12(b).
(c)	§ 1.12(a).
(d)	§ 1.12(e).
213:	
(a)	§ 1.9 (a), (c); § 1.12(c).
(b)	New.
(c)	§ 1.9 (a), (c).
(d)	§ 1.9 (a), (c), (f); § 1.8(e); § 1.12(c).
(e)	§ 1.9(a), (c).
214:	
(a)	§ 1.8 (a), (b).
(b)	§ 1.8 (b), (c).
(c)	§ 1.8 (e), (f).
(d)	New.
215:	
(a)	§ 1.11(a).
(b)	New.
(c)	New.
(d)	§ 1.11(a).
(e)	§ 1.11(c).
216	§ 1.11(d).
217	New.
501	New.
502:	
(a)	§ 1.20(a).
(b)	§ 1.20(m)(2).
(c)	New.
503	§ 1.20(b); § 375.302(f).
504(a):	
(1)	§ 1.27(d).
(2)	§ 1.20(e).
(3)	§ 1.20(f).
(4)	§ 1.20(g)(1).
(5)	§ 1.27(b)(9).
504(b):	
(1)	§ 1.27(b)(1).
(2)	§ 1.27(b)(1).
(3)	§ 1.27(b)(2).
(4)	§ 1.27(b)(4).
(5)	§ 1.27(b)(5).
(6)	§ 1.27(b)(3).
(7)	§ 1.27(b)(6).
(8)	§ 1.27(b)(7).
(9)	New.
(10)	§ 1.27(b)(8).
(11)	New.
(12)	§ 1.27(b)(10).
(13)	New.
(14)	§ 1.27(c).
(15)	New.
(16)	§ 1.20(i).
(17)	§ 1.8(g).
(18)	§ 1.20(j).
(19)	§ 1.27(b)(11).
504(c)	§ 120(d).
505	§ 1.20(g).
506:	
(a)	§ 1.22(a).
(b)	New.
507	§ 1.26(c)(2)(iii).
508:	
(a)	§ 1.26(c)(5).
(b)	§ 1.26(c)(1).
(c)	§ 1.26(c)(2)(ii).
(d)	§ 1.26(d).
(e)	§ 1.25.
509:	
(a)	§ 1.26(a).
(b)	§ 1.26(g)(2); § 1.26(b).
510:	
(a)	§ 1.20(k).
(b)	§ 1.20(b).
(c)	§ 1.20(k).
(d)	§ 1.26(c)(5).
(e)	§ 1.22(c).
(f)	§ 1.28(f).
601:	
(a)	§ 1.18(a).
(b)	§ 1.18(b).
(c)	§ 1.18(c).
(d)	§ 1.18(d).
602:	
(a)	§ 1.18(e)(1)(i).
(b)	§ 1.18(e)(1)(ii).
(c)	§ 1.18(e)(1)(iii).
(d)	§ 1.18(e)(1)(iv).
(e)	§ 1.18(e)(1)(v).
(f)	§ 1.18(e)(2)
(g)	§ 1.18(e)(3).
(h)	§ 1.18(e)(4).
(i)	§ 1.18(e)(5).
603	§ 1.18(g).
604	§ 1.18(f).
701	New.
702	New.
703	§ 1.30 (h), (g).
704	§ 1.29(a).
705	New.
706(a)	§ 1.29(a).
706(b):	
(1)	§ 1.29(c).
(2)	New.
706(c)	§ 1.29(d).
706(d)	New.
707:	
(a)	§ 1.29(b).
(b)	New.
(c)	§ 1.29(b).
708(a)	§1.30(a).
708(b):	
(1)	§ 1.30(a).

Part 385	Old part 1
(2)	New.
(3)	New.
(4)	§ 1.30(a).
708(c):	
(1)	New.
(2)	§ 1.30(j).
708(d)	§ 1.30(d) (2), (3); § 1.31(a).
709	§ 1.20(b)(2); § 1.30 (b), (c) (1), (2).
710	§ 1.30(c).
711(a):	
(1)	§ 1.31(a).
(2)	§ 1.31(b)(2).
(3)	§ 1.31(b)(2), (c).
711(b)	§ 1.31(b).
711(c)	§ 1.31(c).
711(d)	§ 1.31(d).
712	§ 1.30(d)(2).
713:	
(a)	New.
(b)	§ 1.34(a).
(c)	§ 1.34(d).
(d)	§ 1.34(a), (b).
(e)	§ 1.34(d).
(f)	New.
(g)	§ 1.34(c).
714	§ 1.27(b)(8).
715:	
(a)	§ 1.28(a).
(b)	§ 1.28(b).
(c)	§ 1.28(c).
(d)	§ 1.28(d).
(e)	§ 1.28(e).
716	§ 1.33.
2001:	*
(a)	§ 1.14(a)(1).
(b)	§ 1.14(a)(2).
2002	§ 1.15(a).
2003	§ 1.15(c), (d).
2004	§ 1.15(b).
2005:	
(a)	§ 1.16(a).
(b)	§ 1.16(b).
2006	§ 1.14(b).
2007:	
(a)	§ 1.13(a).
(b)	§ 1.13(b).
(c)	§ 1.13(c).
2008	§ 1.13(d).
2009	§ 1.19(b).
2010:	
(a)	§ 1.17(a).
(b)	§ 1.17(b).
(c)	§ 1.17(c).
(d)	New.
(e)	New.
(f)	§ 1.17(a), (b).
(g)	§ 1.17(d).
(h)	§ 1.17(e).

VI. Effective Date

This rule is effective August 26, 1982. The Commission considers that this delayed effective date provides sufficient time to consider any issues which may be raised on rehearing before the public is obliged to use the new rule.

(Administrative Procedure Act, 5 U.S.C. 551–557; Department of Energy Organization Act, 42 U.S.C. 7101–7352; Exec. Order No. 12009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791–828, as amended; Natural Gas Act, 15 U.S.C. 717–717w, as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Interstate Commerce Act, 49 U.S.C. 1, *et seq.*)

List of Subjects

18 CFR Part 1

General definitions; Rules of construction.

18 CFR Part 385

Administrative practice and procedures.

18 CFR Part 388

Freedom of Information.

In consideration of the foregoing, the Commission:

(a) Terminates the applicability of the Interstate Commerce Commission's General Rules of Practice (49 Code of Federal Regulations, Part 1100) to oil pipeline filings and proceedings, except for §§ 1100.43 through 1100.52 (modified procedures) and Appendix C to Part 1100 (*ex parte* rules); and

(b) Amends Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The table of contents to Chapter I is amended by revising the entry under Subchapter A for Part 1 and by adding entries for Subchapter X, Parts 385 through 388, to read as follows:

* * * * *

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

* * * * *

SUBCHAPTER A—GENERAL RULES

Part
1. Rules of General Applicability

* * * * *

SUBCHAPTER X—PROCEDURAL RULES

385 Rules of practice and procedure
386 [Reserved]
387 [Reserved]
388 Public information and requests

2. Part 1 is revised to read as follows.

PART 1—RULES OF GENERAL APPLICABILITY

Subpart A—Definitions and Rules of Construction

Sec.
1.101 Definitions.
1.102 Words denoting, number, gender, and so forth.

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. Ch. 5.

Subpart A—Definitions and Rules of Construction

§ 1.101 Definitions.

The definitions set forth in this section apply for purposes of this chapter, except as otherwise provided in this chapter:

(a) "Commission" means the Federal Energy Regulatory Commission.

(b) "Chairman" means the Chairman of the Commission.

(c) "Commissioner" and "Member" means a member of the Commission.

(d) "Secretary" means the Secretary of the Commission.

(e) "Executive Director" means the Executive Director of the Commission.

(f) "General Counsel" means the General Counsel of the Commission.

(g) "DOE Act" means the Department of Energy Organization Act.

(h) "DOE" means the Department of Energy.

(i) "Administrative law judge" means an officer appointed under section 3105 of title 5 of the United States Code.

(j) "Attorney" means an attorney admitted to practice before the Supreme Court of the United States or the highest court of any State, territory of the United States, or the District of Columbia, or any other person with the requisite qualifications to represent others, who acts in a representative capacity for any participant before the Commission.

(k) "State Commission" means the regulatory body of any State or municipality having jurisdiction to regulate rates or charges for the sale of electric energy or natural gas to consumers or for the transportation of oil by pipeline within the State or municipality.

(l) "Oath" includes "affirmation" and "sworn" includes "affirmed".

§ 1.102 Words denoting number, gender and so forth.

In determining the meaning of any provision of this chapter, unless the context indicates otherwise:

(a) The singular includes the plural;

(b) The plural includes the singular;

(c) The present tense includes the future tense; and

(d) Words of one gender include the other gender.

3. Chapter I is further amended by adding a new Subchapter X to read as follows:

SUBCHAPTER X—PROCEDURAL RULES

Part
385 Rules of practice and procedure.
386 [Reserved]
387 [Reserved]
388 Public information and requests.

PART 385—RULES OF PRACTICE AND PROCEDURE

Subpart A—General Provisions

Sec.
385.101 Applicability (Rule 101).
385.102 Definitions (Rule 102).
385.103 References to rules (Rule 103).

Subpart B—Pleadings, Tariff or Rate Filings, Notices of Tariff or Rate Examination, Orders To Show Cause, Intervention, and Summary Dispositon

385.201 Applicability (Rule 201).
385.202 Types of pleadings (Rule 202).
385.203 Content of pleadings and tariff or rate filings (Rule 203).
385.204 Applications (Rule 204).
385.205 Tariff or rate filings (Rule 205).
385.206 Complaints (Rule 206).
385.207 Petitions (Rule 207).
385.208 Notices of protests to tentative oil pipeline valuations (Rule 208).
385.209 Notices of tariff or rate examination and orders to show cause (Rule 209).
385.210 Method of notice; dates established in notice (Rule 210).
385.211 Protests other than under Rule 208 (Rule 211).
385.212 Motions (Rule 212).
385.213 Answers (Rule 213).
385.214 Intervention (Rule 214).
385.215 Amendment of pleadings and tariff or rate filings (Rule 215).
385.216 Withdrawal of pleadings (Rule 216).
385.217 Summary disposition (Rule 217).

Subparts C and D [Reserved]

Subpart E—Hearings

385.501 Applicability (Rule 501).
385.502 Initiating a hearing (Rule 502).
385.503 Consolidation and severance by Chief Administrative Law Judge (Rule 503).
385.504 Duties and powers of presiding officers (Rule 504).
385.505 Right of participants to present evidence (Rule 505).
385.506 Examination of witnesses during hearing (Rule 506).
385.507 Prepared written testimony (Rule 507).
385.508 Exhibits (Rule 508).
385.509 Admissibility of evidence (Rule 509).
385.510 Miscellaneous provisions (Rule 510).

Subpart F—Conferences, Settlements, and Stipulations

385.601 Conferences (Rule 601).
385.602 Submission of settlement offers (Rule 602).
385.603 Settlement of negotiations before a settlement judge (Rule 603).
385.604 Refusal to make admissions or stipulations (Rule 604).

Subpart G—Decisions

385.701 Applicability (Rule 701).
385.702 Definitions (Rule 702).
385.703 Contents of decisions (Rule 703).
385.704 Rights of participants before initial decision (Rule 704).
385.705 Additional powers of presiding officer with respect to briefs (Rule 705).
385.706 Initial and reply briefs before initial decision (Rule 706).
385.707 Oral argument before initial decision (Rule 707).
385.708 Initial decisions by presiding officer (Rule 708).
385.709 Other types of decisions (Rule 709).
385.710 Waiver of the initial decision (Rule 710).
385.711 Exception and briefs on and opposing exceptions after initial decision (Rule 711).
385.712 Commission review of initial decision in the absence of exceptions (Rule 712).
385.713 Request for rehearing (Rule 713).
385.714 Certified questions (Rule 714).
385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).
385.716 Reopening (Rule 716).

Subpart H—Shortened Procedures

385.801 Waiver of hearing (Rule 801).
385.802 Noncontested proceedings (Rule 802).

Subpart I—Commission Review of Remedial Orders

385.901 Scope (Rule 901).
385.902 Definitions (Rule 902).
385.903 Request for nondisclosure of information (Rule 903).
385.904 Commencement of proceeding (Rule 904).
385.905 Stay of contested order (Rule 905).
385.906 Pleadings (Rule 906).
385.907 New facts and issues (Rule 907).
385.908 Discovery (Rule 908).
385.909 Hearings (Rule 909).
385.910 Conduct of the hearing (Rule 910).
385.911 Burden of proof (Rule 911).
385.912 Proposed findings of fact, conclusions of law, and comments (Rule 912).
385.913 Proposed order (Rule 913).
385.914 Commission action (Rule 914).
385.915 Ex parte communications (Rule 915).
385.916 Withdrawal of petition for review (Rule 916).
385.917 Sanctions (Rule 917).

Subpart J—Commission Review of Adjustment Request Denials

385.1001 Scope (Rule 1001).
385.1002 Definitions (Rule 1002).
385.1003 Request for nondisclosure of information (Rule 1003).
385.1004 Commencement of proceeding (Rule 1004).
385.1005 Replies (Rule 1005).
385.1006 Request for hearing (Rule 1006).
385.1007 Presiding officer (Rule 1007).
385.1008 Hearings (Rule 1008).
385.1009 Proof (Rule 1009).
385.1010 Proposed order (Rule 1010).
385.1011 Trial order (Rule 1011).
385.1012 Ex parte communications (Rule 1012).

Subpart K—Petitions for Adjustments Under the NGPA

385.1101 Applicability (Rule 1101).
385.1102 Definitions (Rule 1102).
385.1103 Commencement of proceedings (Rule 1103).
385.1104 Initial petition (Rule 1104).
385.1105 Interventions (Rule 1105).
385.1106 Other filings (Rule 1106).
385.1107 Evaluations (Rule 1107).
385.1108 Criteria (Rule 1108).
385.1109 Orders (Rule 1109).
385.1110 Review of initial decisions and order for adjustment (Rule 1110).
385.1111 Conferences (Rule 1111).
385.1112 Requests for confidential treatment (Rule 1112).
385.1113 Interim relief (Rule 1113).
385.1114 Motions (Rule 1114).
385.1115 Procedural rulings (Rule 1115).
385.1116 Appeals (Rule 1116).
385.1117 Petition for adjustment treated as request for interpretation (Rule 1117).

Subpart L [Reserved]

Subpart M—Cooperative Procedure With State Commissions

385.1301 Policy (Rule 1301).
385.1302 Notice (Rule 1302).
385.1303 Conferences (Rule 1303).
385.1304 Procedure governing matters referred to a board (Rule 1304).
385.1305 Joint and concurrent hearings (Rule 1305).
385.1306 Intervention by state commissions (Rule 1306).

Subparts N through R [Reserved]

Subpart S—Miscellaneous

385.1901 Interpretations and interpretive rules under NGPA (Rule 1901).
385.1902 Appeals from action of staff (Rule 1902).
385.1903 Notice in rulemaking proceedings (Rule 1903).
385.1904 Copies of transcripts (Rule 1904).
385.1905 Subpoenas (Rule 1905).
385.1906 Depositions (Rule 1906).
385.1907 Reports of compliance (Rule 1907).

Subpart T—Formal Requirements for Filings in Proceedings Before the Commission

385.2001 Filings (Rule 2001).
385.2002 Caption of filings (Rule 2002).
385.2003 Specifications (Rule 2003).
385.2004 Original and copies of filings (Rule 2004).
385.2005 Subscription and verification (Rule 2005).
385.2006 Docket system (Rule 2006).
385.2007 Time (Rule 2007).
385.2008 Extension of time (Rule 2008).
385.2009 Notice (Rule 2009).
385.2010 Service (Rule 2010).

Subpart U—Appearance and Practice Before the Commission

385.2101 Appearances (Rule 2101).
385.2102 Suspension (Rule 2102).
385.2103 Appearance of former employees (Rule 2103).

Subpart V—Ex Parte Communications: Separation of Functions

385.2201 Ex parte communications (Rule 2201).
385.2202 Separation of functions of staff (Rule 2202).

Subparts W through Z [Reserved]

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. Ch. 5.

Subpart A—Applicability and Definitions

§ 385.101 Applicability (Rule 101).

(a) *General rules.* Except as provided in paragraph (b) of this section, this part applies to:

(1) Any filing or proceeding under this chapter; and

(2) Any oil pipeline filing or proceeding under this chapter or 49 CFR Chapter X and replaces the Interstate Commerce Commission General Rules of Practice (49 CFR Part 1100) with respect to any oil pipeline filing or proceeding.

(b) *Exceptions.* (1) This part does not apply to investigations under Part 1b of this chapter.

(2) If any provision of this part is inconsistent with any provision of another part of this chapter, the provision of this part is inapplicable and the provision of the other part governs to the extent of the inconsistency.

(3) If any provision of this part is inconsistent with any provision of 49 CFR Chapter X that is not otherwise replaced by this part or Commission rule or order, the provision of this part is inapplicable and the provision of 49 CFR Chapter X governs to the extent of the inconsistency.

(4) With respect to any oil pipeline filing or proceeding:

(i) The modified procedure set forth in 49 CFR 1100.42–1100.52 continue to apply; and

(ii) The ex parte rules set forth in Appendix C to 49 CFR Part 1100 apply in lieu of Rule 2201.

(c) *Transitional provisions.* (1) This part applies to any filing submitted on or after and to any proceeding pending on or initiated after, August 26, 1982.

(2) A decisional authority may, in the interest of justice:

(i) Apply the appropriate provisions of the prior Rules of Practice and Procedure (18 CFR Part 1) to any filing submitted after, or to any proceeding or part of a proceeding pending on August 26, 1982;

(ii) Apply the provisions of this part to any filing submitted, or any proceeding or part of a proceeding initiated, after April 28, 1982 but before August 26, 1982.

(d) *Title 49 CFR.* References in this chapter to 49 CFR refer to Interstate Commerce Commission regulations in 49 CFR Chapter X in effect on September 30, 1977.

(e) *Waiver.* To the extent permitted by law, the Commission may, for good cause, waive any provision of this part or prescribe any alternative procedures that it determines to be appropriate.

§ 385.102 Definitions (Rule 102).

For purposes of this part—

(a) "Decisional authority" means the Commission or Commission employee, including the Oil Pipeline Board, that, at the time for decision on a question, has authority or responsibility under this chapter or 49 CFR Chapter X to decide that particular question.

(b) "Participant" means:

(1) Any party; or

(2) Any employee of the Commission assigned to present the position of the Commission staff in a proceeding before the Commission.

(c) "Party" means, with respect to a proceeding:

(1) A person filing any application, petition, tariff or rate filing, complaint, or any protest under section 19a(i) of the Interstate Commerce Act (49 U.S.C. 19a(i));

(2) Any respondent to a proceeding; or

(3) Any person whose intervention in a proceeding is effective under Rule 214.

(d) "Person" means an individual, partnership, corporation, association, joint stock company, public trust, an organized group of persons, whether incorporated or not, a receiver or trustee of the foregoing, a municipality, including a city, county, or any other political subdivision of a State, a State, the District of Columbia, any territory of the United States or any agency of any of the foregoing, any agency, authority, or instrumentality of the United States (other than the Commission), or any corporation which is owned directly or indirectly by the United States, or any officer, agent, or employee of any of the foregoing acting as such in the course of his or her official duty. The term also includes a foreign government or any agency, authority, or instrumentality thereof.

(e) "Presiding officer" means:

(1) With respect to any proceeding set for hearing under Subpart E of this part, one or more Members of the Commission, or any administrative law judge, designated to preside at such hearing, or, if no Commissioner or administrative law judge is designated, the Chief Administrative Law Judge; or

(2) With respect to any proceeding not set for hearing under Subpart E, any employee, including the Oil Pipeline Board, designated by rule or order to conduct the proceeding.

(f) "Respondent" means any person:

(1) To whom an order to show cause or notice of tariff or rate examination is issued by the Commission;

(2) Against whom a complaint is directed; or

(3) Designated as a respondent by the Commission or by the terms of this chapter.

§ 385.103 Reference to rules (Rule 103).

This part cross-references its sections according to rule number, as indicated by the section titles. Any filing with the Commission may refer to any section of this part by rule number; for example, "Rule 103."

Subpart B—Pleadings, Tariff and Rate Filings, Notices of Tariff or Rate Examination, Orders To Show Cause, Intervention, and Summary Disposition

§ 385.201 Applicability (Rule 201).

This subpart applies to any pleading, tariff or rate filing, notice of tariff or rate examination, order to show cause, intervention, or summary disposition.

§ 385.202 Types of pleadings (Rule 202).

Pleadings include any application, complaint, petition, protest, notice of protest, answer, motion, and any amendment or withdrawal of a pleading. Pleadings do not include comments on rulemakings or comments on offers of settlement.

§ 385.203 Content of pleadings and tariff or rate filings (Rule 203).

(a) *Requirements for a pleading or a tariff or rate filing.* Each pleading and each tariff or rate filing must include, as appropriate:

(1) If known, the reference numbers, docket numbers, or other identifying symbols of any relevant tariff, rate, schedule, contract, application, rule, or similar matter or material;

(2) The name of each participant for whom the filing is made or, if the filing is made for a group of participants, the name of the group, provided that the name of each member of the group is set forth in a previously filed document which is identified in the filing being made;

(3) The specific authorization or relief sought;

(4) The tariff or rate sheets;

(5) The name and address of each person against whom the complaint is directed;

(6) The relevant facts, if not set forth in a previously filed document which is identified in the filing being made;

(7) The position taken by the participant filing any pleading, to the extent known when the pleading is filed, and the basis in fact and law for such position;

(8) Subscription or verification, if required;

(9) A certificate of service under Rule 2010(h), if service is required;

(10) The name, address, and telephone number of an individual who, with respect to any matter contained in the

filing, represents the person for whom filing is made; and

(11) Any additional information required to be included by statute, rule, or order.

(b) *Requirement for any initial pleading or tariff or rate filing.* The initial pleading or tariff or rate filing submitted by a participant or a person seeking to become a party must conform to the requirements of paragraph (a) of this section and must include:

(1) The exact name of the person for whom the filing is made;

(2) The location of that person's principal place of business; and

(3) The name, address, and telephone number of at least one, but not more than two, persons upon whom service is to be made and to whom communications are to be addressed in the proceeding.

(c) *Combined filings.* If two or more pleadings, or one or more pleadings and a tariff or rate filing are included as items in a single filing each such item must be separately designated and must conform to the requirements which would be applicable to it if filed separately.

§ 385.204 Applications (Rule 204).

Any person seeking a license, permit, certification, or similar authorization or permission, must file an application to obtain that authorization or permission.

§ 385.205 Tariff or rate filings (Rule 205).

A person must make a tariff or rate filing in order to establish or change any specific rate, rate schedule, tariff, tariff schedule, fare, charge, or term or condition of service, or any classification, contract, practice, or any related regulation established by and for the applicant.

§ 385.206 Complaints (Rule 206).

(a) *General rule.* Any person may file a complaint seeking Commission action against any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction.

(b) *Answers.* Unless otherwise ordered by the Commission, any respondent to a complaint must file an answer with the Commission.

(c) *Satisfaction.* (1) If the respondent to a complaint satisfies such complaint, in whole or in part, either before or after an answer is filed, the complainant and the respondent must sign and file:

(i) A statement setting forth when and how the complaint was satisfied; and

(ii) A motion for dismissal of, or an amendment to, the complaint based on the satisfaction.

(2) The decisional authority may order the submission of additional information before acting on a motion for dismissal or an amendment under paragaph (c)(1)(ii) of this section.

§ 385.207 Petitions (Rule 207).

(a) *General rule.* A person must file a petition when seeking:

(1) Relief under Subpart I, J, or K of this part;

(2) A declaratory order or rule to terminate a controversy or remove uncertainty;

(3) Action on appeal from a staff action, other than a decision or ruling of a presiding officer, under Rule 1902;

(4) A rule of general applicability; or

(5) Any other action which is in the discretion of the Commission and for which this chapter prescribes no other form of pleading.

(b) *Declarations of intent under the Federal Power Act.* For purposes of this part, a declaration of intent under section 23(b) of the Federal Power Act is treated as a petition for a declaratory order.

§ 385.208 Notices of protest to tentative oil pipeline valuations (Rule 208).

(a) *General rule.* Any person objecting to a tentative valuation of any oil pipeline under section 19a of the Interstate Commerce Act (49 U.S.C. 19a(i)) must file a notice of protest, as prescribed under that section.

(b) *Effect.* A notice of protest has the effect prescribed in section 19a of the Interstate Commerce Act (49 U.S.C. 19a).

(c) *Service.* A notice of protest must be served by the protestant on the oil pipeline company whose tentative valuation is protested.

§ 385.209 Notices of tariff or rate examination and orders to show cause (Rule 209).

(a) *Issuance.* (1) If the Commission seeks to determine the validity of any rate, rate schedule, tariff, tariff schedule, fare, charge, or term or condition of service, or any classification, contract, practice, or any related regulation established by and for the applicant which is demanded, observed, charged, or collected, the Commission will initiate a proceeding by issuing a notice of tariff or rate examination.

(2) The Commission may initiate a proceeding against a person by issuing an order to show cause.

(b) *Contents.* A notice of examination or an order to show cause will contain a statement of the matters about which the Commission is inquiring, and a statement of the authority under which the Commission is acting. The statement is tentative and sets forth issues to be considered by the Commission.

(c) *Answers.* A person who is ordered to show cause must answer in accordance with Rule 213.

§ 385.210 Method of notice; dates established in notice (Rule 210).

(a) *Method.* When the Secretary gives notice of tariff or rate filings, applications, petitions, notices of tariff or rate examinations, and orders to show cause, the Secretary will give such notice in accordance with Rule 2009.

(b) *Dates for filing interventions and protests.* A notice given under this section will establish the dates for filing interventions and protests. Only those filings made within the time prescribed in the notice will be considered timely.

§ 385.211 Protests other than under Rule 208 (Rule 211).

(a) *General rule.* (1) Any person may file a protest to object to any application, complaint, petition, order to show cause, notice of tariff or rate examination, or tariff or rate filing.

(2) The filing of a protest does not make the protestant a party to the proceeding. The protestant must intervene under Rule 214 to become a party.

(3) Subject to paragraph (a)(4) of this section, the Commission will consider protests in determining further appropriate action. Protests will be placed in the public file associated with the proceeding.

(4) If a proceeding is set for hearing under Subpart E of this part, the protest is not part of the record upon which the decision is made.

(b) *Service.* (1) Any protest directed against a person in a proceeding must be served by the protestant on the person against whom the protest is directed.

(2) The Secretary may waive any procedural requirement of this subpart applicable to protests. If the requirement of service under this paragraph is waived, the Secretary will place the protest in the public file and may send a copy thereof to any person against whom the protest is directed.

§ 385.212 Motions (Rule 212).

(a) *General rule.* A motion may be filed:

(1) At any time, unless otherwise provided;

(2) By a participant or a person who has filed a timely motion to intervene which has not been denied.

(b) *Written and oral motions.* Any motion must be filed in writing, except that the presiding officer may permit an

oral motion to be made on the record during a hearing or conference.

(c) *Contents.* A motion must contain a clear and concise statement of:

(1) The facts and law which support the motion; and

(2) The specific relief or ruling requested.

(d) *Motions to the Commission during a hearing.* (1) Except as provided in Rule 214(c)(1) (automatic intervention) and Rule 710(a) (waiver of initial decision), a motion to the Commission which is made after a hearing under Subpart E of this part has commenced and which is not acted on within 30 days after filing, is denied.

(2) A motion made to a subordinate official of the Commission is not considered a motion to the Commission for purposes of this paragraph.

§ 385.213 Answers (Rule 213).

(a) *Required or permitted.* (1) Any respondent to a complaint or order to show cause must make an answer, unless the Commission orders otherwise.

(2) An answer may not be made to a protest, an answer, a motion for oral argument, or a request for rehearing, unless otherwise ordered by the decisional authority. A presiding officer may prohibit an answer to a motion for interlocutory appeal.

(3) An answer may be made to any pleading, if not prohibited under paragraph (a)(2) of this section.

(4) An answer to a notice of tariff or rate examination must be made in accordance with the provisions of such notice.

(b) *Written or oral answers.* Any answer must be in writing, except that the presiding officer may permit an oral answer to a motion made on the record during a hearing conducted under Subpart E or during a conference.

(c) *Contents.* (1) An answer must contain a clear and concise statement of:

(i) Any disputed factual allegations; and

(ii) Any law upon which the answer relies.

(2) When an answer is made in response to a complaint, an order to show cause, or an amendment to such pleading, the answerer must, to the extent practicable:

(i) Admit or deny, specifically and in detail, each material allegation of the pleading answered; and

(ii) Set forth every defense relied on.

(3) General denials of facts referred to in any order to show cause, unsupported by the specific facts upon which the respondent relies, do not comply with paragraph (a)(1) of this section and may be a basis for summary disposition under Rule 217, unless otherwise required by statute.

(d) *Time limitations.* (1) Any answer to a motion or to an amendment to a motion must be made within 15 days after the motion or amendment is filed, unless otherwise ordered.

(2) Any answer to a pleading or amendment to a pleading, other than an answer to a motion under paragraph (d)(1) of this section must be made:

(i) If the pleading or amendment is published in the **Federal Register**, not later than 30 days after such publication, unless otherwise ordered; or

(ii) If the pleading or amendment is not published in the **Federal Register**, not later than 30 days after the filing of the pleading or amendment, unless otherwise ordered.

(e) *Failure to answer.* (1) Any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted.

(2) Failure to answer an order to show cause will be treated as a general denial to which paragraph (c)(3) of this section applies.

§ 385.214 Intervention (Rule 214).

(a) *Filing.* (1) The Secretary of Energy is a party to any proceeding upon filing a notice of intervention in that proceeding. If the Secretary's notice is not filed within the period prescribed under Rule 210(b), the notice must state the position of the Secretary on the issues in the proceeding.

(2) Any State Commission is a party to any proceeding upon filing a notice of intervention in that proceeding, if the notice is filed within the period established under Rule 210(b). If the period for filing notice has expired, a State Commission must comply with the rules for motions to intervene applicable to any person under paragraph (a)(3) of this section including the content requirements of paragraph (b) of this section.

(3) Any person, other than the Secretary of Energy or a State Commission, seeking to become a party must file a motion to intervene.

(b) *Contents of motion.* (1) Any motion to intervene must state, to the extent known, the position taken by the movant and the basis in fact and law for that position.

(2) A motion to intervene must also state the movant's interest in sufficient factual detail to demonstrate that:

(i) The movant has a right to participate which is expressly conferred by statute or by Commission rule, order, or other action;

(ii) The movant has or represents an interest which may be directly affected by the outcome of the proceeeding, including any interest as a:

(A) Consumer,

(B) Customer,

(C) Competitor, or

(D) Security holder of a party; or

(iii) The movant's participation is in the public interest.

(2) If a motion to intervene is filed after the end of any time period established under Rule 210, such a motion must, in addition to complying with paragraph (b)(1) of this section, show good cause why the time limitation should be waived.

(c) *Grant of party status.* (1) If no answer in opposition to a timely motion to intervene is filed within 15 days after the motion to intervene is filed, the movant becomes a party at the end of the 15 day period.

(2) If an answer in opposition to a timely motion to intervene is filed not later than 15 days after the motion to intervene is filed or, if the motion is not timely, the movant becomes a party only when the motion is expressly granted.

(d) *Grant of late intervention.* (1) In acting on any motion to intervene filed after the period prescribed under Rule 210, the decisional authority may consider whether:

(i) The movant had good cause for failing to file the motion within the time prescribed;

(ii) Any disruption of the proceeding might result from permitting intervention;

(iii) Any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and

(iv) The motion conforms to the requirements of paragraph (b) of this section.

(2) Except as otherwise ordered, a grant of an untimely motion to intervene must not be a basis for delaying or deferring any procedural schedule established prior to the grant of that motion.

(3) (i) The decisional authority may impose limitations on the participation of a late intervener to avoid delay and prejudice to the other participants.

(ii) Except as otherwise ordered, a late intervener must accept the record of the proceeding as the record was developed prior to the late intervention.

(4) If the presiding officer orally grants a motion for late intervention, the officer will promptly issue a written order confirming the oral order.

§ 385.215 Amendment of pleadings and tariff or rate filings (Rule 215).

(a) *General rules.* (1) Any participant, or any person who has filed a timely motion to intervene which has not been denied, may seek to modify its pleading by filing an amendment which conforms to the requirements applicable to the pleading to be amended.

(2) A tariff or rate filing may not be amended, except as allowed by statute. The procedures provided in this section do not apply to amendment of tariff or rate filings.

(3) (i) If a written amendment is filed in a proceeding, or part of a proceeding, that is not set for hearing under Subpart E, the amendment becomes effective as an amendment on the date filed.

(ii) If a written amendment is filed in a proceeding, or part of a proceeding, which is set for hearing under Subpart E, that amendment is effective on the date filed only if the amendment is filed more than five days before the earlier of either the first prehearing conference or the first day of evidentiary hearings.

(iii) If, in a proceeding, or part of a proceeding, that is set for hearing under Subpart E, a written amendment is filed after the time for filing provided under paragraph (a)(3)(ii) of this section, or if an oral amendment is made to a presiding officer during a hearing or conference, the amendment becomes effective as an amendment only as provided under paragraph (d) of this section.

(b) *Answers.* Any participant, or any person who has filed a timely motion to intervene which has not been denied, may answer a written or oral amendment in accordance with Rule 213.

(c) *Motion opposing an amendment.* Any participant, or any person who has filed a timely motion to intervene which has not been denied, may file a motion opposing the acceptance of any amendment, other than an amendment under paragraph (a)(3)(i) of this section, not later than 15 days after the filing of the amendment.

(d) *Acceptance of amendments.* (1) An amendment becomes effective as an amendment at the end of 15 days from the date of filing, if no motion in opposition to the acceptance of an amendment under paragraph (a)(3)(iii) of this section is filed within the 15 day period.

(2) If a motion in opposition to the acceptance of an amendment is filed within 15 days after the filing of the amendment, the amendment becomes effective as an amendment on the twentieth day after the filing of the amendment, except to the extent that the decisional authority, before such date, issues an order rejecting the amendment, wholly or in part, for good cause.

(e) *Directed amendments.* A decisional authority, on motion or otherwise, may direct any participant, or any person seeking to be a party, to file a written amendment to amplify, clarify, or technically correct a pleading.

§ 385.216 Withdrawal of pleadings (Rule 216).

(a) *Filing.* Any participant, or any person who has filed a timely motion to intervene which has not been denied, may seek to withdraw a pleading by filing a notice of withdrawal.

(b) *Action on withdrawals.* (1) The withdrawal of any pleading is effective at the end of 15 days from the date of filing of a notice of withdrawal, if no motion in opposition to the notice of withdrawal is filed within that period and the decisional authority does not issue an order disallowing the withdrawal within that period. The decisional authority may disallow, for a good cause, all or part of a withdrawal.

(2) If a motion in opposition to a notice of withdrawal is filed within the 15 day period, the withdrawal is not effective until the decisional authority issues an order accepting the withdrawal.

(c) *Conditional withdrawal.* In order to prevent prejudice to other participants, a decisional authority may, on motion or otherwise, condition the withdrawal of any pleading upon a requirement that the withdrawing party leave material in the record or otherwise make material available to other participants.

§ 385.217 Summary disposition (Rule 217).

(a) *Applicability.* This section applies to:

(1) Any proceeding, or any part of a proceeding, while the Commission is the decisional authority; and

(2) Any proceeding, or part of a proceeding, which is set for hearing under Subpart E.

(b) *General rule.* If the decisional authority determines that there is no genuine issue of fact material to the decision of a proceeding or part of a proceeding, the decisional authority may summarily dispose of all or part of the proceeding.

(c) *Procedures.* (1) Any participant may make a motion for summary disposition of all or part of a proceeding.

(2) If a decisional authority, other than the Commission, is considering summary disposition of a proceeding, or part of a proceeding, in the absence of a motion for summary disposition by a participant, the decisional authority will grant the participants an opportunity to comment on the proposed disposition prior to any summary disposition, unless, for good cause shown, the decisional authority provides otherwise.

(3) If, prior to setting a matter for hearing, the Commission is considering summary disposition of a proceeding or part of a proceeding in the absence of a motion for summary disposition by any participant and the Commission determines that notice and comment on summary disposition are practicable and necessary, the Commission may notify the participants and afford them an opportunity to comment on any proposed summary disposition.

(d) *Disposition.* (1)(i) If a decisional authority, other than the Commission, summarily disposes of an entire proceeding, the decisional authority will issue an initial decision for the entire proceeding.

(ii) Except as provided under paragraph (d)(1)(iii) of this section, a decisional authority which summarily disposes of part of a proceeding may:

(A) Issue a partial initial decision; or

(B) Postpone issuing an initial decision on the summarily disposed part and combine it with the initial decision on the entire proceeding or other appropriate part of the proceeding.

(iii) If the decisional authority summarily disposes of part of a proceeding and such disposition requires the filing of new tariff or rate schedule sheets, the decisional authority will issue an initial decision on that part of the proceeding.

(2) Any initial decision issued under paragraph (d)(1) of this section is considered an initial decision issued under Subpart G of this part, except that the following rules do not apply: Rule 704 (rights of participants before initial decision), Rule 705 (discretion of presiding officer before initial decision), Rule 706 (initial and reply briefs before initial decision), Rule 707 (oral argument before initial decision), and Rule 709 (other types of decisions).

Subpart E—Hearings

§ 385.501 Applicability (Rule 501).

This subpart applies to any proceeding, or part of a proceeding, that the Commission sets for a hearing to be conducted in accordance with this subpart.

§ 385.502 Initiation of hearing (Rule 502).

(a) *Notice or order initiating hearing.* A hearing under this subpart will be initiated by:

(1) Order of the Commission;

(2) Notice by the Secretary, at the direction of the Commission; or

(3) Order of the Oil Pipeline Board.

(b) *Contents of notice or order initiating hearing.* Any order or notice under paragraph (a) of this section will set forth:

(1) The authority and jurisdiction under which the hearing is to be held;

(2) The nature of the proceeding;

(3) The final date for the filing of interventions, if the dates were not fixed by an earlier notice;

(4) The presiding officer, if designated at that time; and

(5) The date, time, and location of the hearing or prehearing conference, if known; and

(6) Any other appropriate matter.

(c) *Consolidation, severance, and phasing.* Any notice or order under this section may direct consolidation of proceedings, phasing of a proceeding, or severance of proceedings or issues in a proceeding.

§ 385.503 Consolidation and severance by Chief Administrative Law Judge (Rule 503).

The Chief Administrative Law Judge may, on motion or otherwise, order proceedings pending under this subpart consolidated for hearing on any or all matters in issue in such proceedings or order the severance of proceedings or issues in a proceeding.

§ 385.504 Duties and powers of presiding officers (Rule 504).

(a) *Duties.* (1) It shall be the duty of the presiding officer to conduct a fair and impartial hearing and to determine the matter justly under the law.

(2) The presiding officer will cause all appearances during a hearing to be entered on the record with a notation in whose behalf each appearance is made.

(3) The presiding officer will establish the order of presentation of the cases of all participants in the hearing.

(4) The presiding officer will assure that the taking of evidence and subsequent matters proceed with all reasonable diligence and with the least delay practicable.

(5) The presiding officer will prepare and certify an initial decision to the Commission, as provided in Subpart G of this part.

(b) *Powers.* Except as otherwise ordered by the Commission or provided by law, the presiding officer may:

(1) Schedule and otherwise regulate the course of the hearing;

(2) Recess, reconvene, postpone, or adjourn the hearing;

(3) Administer oaths;

(4) Rule on and receive evidence;

(5) Cause Discovery to be conducted;

(6) Issue subpoenas under Rule 1905;

(7) Hold conferences of the participants, as provided in Subpart F of this part;

(8) Rule on, and dispose of, procedural matters, including oral or written motions;

(9) Summarily dispose of a proceeding or part of a proceeding, as provided in Rule 217;

(10) Certify a question to the Commission, as provided in Rule 714;

(11) Permit or deny appeal of an interlocutory ruling, as provided in Rule 715;

(12) Rule on motions to intervene, as provided in Rule 214;

(13) Separate any issue or group of issues from other issues in a proceeding and treat such issue or group of issues as a separate phase of the proceeding;

(14) Maintain order, as follows:

(i) Ensure that any disregard by any person of rulings on matters of order and procedure is noted on the record or, if appropriate, is made the subject of a special written report to the Commission;

(ii) In the event any person engages in disrespectful, disorderly, or contumacious language or conduct in connection with the hearing, recess the hearing for such time as necessary to regain order;

(iii) Request that the Commission take approprite action, including removal from the proceeding, against a participant or counsel, if necessary to maintain order.

(15) Modify any time period, if such modification is in the interest of justice and will result in no undue prejudice to any participant;

(16) Limit the number of expert witnessess who may testify on any issue, consistent with the rule against repetitious testimony in Rule 509(a);

(17) Limit the number of persons, other than staff, representing a similar interest who may examine witnesses or make or argue motions or objections;

(18) Require; or authorize the admission of, further evidence upon any issue at any time before the close of the evidentiary record;

(19) Take any other action necessary or appropriate to the discharge of the duties of a presiding officer, consistent with applicable law and policy.

(c) *Disqualification.* (1) A presiding officer may withdraw from a proceeding, if that officer believes himself or herself disqualified.

(2) The Commission may, for good cause, order the removal of any presiding officer from a proceeding, on motion filed with the Commission or otherwise.

§ 385.505 Right of participants to present evidence (Rule 505).

Consistent with the provisions of this part, a participant has the right to present such evidence, including rebuttal evidence, to make such objections and arguments, and to conduct such cross-examination, as may be necessary to assure true and full disclosure of the facts.

§ 385.506 Examination of witnesses during hearing (Rule 506).

(a) *Prepared written direct and rebuttal testimony.* Unless the presiding officer orders such testimony to be presented orally, direct and rebuttal testimony of a witness in a hearing must be prepared and submitted in written form, as required by Rule 507. Any witness submitting written testimony must be available for cross-examination, as provided in this subpart.

(b) *Oral testimony during hearing.* Oral examination of a witness in a hearing must be conducted under oath and in the presence of the presiding officer, with opportunity for all participants to question the witness to the extent consistent with Rules 504(b)(17), 505, and 509(a).

§ 385.507 Prepared written testimony (Rule 507).

(a) *Offered as an exhibit.* The prepared written testimony of any witness must be offered as an exhibit. The presiding officer will allow a reasonable period of time for the preparation of such written testimony.

(b) *Time for filing.* Any prepared written testimony must be filed and served within the time provided by the presiding officer, in no case later than 10 days before the session of the hearing at which such exhibit is offered, unless a shorter period is permitted under paragraph (c) of this section.

(c) *Late-filed testimony.* (1) If all participants in attendance at the hearing agree, the 10-day requirement for filing any written testimony under paragraph (b) of this section is waived.

(2) The presiding officer may permit the introduction of any prepared written testimony without compliance with paragraph (b) of this section, if the presiding officer determines that the introduction of the testimony:

(i) Is necessary for a full disclosure of the facts or is warranted by any other showing of good cause; and

(ii) Would not be unduly prejudicial to any participant.

(3) If any written testimony is served and filed within the 10 day period provided in paragraph (b) of this section, the presiding officer will provide the

participants in attendance with a reasonable opportunity to inspect the testimony.

(d) *Form; authentication.* Prepared written testimony must have line numbers inserted in the left-hand margin of each page and must be authenticated by an affidavit of the witness.

§ 385.508 Exhibits (Rule 508).

(a) *General rules.* (1) Except as provided in paragraphs (b) through (e) of this section, any material offered in evidence, other than oral testimony, must be offered in the form of an exhibit.

(2) Any participant who seeks to have an exhibit admitted into evidence must provide one copy of the exhibit to the presiding officer and two copies to the reporter, not later than the time that the exhibit is marked for identification.

(3) The presiding officer will cause each exhibit offered by a participant to be marked for identification.

(b) *Designation and treatment of matter sought to be admitted.* (1) If a document offered as an exhibit contains material not offered as evidence, the participant offering the exhibit must:

(i) Plainly designate the matter offered as evidence; and

(ii) Segregate and exclude the material not offered in evidence, to the extent practicable.

(2) If, in a document offered as an exhibit, material not offered in evidence is so extensive as to unnecessarily encumber the record, the material offered in evidence will be marked for identification. The remainder of the document will be considered not to have been offered in evidence.

(3) Copies of any document offered as an exhibit under paragraph (b)(2) of this section must be delivered to the other participants appearing at the hearing by the participant offering the exhibit in evidence. The participants will be offered an opportunity to inspect the entire document and to offer as an exhibit in evidence, in like manner, any other portions of the document.

(c) *Pubic document items by reference.* If all or part of a public document is offered in evidence and the participant offering the document shows that all or the pertinent part of the document, is reasonably available to the public, the document need not be produced or marked for identification but may be offered in evidence as a public document by identifying all or the relevent part of the document to be offered.

(d) *Official notice of facts.* (1) A presiding officer may take official notice of any matter that may be judicially noticed by the courts of the United States, or of any matter about which the Commission, by reason of its functions, is expert.

(2) The presiding officer must afford any participant, making a timely request, an opportunity to show the contrary of an officially noticed fact.

(3) Any participant requesting official notice of facts after the conclusion of the hearing must set forth reasons to justify the failure to request official notice prior to the close of the hearing.1

(e) *Stipulations.* (1) Participants in a proceeding may stipulate to any relevant matters of fact or the authenticity of any relevant documents.

(2) A stipulation may be received in evidence at the hearing and, if received in evidence, the stipulation is binding on the stipulating participants with respect to any matter stipulated.

(3) A stipulation may be written or made orally at the hearing.

§ 385.509 Admissibility of evidence (Rule 509).

(a) *General standard.* The presiding officer should exclude from evidence any irrelevant, immaterial, or unduly repetitious material. The presiding officer may also exclude from evidence any other material which the presiding officer determines is not of the kind which would affect reasonable and fair-minded persons in the conduct of their daily affairs.

(b) *Ruling on evidence.* (1) The presiding officer will rule on the admissibility of any evidence offered.

(2) If any participant objects to the admission or exclusion of evidence, the participant must state briefly the grounds for the objection.

(3) Formal exceptions to a ruling or evidence will not be permitted; the validity of any ruling on evidence may be argued at a later time in the same proceeding.

(4) The presiding officer will not permit formal exceptions to any ruling on evidence. This prohibition against formal exceptions does not preclude a participant from raising, as an issue, the validity of any ruling on evidence later in the proceeding.

§ 385.510 Miscellaneous provisions (Rule 510).

(a) *Transcript.* (1) Any statement made at a hearing session will be transcribed in a verbatim report, with nothing omitted except as directed by the presiding officer on the record. A statement at a hearing may not occur off-the-record, except as otherwise directed by the presiding officer.

(2) After the closing of a record, changes in the transcript are not permitted, except as provided in paragraph (b) of this section.

(b) *Transcript corrections.* (1) Any correction in the transcript of a hearing may be made only if the correction conforms the transcript to the evidence presented at the hearing and to the truth.

(2) A transcript correction may be incorporated in the record, in accordance with a ruling of the presiding officer, if:

(i) Agreed to by all participants and approved by the presiding officer; or

(ii) The presiding officer requests submittal of transcript corrections and rules on the corrections submitted.

(3) Transcript corrections may be made at any time during the hearing or after the close of evidence, as the presiding officer determines appropriate, but only if the correction is made not less than 10 days before the time for filing final briefs.

(c) *Close of evidentiary record.* The presiding officer will designate the time at which the evidentiary record is closed. Evidence may not be added to the evidentiary record after the record is closed, unless the record is reopened under Rule 716.

(d) *Copies of exhibits and motions to participants.* Except as otherwise provided in this subpart, copies of exhibits and motions will be provided at the hearing to any participants who have not been provided copies.

(e) *Fees of Subpoenaed witnesses.* (1) Any witnesses subpoenaed by the Commission must be paid the same fees and mileage provided for similar services in the district courts of the United States.

(2) Any fees and mileage paid to a subpoenaed witness under paragraph (e)(1) of this section will be paid by the Commission, unless the witness is subpoenaed at the instance of a party.

(3) If the witness is subpoenaed at the instance of a party, any fees and mileage paid to the witness under paragraph (e)(1) of this section must be paid by the party. The Commission, before issuing any subpoena at the instance of the party, may require the party to deposit an amount adequate to cover the witness probable fees and mileage under paragraph (e)(1) of this section. The deposit will be refunded when the party pays the witness in full.

(f) *Offers of proof.* (1) Any offer of proof made in connection with a ruling of the presiding officer rejecting or excluding proffered oral testimony must consist of a statement of the substance of the evidence which the participant claims would be adduced by the testimony.

(2) If any excluded evidence is in the form of an exhibit or is a public document, a copy of such exhibit will constitute the offer of proof or the public document will be specified for identification.

Subpart F—Conferences, Settlements, and Stipulations

§ 385.601 Conferences (Rule 601).

(a) *Convening.* The Commission or the decisional authority, upon motion or otherwise, may convene a conference of the participants in a proceeding at any time for any purpose related to the conduct or disposition of the proceeding, including submission and consideration of offers of settlement.

(b) *General requirements.* (1) The participants in a proceeding must be given due notice of the time and place of a conference under paragraph (a) of this section and of the matters to be addressed at the conference. Participants attending the conference must be prepared to discuss the matters to be addressed at the conference, unless there is good cause for a failure to be prepared.

(2) Any person appearing at the conference in a representative capacity must be authorized to act on behalf of that person's principal with respect to matters to be addressed at the conference.

(3) If any party fails to attend the conference such failure will constitute a waiver of all objections to any order or ruling arising out of, or any agreement reached at, the conference.

(c) *Powers of decisional authority at conference.* (1) The decisional authority, before which the conference is held or to which the conference reports, may dispose, during a conference, of any procedural matter on which the decisional authority is authorized to rule and which may appropriately and usefully be disposed of at that time.

(2) If, in a proceeding set for hearing under Subpart E, the presiding officer determines that the proceeding would be substantially expedited by distribution of proposed exhibits, including written prepared testimony and other documents, reasonably in advance of the hearing session, the presiding officer may, with due regard for the convenience of the participants, direct advance distribution of the exhibits by a prescribed date. The presiding officer may also direct the preparation and distribution of any briefs and other documents which the presiding officer determines will substantially expedite the proceeding.

§ 385.602 Submission of settlement offers (Rule 602).

(a) *Applicability.* This section applies to written offers of settlement filed in any proceeding pending before the Commission or set for hearing under Subpart E. For purposes of this section, the term "offer of settlement" includes any written proposal to modify an offer of settlement.

(b) *Submission of offer.* (1) Any participant in a proceeding may submit an offer of settlement at any time.

(2) An offer of settlement must be filed with the Secretary. The Secretary will transmit the offer to:

(i) The presiding officer, if the offer is filed after a hearing has been ordered under Subpart E of this part and before the presiding officer certifies the record to the Commission; or

(ii) The Commission.

(c) *Contents of offer.* (1) An offer of settlement must include:

(i) The settlement offer;

(ii) A separate explanatory statement;

(iii) Copies of, or references to, any document, testimony, or exhibit, including record citations if there is a record, and any other matters that the offerer considers relevant to the offer of settlement; and

(iv) A separate proposed Commission order approving the settlement, including the following statement: "The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding".

(2) If an offer of settlement pertains to a tariff or rate filing, the offer must include any proposed change in a form suitable for inclusion in the filed rate schedules or tariffs, and a number of copies sufficient to satisfy the filing requirements applicable to tariff or rate filings of the type at issue in the proceeding.

(d) *Service.* (1) A participant offering settlement under this section must serve a copy of the offer of settlement:

(i) On every participant in accordance with Rule 2010;

(ii) On any person required by the Commission's rules to be served with the pleading or tariff or rate schedule filing, with respect to which the proceeding was initiated.

(2) The participant serving the offer of settlement must notify any person or participant served under paragraph (d)(1) of this section of the date on which comments on the settlement are due under paragraph (f) of this section.

(e) *Use of non-approved offers of settlement as evidence.* An offer of settlement that is not approved by the Commission, and any comment on that offer, is not admissible in evidence against any participant who objects to its admission.

(2) Any discussion of the parties with respect to an offer of settlement that is not approved by the Commission is not subject to discovery or admissible in evidence.

(f) *Comments.* (1) A comment on an offer of settlement must be filed with the Secretary who will transmit the comment to the Commission, if the offer of settlement was transmitted to the Commission, or to the presiding officer in any other case.

(2) A comment on an offer of settlement may be filed not later than 20 days after the filing of the offer of settlement and reply comments may be filed not later than 30 days after the filing of the offer, unless otherwise provided by the Commission or the presiding officer.

(3) Any failure to file a comment constitutes a waiver of all objections to the offer of settlement.

(g) *Uncontested offers of settlement.* (1) If comments on an offer are transmitted to the presiding officer and the presiding officer finds that the offer is not contested by any participant, the presiding officer will certify to the Commission the offer of settlement, a statement that the offer of settlement is uncontested, and any hearing record or pleadings which relate to the offer of settlement.

(2) If comments on an offer of settlement are transmitted to the Commission, the Commission will determine whether the offer is uncontested.

(3) An uncontested offer of settlement may be approved by the Commission upon a finding that the settlement appears to be fair and reasonable and in the public interest.

(h) *Contested offers of settlement.* (1) (i) If the Commission determines that any offer of settlement is contested in whole or in part, by any party, the Commission may decide the merits of the contested settlement issues, if the record contains substantial evidence upon which to base a reasoned decision or the Commission determines there is no genuine issue of material fact.

(ii) If the Commission finds that the record lacks substantial evidence or that the contested issues can not be severed from the offer of settlement, the Commission will:

(A) Establish procedures for the purpose of receiving additional evidence before a presiding officer upon which a decision on the contested issues may reasonably be based; or

(B) Take other action which the Commission determines to be appropriate.

(iii) If contested issues are severable, the uncontested portions may be severed and decided in accordance with paragraph (g) of this section.

(2)(i) If any comment on an offer of settlement is transmitted to the presiding officer and the presiding officer determines that the offer is contested, whole or in part, by any participant, the presiding officer may certify all or part of the offer to the Commission. If any offer or part of an offer is contested by a party, the offer may be certified to the Commission only if paragraph (h)(2)(ii) or (iii) of this section applies.

(ii) Any offer of settlement or part of any offer may be certified to the Commission if the presiding officer determines that there is no genuine issue of material fact. Any certification by the presiding officer must contain the determination that there is no genuine issue of material fact and any hearing record or pleadings which relate to the offer or part of the offer being certified.

(iii) Any offer of settlement or part of any offer may be certified to the Commission, if:

(A) The parties concur on a motion for omission of the initial decision as provided in Rule 710;

(B) The presiding officer determines that the record contains substantial evidence from which the Commission may reach a reasoned decision on the merits of the contested issues; and

(C) The parties have an opportunity to avail themselves of their rights with respect to the presentation of evidence and cross-examination of opposing witnesses.

(iv) If any contested issues are severable, the uncontested portions of the settlement may be certified immediately by the presiding officer to the Commission for decision, as provided in paragraph (g) of this section.

(i) *Reservation of rights.* Any procedural right that a participant has in the absence of an offer of settlement is not affected by Commission disapproval, or approval subject to condition, of the uncontested portion of the offer of settlement.

§ 385.603 Settlement negotiations before a settlement judge (Rule 603).

(a) *Applicability.* This section applies to any proceeding set for hearing under Subpart E of this part and to any other proceeding in which the Commission has ordered the appointment of a settlement judge.

(b) *Definition.* For purposes of this section, "settlement judge" means the administrative law judge appointed by the Chief Administrative Law Judge to conduct settlement negotiations under this section.

(c) *Requests for appointment of settlement judges.* (1) Any participant may file a motion requesting the appointment of a settlement judge with the presiding officer, or, if there is no presiding officer for the proceeding, with the Commission.

(2) A presiding officer may request the Chief Administrative Law Judge to appoint a settlement judge.

(3) A motion under paragraph (c)(1) of this section may be acted upon at any time, and the time limitations on answers in Rule 213(d) do not apply.

(4) Any answer or objection filed after a motion has been acted upon will not be considered.

(d) *Commission order directing appointment of settlement judge.* The Commission may, on motion or otherwise, order the Chief Administrative Law Judge to appoint a settlement judge.

(e) *Appointment of settlement judge by Chief Administrative Law Judge.* The Chief Administrative Law Judge may appoint a settlement judge for any proceeding, if requested by the presiding officer under paragraph (c)(2) of this section or if the presiding officer concurs in a motion made under paragraph (c)(1) of this section.

(f) *Order appointing settlement judge.* The Chief Administrative Law Judge will appoint a settlement judge by an order, which specifies whether, and to what extent, the proceeding is suspended pending termination of settlement negotiations conducted in accordance with this section. The order may confine the scope of any settlement negotiations to specified issues.

(g) *Powers and duties of settlement judge.* (1) A settlement judge will convene and preside over conferences and settlement negotiations between the participants and assess the practicalities of a potential settlement.

(2)(i) A settlement judge will report to the Chief Administrative Law Judge or the Commission, as appropriate, describing the status of the settlement negotiations and evaluating settlement prospects.

(ii) In any such report, the settlement judge may recommend the termination or continuation of settlement negotiations conducted under this section.

(iii) The first report by the settlement judge will be made not later than 30 days after the appointment of the settlement judge. The Commission or the Chief Administrative Law Judge may order additional reports at any time.

(h) *Termination of settlement negotiations before a settlement judge.* Unless an order of the Commission directing the appointment of a settlement judge provides otherwise, settlement negotiations conducted under this section will terminate upon the order of the Chief Administrative Law Judge issued after consultation with the settlement judge.

(i) *Non-reviewability.* Any decision concerning the appointment of a settlement judge or the termination of any settlement negotiations is not subject to review by, appeal to, or rehearing by the presiding officer, Chief Administrative Law Judge, or the Commission.

(j) *Multiple settlement negotiations.* If settlement negotiations are terminated under paragraph (h) of this section, the Chief Administrative Law Judge may subsequently appoint a settlement judge in the same proceeding to conduct settlement negotiations in accordance with this section.

§ 385.604 Refusal to make admissions or stipulations (Rule 604).

(a) If any party in a proceeding set for hearing under Subpart E of this part refuses to admit or stipulate to the genuineness of a document or the truth of a matter of fact and, if the party requesting the admission or stipulation proves the genuineness of the document or the truth of the matters of fact to which stipulation is requested, the party who made the proof may apply to the presiding officer for an order requiring the other party to pay any reasonable expenses incurred in making the proof, including reasonable attorney's fees.

(b) Unless the presiding officer finds either good reason for the refusal by a party to admit or stipulate or that the admission or stipulation sought is of no substantial importance, the presiding officer will order payment of expenses under paragraph (a) of this section.

(c) A presiding officer must grant immediately any motion under Rule 715(b) to permit an interlocutory appeal to the Commission from a ruling of the presiding officer under this section.

(d) If any party does not comply with an order under this section after the order is final, the Commission may strike all or any part of that party's pleadings or limit or deny further participation by the party.

(e) Any proposed stipulation not agreed to is not admissible in evidence against any participant objecting to admission of the stipulation.

Subpart G—Decisions

§ 385.701 Applicability (Rule 701).

This subpart applies to decisions in proceedings set for hearing under Subpart E of this part, including any decision on a certified question, interlocutory appeal, or reopening, and to any decision on rehearing, except that:

(a) The provisions of this subpart, other than those relating to rehearing or reopening, do not apply to consideration of an offer of settlement; and

(b) This subpart applies to summary disposition only to the extent provided in Rule 217.

§ 385.702 Definitions (Rule 702).

For purposes of this subpart:

(a) "Initial decision" means any decision rendered by a presiding officer in accordance with Rule 708;

(b) "Final decision" means any decision referred to in Rule 713.

§ 385.703 Contents of decisions (Rule 703).

Any decision in a proceeding is part of the record of that proceeding and will contain:

(a) A ruling on each exception presented and any finding or conclusion, with supporting reasons, on any material issue of fact, law, or discretion presented on the record; and

(b) The appropriate rule, order, sanction, relief, or a denial of any rule, order, motion, or relief.

§ 385.704 Rights of participants before initial decision (Rule 704).

After testimony is taken in a proceeding, or phase of a proceeding, the presiding officer will afford every participant an opportunity to:

(a) Submit written initial briefs in accordance with Rule 706, except that the presiding officer may provide an opportunity for oral argument in lieu of, or in addition to, initial briefs; and

(b) Submit written reply briefs in accordance with Rule 706, except that the presiding officer may:

(1) Provide an opportunity for oral reply argument in lieu of, or in addition to, reply briefs; or

(2) For good cause, deny opportunity for reply or limit the issues which may be addressed in any reply.

§ 385.705 Additional powers of presiding officer with respect to briefs (Rule 705).

(a) *Limitations on briefs.* A presiding officer, with due regard to the nature of the proceeding, may limit the length of any brief to be filed under Rule 706.

(b) *Additional briefs and other filings.* If appropriate, the presiding officer may permit or require briefs or other filings in addition to those provided for in Rule 706.

§ 385.706 Initial and reply briefs before initial decision (Rule 706).

(a) *When filed.* The presiding officer will prescribe a time for filing initial or reply briefs and for service of such briefs, giving due regard to the nature of the proceeding, the extent of the record, and the number and complexity of the issues. Unless the presiding officer otherwise orders, the time prescribed in a proceeding for filing briefs will be the same for all initial briefs and the same for all reply briefs.

(b) *Contents.* (1) An initial brief filed with the presiding officer must include:

(i) A concise statement of the case;

(ii) A separate section containing proposed findings and conclusions, unless waived by the presiding officer;

(iii) Arguments in support of the participant's position; and

(iv) Any other matter requird by the presiding officer.

(2)(i) A reply brief filed with the presiding officer must be limited to a response to any arguments and issues raised in the initial briefs.

(ii) The presiding officer may impose limits on the reply brief in addition to any prescribed under paragraph (b)(2)(i) of this section.

(c) *Form.* (1) An exhibit admitted in evidence or marked for identification in the record may not be reproduced in the brief, but may be reproduced, within reasonable limits, in an appendix to the brief. Any pertinent analysis of an exhibit may be included in a brief.

(2) If a brief exceeds 20 pages, the brief must be accompanied by a table of contents and of points made, including page references, and an alphabetical list of citations, with page references.

(d) *Record.* All initial and reply briefs will accompany the record and be available to the Commission and the presiding officer for consideration in deciding the case.

§ 385.707 Oral argument before initial decision (Rule 707).

(a) *Procedure.* The presiding officer will designate the order of any oral argument to be held, set a time limit on each argument, and make any other procedural rulings.

(b) *Scope.* (1) If oral argument is held without an initial brief, each participant must be given the opportunity to present orally the information required or permitted to be included in initial briefs under Rule 706(b).

(2) If oral argument is held in addition to an initial or reply brief, oral argument may be limited to issues considered by the presiding officer to be appropriate issues for oral argument.

(c) *Inclusion of transcript of oral argument.* All oral arguments will be transcribed and included in the record and will be available to the Commission and the presiding officer in deciding the case.

§ 385.708 Initial decisions by presiding officers (Rule 708).

(a) *Applicability.* This section applies to any proceeding in which a presiding officer, other than the Commission, presided over the reception of the evidence.

(b) *General rule.* (1) Except as otherwise ordered by the Commission or provided in paragraph (b)(2) of this section, the presiding officer will prepare a written initial decision.

(2)(i) If time and circumstances require, the presiding officer may issue an order stating that an oral initial decision will be issued.

(ii) An oral decision is considered served upon all participants when the decision is issued orally on the record. Promptly after service of the oral decision, the presiding officer will prepare the oral initial decision contained in the transcript in the format of a written initial decision.

(3) Any initial decision prepared under paragraph (b)(1) or (b)(2) of this section will be certified to the Commission by the presiding officer with a copy of the record in the proceeding.

(4) Not later than 35 days after the certification of an initial decision under paragraph (b)(3) of this section, the presiding officer, after notifying the participants and receiving no objection from them, may make technical corrections to the initial decision.

(c) *Initial decision prepared and certified by presiding officer.* (1) The presiding officer who presides over the reception of evidence will prepare and certify the initial decision, if any, unless the officer is unavailable or the Commission provides otherwise in accordance with 5 U.S.C. 557(b).

(2) If the presiding officer who presided over the reception of evidence becomes unavailable, the Chief Administrative Law Judge may issue an order designating another qualified presiding officer to prepare and certify the initial decision.

(d) *Finality of initial decision.* For purposes of requests for rehearing under Rule 713, an initial decision becomes a final Commission decision 10 days after exceptions are due under Rule 711, unless:

(1) Exceptions are timely filed under Rule 711; or

(2) The Commission issues an order staying the effectiveness of the decision pending review under Rule 712.

§ 385.709 Other types of decisions (Rule 709).

In lieu of an initial decision under Rule 708, the Commission may order any type of decision as provided by 5 U.S.C. 557(b), or permit waiver of the initial decision as provided by Rule 710.

§ 385.710 Waiver of the initial decision (Rule 710).

(a) *General rule.* Any participant may file a motion requesting the Commission to issue a final decision without any initial decision. If all participants join in the motion, the motion is granted, unless the Commission denies the motion within 10 days after the date of filing of the motion or, in the case of an oral motion under paragraph (c)(2) of this section, within 10 days after the motion is transmitted to the Commission.

(b) *Content.* Any motion to waive the initial decision filed with the Commission must specify:

(1) Whether any participant waives any procedural right;

(2) Whether all participants concur in the request to waive the initial decision;

(3) The reasons that waiver of the initial decision is in the interest of parties and the public interest;

(4) Whether any participant desires an opportunity for filing briefs; and

(5) Whether any participant desires an opportunity for oral argument before the presiding officer, the Commission, or an individual Commissioner.

(c) *How and when made.* (1) Any written motion under this section may be filed at any time, but not later than the fifth day following the close of the hearing conducted under Subpart E of this part.

(2) An oral motion under this section may be made during a hearing session, in which case the presiding officer will transmit to the Commission the relevant portions of the transcript of the hearing in which the motion was made.

§ 385.711 Exceptions and briefs on and opposing exceptions after initial decision (Rule 711).

(a) *Exceptions.* (1)(i) Not later than 30 days after service of an initial decision, any participant may file with the Commission exceptions to the initial decision in a brief on exceptions.

(ii) Not later than 20 days after the latest date for filing a brief on exceptions, any participant may file a brief opposing exceptions in response to a brief on exceptions.

(iii) A participant may file, within the time set for filing briefs opposing exceptions, a brief on exceptions solely for the purpose of incorporating by reference one or more numbered exceptions contained in the brief of another participant. A brief filed under this clause need not comply with the requirements set forth in paragraph (b) of this section.

(2) A brief on exceptions or a brief opposing exceptions may not exceed 100 pages, unless the Chief Administrative Law Judge, upon motion, changes the page limitation.

(3) The Secretary may extend, on motion or upon direction of the Commission, the time limits for any brief on or opposing exceptions. No additional briefs are permitted, unless specifically ordered by the Commission.

(4) A participant may not attach to, or incorporate by reference in, any brief on exceptions or brief opposing exceptions any portion of an initial or reply brief filed in the proceeding.

(b) *Nature of briefs on exceptions and of briefs opposing exceptions.* (1) Any brief on exceptions and any brief opposing exceptions must include:

(i) If the brief exceeds 10 pages in length, a separate summary of the brief not longer than five pages; and

(ii) A presentation of the participant's position and arguments in support of that position, including references to the pages of the record or exhibits containing evidence and arguments in support of that position.

(2) Any brief on exceptions must include, in addition to matters required by paragraph (b)(1) of this section:

(i) A short statement of the case;

(ii) A list of numbered exceptions, including a specification of each error of fact or law asserted; and

(iii) A concise discussion of the policy considerations that may warrant full Commission review and opinion.

(3) A brief opposing exceptions must include, in addition to matters required by paragraph (b)(1) of this section:

(i) A list of exceptions opposed, by number; and

(ii) A rebuttal of policy considerations claimed to warrant Commission review.

(c) *Oral argument.* (1) Any participant filing a brief on exceptions or brief opposing exceptions may request, by written motion, oral argument before the Commission or an individual Commissioner.

(2) A motion under paragraph (c)(1) of this section must be filed within the time limit for filing briefs opposing exceptions.

(3) No answer may be made to a motion under paragraph (c)(1) and, to that extent, Rule 213(a)(3) is inapplicable to a motion for oral argument.

(4) A motion under paragraph (c)(1) of this section may be granted at the discretion of the Commission. If the motion is granted, any oral argument will be limited, unless otherwise specified, to matters properly raised by the briefs.

(d) *Failure to take exceptions results in waiver.* (1) *Complete waiver.* If a participant does not file a brief on exceptions within the time permitted under this section, any objection to the initial decision by the participant is waived.

(2) *Partial waiver.* If a participant does not object to a part of an initial decision in a brief on exceptions, any objections by the participant to that part of the initial decision are waived.

(3) *Effect of waiver.* Unless otherwise ordered by the Commission for good cause shown, a participant who has waived objections under paragraphs (d)(1) or (d)(2) of this section to all or part of an initial decision may not raise such objections before the Commission in oral argument or on rehearing.

§ 385.712 Commission review of initial decision in the absence of exceptions (Rule 712).

(a) *General rule.* If no briefs on exceptions to an initial decision are filed within the time established by rule or order under Rule 711, the Commission may, within 10 days after the expiration of such time, issue an order staying the effectiveness of the decision pending Commission review.

(b) *Briefs and argument.* When the Commission reviews a decision under this section, the Commission may require that participants file briefs or present oral arguments on any issue.

(c) *Effect of review.* After completing review under this section, the Commission will issue a decision which is final for purposes of rehearing under Rule 713.

§ 385.713 Request for rehearing (Rule 713).

(a) *Applicability.* (1) This section applies to any request for rehearing of a final Commission decision or other final order, if rehearing is provided for by statute, rule, or order.

(2) For the purposes of rehearing under this section, a final decision in any proceeding set for hearing under Subpart E of this part includes any Commission decision:

(i) On exceptions taken by participants to an initial decision;

(ii) When the Commission presides at the reception of the evidence;

(iii) If the initial decision procedure has been waived by consent of the participants in accordance with Rule 710;

(iv) On review of an initial decision without exceptions under Rule 712; and

(v) On any other action designated as a final decision by the Commission for purposes of rehearing.

(3) For the purposes of rehearing under this section, any initial decision under Rule 708 is a final Commission decision after the time provided for Commission review under Rule 712, if there are no exceptions filed to the decision and no review of the decision initiated under Rule 712.

(b) *Time for filing; who may file.* A request for rehearing by a party must be filed not later than 30 days after issuance of any final decision or other final order in a proceeding.

(c) *Content of request.* Any request for rehearing must:

(1) State concisely the alleged error in the final decision or final order;

(2) Conform to the requirements in Rule 203(a) which are applicable to pleadings; and

(3) Set forth the matters relied upon by the party requesting rehearing, if rehearing is sought based on matters not available for consideration by the Commission at the time of the final decision or final order.

(d) *Answers.* (1) The Commission will not permit answers to requests for rehearing.

(2) The Commission may afford parties an opportunity to file briefs or present oral argument on one or more issues presented by a request for rehearing.

(e) *Request is not a stay.* Unless othewise ordered by the Commission, the filing of a request for rehearing does not stay the Commission decision or order.

(f) *Commission action on rehearing.* Unless the Commission acts upon a request for rehearing within 30 days after the request is filed, the request is denied.

§ 385.714 Certified questions (Rule 714).

(a) *General rule.* During any proceeding, a presiding officer may certify or, if the Commission so directs, will certify, to the Commission for consideration and disposition any question arising in the proceeding, including any question of law, policy, or procedure.

(b) *Notice.* A presiding officer will notify the participants of the certification of any question to the Commission and of the date of any certification. Any such notification may be given orally during the hearing session or by order.

(c) *Presiding officer's memorandum; views of the participants.* (1) A presiding officer should solicit, to the extent practicable, the oral or written views of the participants on any question certified under this section.

(2) The presiding officer must prepare a memorandum which sets forth the relevant issues, discusses all the views of participants, and recommends a disposition of the issues.

(3) The presiding officer must append to any question certified under this section the written views submitted by the participants, the transcript pages containing oral views, and the memorandum of the presiding officer.

(d) *Return of certified question to presiding officer.* If the Commission does not act on any certified question within 30 days after receipt of the certification under paragraph (a) of this section, the question is deemed returned to the presiding officer for decision in accordance with the other provisions of this subpart.

(e) *Certification not suspension.* Unless otherwise directed by the Commission or the presiding officer, certification under this section does not suspend the proceeding.

§ 385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).

(a) *General rule.* A participant may not appeal to the Commission any ruling of a presiding officer during a proceeding, unless the presiding officer under paragraph (b) of this section, or the motions Commissioner, under paragraph (c) of this section, finds extraordinary circumstances which make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or irreparable harm to any person.

(b) *Motion to the presiding officer to permit appeal.* (1) Any participant in a proceeding may, during the proceeding, move that the presiding officer permit appeal to the Commission from a ruling of the presiding officer. The motion must state why prompt Commission review is necessary under the standards of paragraph (a) of this section.

(2) Upon receipt of a motion to permit appeal under subparagraph (a)(1) of this section, the presiding officer will determine, according to the standards of paragraph (a) of this section, whether to permit appeal of the ruling to the Commission. The presiding officer need not consider any answer to this motion.

(3) Any motion to permit appeal to the Commission of an order issued under Rule 604, or appeal of a ruling under paragraph (a) or (b) of Rule 905, must be granted by the presiding officer.

(4) A presiding officer must issue an order, orally or in writing, containing the determination made under paragraph (b)(2) of this section, including the date of the action taken.

(5) If the presiding officer permits appeal, the presiding officer will transmit to the Commission:

(i) A memorandum which sets forth the relevant issues and an explanation of the rulings on the issues; and

(ii) the participant's motion under paragraph (b)(1) of this section and any answer permitted to the motion.

(6) If the presiding officer does not issue an order under paragraph (b)(1) of this section within 15 days after the motion is filed under paragraph (b)(1) of this section, the motion is denied.

(c) *Appeal of a presiding officer's denial of motion to permit appeal.* (1) If a motion to permit appeal is denied by the presiding officer, the participant who made the motion may appeal the denial to the Commissioner who is designated Motions Commissioner, in accordance with this paragraph. For purposes of this section, "Motions Commissioner" means the Chairman or a member of the Commission designated by the Chairman to rule on motions to permit interlocutory appeal.

(2) A participant must submit an appeal under this paragraph not later than 7 days after the motion to permit appeal under paragraph (b) of this section is denied. The appeal must state why prompt Commission review is necessary under the standards set forth in paragraph (c)(5) of this section.

(3) A participant who appeals under this paragraph must file with the appeal a copy of the written order denying the motion or, if the denial was issued orally, the relevant portions of the transcript.

(4) The Motions Commissioner may, in considering an appeal under this paragraph, order the presiding officer or any participant in the proceeding to provide additional information.

(5) The Motions Commissioner will permit an appeal to the Commission under this paragraph only if the Motions Commissioner finds extraordinary circumstances which make prompt Commission review of the contested ruling necessary to prevent detriment to the public interest or to prevent irreparable harm to a person. If the Motions Commissioner makes no determination within 7 days after filing the appeal under this paragraph or within the time the Motions Commissioner otherwise provides to receive and consider information under

this paragraph, the appeal to the Commission under paragraph (b) of this section will not be permitted.

(6) If appeal under paragraph (b) of this section is not permitted, the contested ruling of the presiding officer will be reviewed in the ordinary course of the proceeding as if the appeal had not been made.

(7) If the Motions Commissioner permits an appeal to the Commission, the Secretary will issue an order containing that decision.

(d) *Commission action.* Unless the Commission acts upon an appeal permitted by a presiding officer under paragraph (b) of this section, or by the Motions Commissioner under paragraph (c) of this section, within 15 days after the date on which the presiding officer or Motions Commissioner permits appeal, the ruling of the presiding officer will be reviewed in the ordinary course of the proceeding as if the appeal had not been made.

(e) *Appeal not to suspend proceeding.* Any decision by a presiding officer to permit appeal under paragraph (b) of this section or by the Motions Commissioner to permit an appeal under paragraph (c) of this section will not suspend the proceeding, unless otherwise ordered by the presiding officer or the Motions Commissioner.

§ 385.716 Reopening (Rule 716).

(a) *General rule.* To the extent permitted by law, the presiding officer or the Commission may, for good cause under paragraph (c) of this section, reopen the evidentiary record in a proceeding for the purpose of taking additional evidence.

(b) *By motion.* (1) Any participant may file a motion to reopen the record.

(2) Any motion to reopen must set forth clearly the facts sought to be proven and the reasons claimed to constitute grounds for reopening.

(3) A participant who does not file an answer to any motion to reopen will be deemed to have waived any objection to the motion provided that no other participant has raised the same objection.

(c) *By action of the presiding officer or the Commission.* If the presiding officer or the Commission, as appropriate, has reason to believe that reopening of a proceeding is warranted by any change in conditions of fact or of law or by the public interest, the record in the proceeding may be reopened by the presiding officer, before the initial decision is served, or by the Commission, after the initial decision is served.

Subpart H—Shortened Procedures

§ 385.801 Waiver of hearing (Rule 801).

In any proceeding in which the Commission is authorized to act after opportunity for hearing, if the parties waive hearing, such opportunity will be deemed to have been afforded by service or publication in the **Federal Register** of notice of the application or other initial pleading, request, or other filing, such notice fixing a reasonable period of time within which any person desiring to be heard may file a protest or petition. Upon the expiration of such period of time, in the absence of a request for hearing, the Commission may forthwith dispose of the matter upon the basis of the pleadings and other submittals and the studies and recommendations of the staff. A party not requesting oral hearing in its pleadings will be deemed to have waived a hearing for the purpose of such disposition, but will not be bound by such a waiver for the purposes of any request for rehearing with respect to an order so entered.

§ 385.802 Noncontested proceedings (Rule 802).

Noncontested proceedings. In any proceeding required by statute to be set for hearing, the Commission, when it appears to be in the public interest and to be in the interest of the parties to grant the relief or authority requested in the initial pleading, and to omit the intermediate decision procedure, may, after a hearing during which no opposition or contest develops, forthwith dispose of the proceedings upon consideration of the pleadings and other evidence filed and incorporated in the record: *Provided,* (a) The applicant or other initial pleader requests that the intermediate decision procedure be omitted and waives oral hearing and opportunity for filing exceptions to the decision of the Commission; and (b) no issue of substance is raised by any request to be heard, protest or petition filed subsequent to publication in the **Federal Register** of the notice of the filing of an intial pleading and notice or order fixing of hearing, which notice or order will state that the Commission considers the proceeding a proper one for disposition under the provisions of this subpart. Requests for the procedure provided by this subpart may be contained in the initial pleading or subsequent request in writing to the Commission. The decision of the Commission in such proceeding after noncontested hearing, will be final, subject to reconsideration by the Commission upon request for rehearing as provided by statute.

Subpart I—Commission Review of Remedial Orders

§ 385.901 Scope (Rule 901).

(a) *Proceedings to which applicable.* The provisions of this subpart apply to proceedings of the Commission held in accordance with section 503(c) of the Department of Energy Organization Act (42 U.S.C. 7193(c)) to review orders issued by the Secretary of Energy pursuant to section 503(a) of the Department of Energy Organization Act (42 U.S.C. 7193(c)), and initiated by notices of probable violation, proposed remedial orders, or other formal administrative initiating documents issued on or after October 1, 1977, which are contested by the recipient.

(b) *Relationship to other rules.* (1) Where a provision of this subpart is inconsistent with a provision in any other subpart of this part, the provision in this subpart controls.

(2) Subpart F of this part, except Rule 601, does not apply to proceedings under this subpart.

§ 385.902 Definitions (Rule 902).

For purposes of this subpart:

(a) "Contested order" means the remedial order, interim remedial order for immediate compliance or order of disallowance being contested in proceeding pursuant to this subpart;

(b) "Interim remedial order for immediate compliance" means an interim remedial order for immediate compliance issued pursuant to 10 CFR 205.199D (interim remedial order of immediate compliance);

(c) "Order of disallowance" means an order of disallowance issued pursuant to 10 CFR 205.199E (disallowance);

(d) "Participant"means, as appropriate, the Secretary, the petitioner, and intervenors;

(e) "Petitioner" means a person who has received a remedial order, interim remedial order for immediate compliance, or order of disallowance who notifies the Secretary that he intends to contest the order;

(f) "Remedial order" means a remedial order issued pursuant to 10 CFR 205.199B (remedial orders);

(g) "Secretary" means the Secretary of Energy or his delegate.

§ 385.903 Request for nondisclosure of information (Rule 903).

(a) For purposes of this section, nondisclosure means nondisclosure except as to the participants in the proceeding under conditions provided in paragraphs (d) and (e) of this section.

(b) If any person filing under this subpart claims that some or all of the

information contained in a document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in section 1905 of title 18 of the United States Code (18 U.S.C. 1905) (disclosure of confidential information), or is otherwise exempt by law from public disclosure, the person:

(1) Must request the presiding officer not to disclose such information, except to the participants in the proceeding under the conditions provided in paragraphs (d) and (e) of this section, which request the person must serve upon the participants in the proceeding;

(2) Must file, together with the document, a second copy of the document from which has been deleted the information for which the person requests nondisclosure and must indicate in the original document that the original document is exempt, or contains information which is exempt, from disclosure;

(3) Must include a statement specifying why the information is privileged or confidential, if the information for which nondisclosure is requested is claimed to come within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information;

(4) Must include a statement specifying the justification for nondisclosure, if the information for which nondisclosure is requested is not within the exception in 5 U.S.C. 552(b)(4).

(c) If the person filing a document does not submit a second copy of the document from which the appropriate information has been deleted, the presiding officer may assume that there is no objection to public disclosure of the document in its entirety.

(d) If information is submitted in accordance with paragraph (b) of this section, the information will not be disclosed except as provided in the Freedom of Information Act, in accordance with Part 388 of this subchapter and upon request in accordance with paragraph (e) of this section, to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding conducted pursuant to this subpart and that the participants must return all copies of the information at the conclusion of the proceeding to the person who submitted the information under paragraph (b) of this section.

(e) At any time, a participant may request the presiding officer to direct a person submitting information under paragraph (b) of this section to provide that information to the participant requesting the information under this paragraph. The presiding officer will so direct if the participant requesting the information agrees:

(1) Not to use or disclose the information except in the context of the proceeding conducted pursuant to this subpart; and

(2) To return all copies of the information, at the conclusion of the proceeding, to the person submitting the information under paragraph (b) of this section.

(f) If the information contained in the record of prior proceedings submitted by the Secretary under Rule 906(a)(1), is determined by the Secretary to be exempt from disclosure, the information shall not be disclosed except:

(1) As provided in the Freedom of Information Act, in accordance with Part 388 of this subchapter, and

(2) Upon request in accordance with paragraph (g) of this section, to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding conducted pursuant to this section and that the participants must return all copies of the information at the conclusion of the proceeding to the presiding officer.

(g) At any time, a participant may request the presiding officer to direct that the complete record of prior proceedings, including information determined by the Secretary to be exempt from disclosure, be made available to that participant. The presiding officer will so direct if the participant requesting the complete record agrees:

(1) Not to use or disclose the information determined to be exempt except in the context of the proceeding conducted pursuant to this subpart, and

(2) To return all copies of the information determined to be exempt to the presiding officer at the conclusion of the proceeding.

§ 385.904 Commencement of proceeding (Rule 904).

(a) Except as provided in paragraph (b) of this section, the proceeding pursuant to this subpart will be commenced by filing with the Secretary of the Commission, for the Commission, of a written notice by the Secretary that the Secretary has been notified by a petitioner that the petitioner has filed a notice of intent to contest an order reviewable under this subpart. At the same time, the Secretary will serve a copy of the contested order upon other participants in the prior proceedings and upon persons denied intervention in the prior proceedings, and will certify to the Commission that such service has been made, stating the names and ;addresses of persons served.

(b) The proceeding pursuant to this subpart with respect to an interim remedial order for immediate compliance will be commenced by a petitioner's filing with the Secretary of the Commission, for the Commission, and serving on other participants in the prior proceedings, if any, a notice of petition for review of an interim remedial order for immediate compliance pursuant to 10 CFR 205.199D(i)(1) (interim remedial order of immediate compliance). The Commission will defer consideration of the merits of the order until a final remedial order is issued by the Secretary.

(c) Upon receipt of notice from the Secretary under paragraph (a) of this section, or upon receipt of a notice of a petition for review by the petitioner under paragraph (b) of this section, the Commission or its designee will designate a presiding officer for the proceeding, and the Commission or its designee will notify participants in the prior proceedings and persons denied intervention in the prior proceedings of such designation.

§ 385.905 Stay of contested order (Rule 905).

(a) Upon the filing of the notice with the Commission by the Secretary under paragraph (a) of Rule 904 (commencement of proceedings), or by the petitioner under paragraph (b) of such rule, the contested order will be automatically stayed pending review pursuant to this subpart unless and until, upon request of the Secretary or other participant, the presiding officer finds that the public interest requires immediate compliance with the contested order.

(b) The Secretary or other participants may at any time, prior to the hearing under Rule 909 (hearing), or if there is no hearing, prior to the issuance of a proposed order under Rule 913 (proposed order), file a petition requesting that the contested order not be stayed, or that the stay be lifted, and setting forth the legal and factual basis for the request.

(c) The presiding officer may request a written statement of the views of participants regarding whether the contested order should be stayed or continue to be stayed and may convene an expedited hearing or conference on a petition under paragraph (b) of this section.

(d) The presiding officer may grant the petition requesting immediate

compliance where he finds that the public interest so requires and will notify the participants of the determination.

(e) If the presiding officer does not grant the petition under paragraph (b) of this section within 10 days after it is filed, the petition is denied. Prior to the expiration of the 10-day period the presiding officer may extend the period for decision for up to 7 days. At the end of the extension, the petition, if not granted, is denied.

(f) If the petition under paragraph (b) of this section is denied, the presiding officer will notify the participants of such denial.

(g) A grant or denial of petition under paragraphs (b) or (c) of this section may be appealed, within 10 days after the grant or denial, to the Commission in accordance with Rule 715 (relating to interlocutory appeals). The contested order will remain stayed pending the Commission's disposition of the appeal.

§ 385.906 Pleadings (Rule 906).

(a) *By the Secretary.* (1) Within 20 days after the filing of notice by the Secretary under Rule 904(a) (commencement of proceedings), the Secretary:

(i) Will file with the Secretary of the Commission for the presiding officer two certified copies of the entire record developed in prior proceedings on the contested order. One copy will be complete and will be a part of the record upon which the order of the Commission is based, and will be available to the participants subject to the conditions set forth in Rule 903 (f) and (g) (nondisclosure of information); the second copy will have had deletions made of information which the Secretary has determined to be confidential or not subject to disclosure;

(ii) Will file with the Secretary for the presiding officer a copy of the contested order; and

(iii) May, in addition, elect to file a statement setting forth the factual elements of the alleged violation, which statement the Secretary will serve on all participants in the proceeding.

(2) If the petitioner requests permission to raise new facts or issues pursuant to Rule 907(a) (new facts and issues), the Secretary may file, within 10 days after the filing of the petitioner's answer, a reply responding to the petitioner's request to raise new facts or issues. In the reply, the Secretary may also request the permission of the presiding officer to raise new facts or issues under the criteria set forth in Rule 907(b) (new facts and issues) and to conduct discovery relating to the new facts or issues he may raise pursuant to Rule 907(b) (new facts and issues). Failure by the Secretary to request permission to raise new facts or issues or to conduct discovery in this reply constitutes a waiver of the opportunity to do so at a later time in the proceeding.

(3) The Secretary will file with the Secretary of the Commission, for the presiding officer, and serve upon other participants in the proceedings, a brief in support of the affirmative case, which will set forth:

(i) The elements of the alleged violation, including references to the authorities upon which the Secretary relies, including but not limited to regulations, rulings, interpretations and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission; and

(ii) A complete statement of the factual and legal basis of the contested order.

(4) The Secretary's brief will be filed according to the following time period appropriate to the particular proceeding:

(i) If no participant (including persons requesting intervention) has requested permission to raise new facts or issues or to conduct discovery pursuant to paragraphs (a)(2), (b)(2), (c)(7), and (c)(8) of this section, within 20 days after the filing of the petitioner's answer under paragraph (b)(1) of this section;

(ii) If the presiding officer has determined, under Rule 908(d) (discovery) that no discovery shall be permitted, within 20 days after the presiding officer's determination under such rule;

(iii) If discovery is permitted under Rule 908(d) (discovery) within 20 days after the conclusion of the time period set for discovery under such rule;

(b) *By the petitioner.* (1) Within 15 days after the filing by the Secretary under paragraph (a)(1) of this section, the petitioner must file with the Secretary of the Commission, for the presiding officer, and serve upon the Secretary and other participants in the proceedings, an answer to the contested order admitting or denying each of the Secretary's findings in the contested order and setting forth affirmative defenses, if any.

(2) In the answer, the petitioner may:

(i) Contest any part of the record which the Secretary certified to the presiding officer under paragraph (a)(1)(i) of this section;

(ii) Request permission to raise new facts or issues not raised in the prior proceedings if the new facts or issues meet the criteria set forth in Rule 907(a) (new facts and issues); and

(iii) Request permission to conduct discovery, subject to criteria provided in Rule 908(a) (discovery). Failure by the petitioner to contest the record or to request permission to raise new facts or issues or to conduct discovery in this answer constitutes a waiver of the opportunity to do so at a later time in the proceeding.

(3) Within 15 days after filing of the Secretary's brief under paragraph (a)(3) of this section, the petitioner shall file with the Secretary of the Commission, for the presiding officer, and serve upon other participants in the proceeding, a brief stating fully the objections to the contested order, including references to the authorities upon which the petitioner relies, including but not limited to regulations, rulings, interpretations, and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission.

(c) *By interveners.* (1) A person qualifying under paragraph (c)(2) of this section, may request the presiding officer to permit intervention in the proceeding under this subpart in accordance with the procedures described in this paragraph.

(2) A motion to intervene may be filed by any person claiming:

(i) An interest which may be directly affected and which is not adequately protected by existing parties and as to which the persons requesting intervention may be bound by the Commissions action in the proceeding; or

(ii) Any other interest of such nature that participation by the person requesting intervention may be in the public interest.

(3) A motion to intervene must set forth clearly and concisely the facts from which the nature of the requester's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the intervener in the proceeding, so as fully and completely to advise the participants and the presiding officer as to the specific issues of fact or law to be raised or controverted, by admitting, denying, or otherwise answering, specifically and in detail, each material allegation of fact or law raised or controverted, including references to the authorities upon which the requester relies, including, but not limited to, regulations, rulings, interpretations, and decisions on appeals and exceptions issued by the Department or its predecessor agencies and precedents established by the Commission.

(4) Motions to intervene may be filed with the Secretary of the Commission,

for the presiding officer, within 20 days after the Secretary's commencement of the proceeding under Rule 904 (commencement of proceedings) unless, in extraordinary circumstances and for good cause shown, the presiding officer authorizes a late filing. A person requesting intervention must serve the motion to intervene on the participants in the proceeding at the same time the request is filed with the Secretary of the Commission.

(5) A participant in the proceedings may file an answer to a motion to intervene. Failure to object constitutes a waiver of any objection to the granting of such request. If made, answers must be filed within 15 days after the filing of the request to intervene.

(6) After expiration of the time for filing answers to requests to intervene or default thereof, as provided in paragraph (c)(5) of this section, the presiding officer will grant or deny such request, in whole or in part, or may, if found to be appropriate, authorize limited participation. The presiding officer will serve the determination on a motion to intervene upon the participants in the proceeding and upon the person requesting intervention. If the presiding officer denies a motion for intervention, the person requesting intervention may submit comments to the Commission under Rule 913(c) (proposed order) requesting the Commission to permit the intervention under the standards set forth in paragraph (c)(2) of this section.

(7) A person filing a motion to intervene, may request therein the permission of the presiding officer to raise new facts or issues not raised in the prior proceedings on the contested order, if the new facts or issues meet the criteria set forth in Rule 903(c) (request for nondisclosure of information). Failure by the person requesting permission to intervene to request permission to raise new facts or issues in the motion to intervene constitutes a waiver of the opportunity to do so at a later time in the proceeding.

(8) A person filing a motion to intervene may request the permission of the presiding officer to conduct discovery, subject to the conditions set forth in Rule 908(c) (discovery). Failure by the person requesting permission to intervene to request permission to conduct discovery in the motion to intervene constitutes a waiver of the opportunity to do so at a later time in the proceeding.

§ 385.907 New facts and issues (Rule 907).

(a) *Raised by the petitioner.* In the answer, as provided in Rule 906(b)(2)(ii) (new facts and issues) the petitioner may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that:

(1)(i) Are facts or issues that were not known and could not, with the exercise of due care, have been known to the petitioner at the time they would otherwise have been raised during the prior proceedings;

(ii) Are facts or issues that the petitioner was unable to raise at the time they could have been raised during the prior proceedings because of unduly restrictive time limits imposed by the Secretary; or

(iii) Are facts or issues that the petitioner was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings; and

(2) Are necessary for a full and true disclosure of the facts.

(b) *Raised by the Secretary.* In the reply under Rule 906(a)(2) (pleadings), the Secretary may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that:

(1) Are necessary to support the Secretary's case as a result of new facts or issues raised by the petitioner under Rule 906(b)(2)(ii) (pleadings) and this section; and

(2) Are necessary for a full and true disclosure of the facts.

(c) *Raised by interveners.* In the motion to intervene under Rule 906(c)(3) (pleadings) and this section, an intervener may request permission of the presiding officer to raise new facts or issues not raised in prior proceedings on the contested order that:

(1) If the intervener did not participate in the prior proceeding, meet the criteria of paragraphs (a)(1) and (a)(2) of this section; or

(2) If the intervener participated in the prior proceedings, are:

(i)(A) Facts or issues that were not known and could not, with the exercise of due care, have been known to the intervener at the time they would otherwise have been raised during the prior proceedings;

(B) Facts or issues that the intervener was unable to raise at the time they could have been raised during the prior proceedings because of unduly restrictive time limits imposed by the Secretary; or

(C) Facts or issues that the intervener was not permitted to raise in the prior proceedings due to erroneous adverse procedural rulings; and

(ii) Are necessary for a full and true disclosure of the facts.

(d) *Determination by the presiding officer.* The presiding officer will determine whether to grant or deny, in whole or in part, the requests of the participants to raise new facts or issues and will serve those determinations on the participants in the proceeding.

§ 385.908 Discovery (Rule 908).

(a) *By petitioner.* In the answer under Rule 906(b)(2) (pleadings), the petitioner may request permission of the presiding officer to conduct discovery, where such discovery:

(1) Relates to new facts or issues raised in accordance with Rule 907(a) (new facts and issues); or

(2)(i) Was not permitted in the prior proceedings on the contested order due to erroneous adverse procedural rulings; and

(ii) Is necessary for a full and true disclosure of the facts.

(b) *By the Secretary.* In the reply under Rule 906(a)(2) (pleadings), the Secretary may request permission of the presiding officer to conduct discovery where such discovery relates to new facts or issues raised in accordance with Rule 907(b) (new facts and issues).

(c) *By interveners.* In a motion to intervene under Rule 906(c)(8) (pleadings) an intervener may request permission of the presiding officer to conduct discovery where such discovery:

(1) Relates to new facts or issues raised in accordance with Rule 907(c) (new facts and issues); or

(2) If the intervener participated in the prior proceedings,

(i) Such discovery was not permitted in prior proceedings on the contested order due to erroneous adverse procedural rulings; and

(ii) Such discovery is necessary for a full and true disclosure of the facts.

(d) *Determinations by the presiding officer.* The presiding officer will determine whether to grant or deny, in whole or in part, the requests of the participants for discovery and will set a time limit within which discovery must be conducted.

(e) *Interrogatories.* In addition to discovery devices applicable to this subpart under other subparts of this part, participants may conduct discovery by means of written interrogatories under conditions determined by the presiding officer.

§ 385.909 Hearing (Rule 909).

(a) Participant may file, within 10 days after filing of the petitioner's brief under Rule 906(b)(3) (pleadings), a request for a hearing or a motion for the opportunity for cross-examination including the reasons why cross-examination is necessary for a full and true disclosure of the facts.

(b) If a participant has filed a request for a hearing, the presiding officer will grant the request for a hearing. The hearing will include an opportunity for the submission of oral or documentary evidence and oral arguments.

(c) The presiding officer may at any time, convene a hearing.

(d) As soon as practicable after receiving a request for hearing under paragraph (a) of this section or after determination that a hearing will be held under paragraph (c) of this section, the presiding officer will give notice to the participants of the time and place of the hearing.

(e) The presiding officer will determine the issues to be resolved in the proceeding, may specify the time available for oral argument, and will give notice thereof to the participants. The presiding officer may require additional information from the participants, and may convene a prehearing conference for the purpose of determining the issues or the nature of the proceeding to be held.

(f) If at any time prior to the issuance of a proposed order pursuant to Rule 913 (proposed order), with or without a motion of a participant, the presiding officer determines that it is necessary for a full and true disclosure of the facts, the presiding officer may order that the participants be afforded the opportunity for cross-examination on any facts or issues raised in the proceeding.

§ 385.910 Conduct of the hearing (Rule 910).

The presiding officer is responsible for conduct of the hearing, including the order of procedure.

§ 385.911 Burden of proof (Rule 911).

(a) The Secretary has the burden of going forward and must sustain the burden of proof with respect to disputed elements of affirmative case of the Secretary.

(b) The proposed order under Rule 913 (proposed order) will be based upon a preponderance of the evidence.

§ 385.912 Proposed findings of fact, conclusions of law, and comments (Rule 912).

(a) Within 10 days after the conclusion of the hearing, or, if no hearing is held, within 20 days after the filing of the petitioner's brief under Rule 906(b)(3) (pleadings), a participant may file with the Secretary of the Commission for the presiding officer, and serve upon the other participants proposed findings of fact and conclusions of law, comments in support thereof and any objections with respect to procedural rulings of the presiding officer.

(b) Within 10 days after the filing of proposed findings of fact and conclusions of law under paragraph (a) of this section, a participant may file, and must serve on other participants, a reply thereto.

§ 385.913 Proposed order (Rule 913).

(a) After the conclusion of the hearing and after the filings under Rule 912(a) and (b), (proposed findings of facts, conclusions of law, and comments) the presiding officer will issue a decision and proposed order based on findings of fact affirming, modifying, or vacating the contested order or directing other appropriate relief. The proposed order will be based on the entire record before the presiding officer, including the record of prior proceedings certified by the Secretary.

(b) The presiding officer will certify and file with the Secretary of the Commission, for the Commission, a copy of the record in the proceedings, including the proposed order.

(c) Participants may file, within 15 days of issuance of the proposed order of the presiding officer, with the Secretary of the Commission, for the Commission, written comments on any rulings of the presiding officer and the decision and proposed order.

§ 385.914 Commission action (Rule 914).

The Commission will upon consideration of the entire record and the proposed order, issue a final order affirming, modifying, or vacating the contested order or directing other appropriate relief. The Commission will serve the final order on the participants.

§ 385.915 Ex parte communications (Rule 915).

The provisions of Rule 2201 (*ex parte* communications) apply to proceedings pursuant to this subpart, commencing at the time the Secretary issues a proposed remedial order under 10 CFR 205.192, an interim remedial order for immediate compliance under 10 CFR 205.199D, or a proposed order of disallowance under 10 CFR 205.199E, as if proceedings were contested on-the-record proceedings pending before the Commission.

§ 385.916 Withdrawal of petition for review (Rule 916).

(a) At any time, including after a hearing has been held or convened, the petitioner may submit to the presiding officer, and serve on other participants in the proceeding, a withdrawal of the petition for review of the contested order. The presiding officer will thereupon issue, and serve the participants, an order terminating the proceeding conducted pursuant to this subpart, which order will be effective 10 days after issuance.

(b) Termination of the proceeding under paragraph (a) of this section, may be appealed to the Commission, within 10 days after issuance of the termination order, except that if the Commission does not act on an appeal within 30 days, it is deemed denied. The termination order is stayed pending the appeal. If the Commission rescinds the termination order, the proceeding will continue in accordance with this subpart.

§ 385.917 Sanctions (Rule 917).

Whenever it appears to the Commission that a person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of rule, regulation, or order, made or imposed by the Commission or the presiding officer under this subpart, it may bring an action in the proper court of the United Statas to enjoin that act or practice and to enforce compliance with the order, and upon a proper showing, a permanent or temporary injunction or decree or restraining order will be granted without bond. The Commission may transmit such evidence as may be available concerning that act or practice to the Attorney General, who may institute the necessary criminal proceedings.

Subpart J—Commission Review of Adjustment Request Denials

§ 385.1001 Scope (Rule 1001).

(a) *Applicability.* This subpart applies to proceedings of the Commission held in accordance with section 504(b) of the Department of Energy Organization Act, 42 U.S.C. 719(b), to review orders issued by the Secretary of Energy pursuant to section 504(a) of the Department of Energy Organization Act denying, in whole or in part, requests for adjustments.

(b) *Relationship to other rules.* When a provision of this subpart is inconsistent with a provision of any other subpart of this part, the former provision controls.

§ 385.1002 Definitions (Rule 1002).

For purposes of this subpart:

(a) "Commission" includes an officer or employee designated as presiding officer in a proceeding under this subpart.

(b) "Petitioner" means a person who is aggrieved or adversely affected by a contested order, as defined in this section, and who requests a review, pursuant to this subpart, by the Commission of the denial by the Secretary.

(c) "Secretary" means the Secretary of Energy or his delegate.

(d) "Contested order" means the decision or order issued by the Secretary denying, in whole or in part, a request for adjustment.

(e) "Participant" means, as appropriate, the petitioner, the Secretary, or an intervener.

§ 385.1003 Request for nondisclosure of information (Rule 1003).

(a) For purposes of this section, nondisclosure means nondisclosure except to the participants in the proceedings and under the conditions as provided in paragraph (e) of this section.

(b) If an person filing under this subpart claims that some or all of the information contained in a document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, the person:

(1) Will request the presiding officer not to disclose such information, except to the participants in the proceedings and under the conditions as provided in paragraph (e) of this section, which request the person must serve upon the participants in the proceedings;

(2) Will file, together with the document, a second copy of the document from which has been deleted the information for which the person requests nondisclosure and must indicate in the original document that the original document is confidential or contains confidential information;

(3) If the information is claimed to come within the exception in 5 U.S.C. 552(b)(4), for trade secrets and commercial or financial information, it must include a statement specifying why the information is privileged or confidential;

(4) If the information for which nondisclosure is requested is not within the exception in 5 U.S.C. 552(b)(4), it must include a statement specifying the justification for nondisclosure.

(c) If the person filing a document does not submit a second copy of the document from which the appropriate information has been deleted, the presiding officer may assume that there is no objection to public disclosure of the document in its entirety.

(d) A participant in the proceedings who opposes a request for nondisclosure under paragraph (b) of this section must file, within 10 days of the receipt of a copy of the request for nondisclosure, with the presiding officer, and serve on the other participants, a statement specifying the reasons that the material is not exempt from disclosure.

(e) The presiding officer will make an independent determination as to a request filed under this section and will serve that determination upon the participants in the proceedings. If a request for nondisclosure is denied, in whole or in part, the requesting person will be given notice thereof and will be afforded an opportunity to respond, no less than 5 days prior to public disclosure. If the request for nondisclosure is granted, in whole or in part, the presiding officer will issue an order stating that the information will not be disclosed except, upon request, to the participants in the proceedings, that the participants may not use or disclose the information, except in the context of the proceedings conducted pursuant to this subpart, and that upon conclusion of the proceedings, the participants return the information to the presiding officer.

§ 385.1004 Commencement of proceedings (Rule 1004).

(a) A petitioner commences proceedings, pursuant to this subpart, by filing with the Commission and serving upon the Secretary and any other participants in prior proceedings on the contested order a petition for review, which must contain:

(1) A copy of the decision or order denying, in whole or in part, request for adjustment (the contested order); and

(2) A complete statement of the petitioner's objections factual or legal to the contested order, including references to all authorities upon which the petitioner relies including but not limited to regulations, rulings, interpretations, and decisions on exceptions and appeals issued by the Department or its predecessor agencies and precedents established by the Commission.

(b) A petition for review must be filed within 30 days of issuance by the Secretary of the order to be contested pursuant to this subpart.

(c) Upon receiving a petition for review, the Commission or its designee will designate a presiding officer for the proceedings.

§ 385.1005 Replies (Rule 1005).

(a) *By the Secretary.* Within 15 days of service of the petition for review, the Secretary:

(1) Will file with the Commission a certified copy of the complete record developed in prior proceedings on the contested order, which will be available at the Commission for inspection by the participants; and

(2) Will file with the Commission and serve on the petitioners and the other participants in prior proceedings on the contested order, a reply to the petition for review stating fully his or her position supported by arguments to the petition for review.

(b) *By other participants.* A person who participated in prior proceedings on the contested order may be a participant in the proceedings pursuant to this subpart and may make filings and submittals as determined by the presiding officer.

(c) *By interveners.* A person who was denied the opportunity to participate in prior proceedings on the contested order or who is aggrieved or adversely affected by the contested order may move to intervene in accordance with Rule 214 (intervention). In order that the motion be granted, the movant must show, as appropriate, that denial of participation in prior proceedings was wrongful or why he or she is aggrieved or adversely affected by the contested order. If the presiding officer grants the motion, the person submitting the motion to intervene may make filings and submittals as determined by the presiding officer.

(d) A participant may request interim relief in a proceeding pursuant to this subpart.

(e) The presiding officer may require such other filings by the participants as he or she deems necessary in the conduct of the proceedings.

§ 385.1006 Request for hearing (Rule 1006).

A participant may file with the Commission and serve on the other participants a request for hearing, which will be deemed granted.

§ 385.1007 Presiding officer (Rule 1007).

(a) The presiding officer will determine the issues to be resolved in the proceeding and will give notice thereof to the participants. The presiding officer may require additional information from the participants and convene a prehearing conference for the purpose of determining the issues to be considered at a hearing, if one is to be held. The presiding officer may also specify the time available for oral argument and determine the nature of the hearing to be held.

(b) The presiding officer may determine, upon request by a participant, whether to permit the participant to raise new facts or issues not raised in prior proceedings on the contested order. Such a request may be granted if the facts or issues are facts or issues that:

(1)(i) Were not known and could not, with the exercise of due care, have been known to the participant at the time

they could have been raised in prior proceedings; or

(ii) Are facts or issues that the participant was not permitted to raise in prior proceedings on the contested order due to an adverse procedural ruling alleged to be erroneous; and

(2) Are necessary for a full and true disclosure of the facts.

§ 385.1008 Hearings (Rule 1008).

As soon as practicable, after receiving any request for hearing and all the pleadings under Rules 1004 (commencement of proceedings) and 1005 (replies), the presiding officer will give notice to the participants as to the time and place of the hearing.

§ 385.1009 Proof (Rule 1009).

(a) A participant seeking relief from the Secretary's denial of a request for adjustment has the burden of demonstrating the participant's entitlement to the relief sought.

(b) Relief will be granted under this subpart if a participant demonstrates, by a preponderance of the evidence, that such relief is warranted.

§ 385.1010 Proposed order (Rule 1010).

(a) As soon as practicable, after receipt of all the pleadings or after the hearing, if one is held, the presiding officer will issue, and serve upon the participants in the proceedings, a proposed order based upon findings of fact, affirming, modifying or vacating, the contested order or directing other appropriate relief.

(b) The presiding officer will certify and file with the Office of the Secretary of the Commission, for the Commission, a copy of the record in the proceeding, including the proposed order.

(c) Participants may file, within 15 days of service of the proposed order, with the Secretary of the Commission, for the Commission, written comments on the proposed order.

§ 385.1011 Final order (Rule 1011).

The Commission will issue a final order, affirming, modifying or vacating the contested order or directing other appropriate relief.

§ 385.1012 Ex parte communications (Rule 1012).

The provisions of Rule 2201 (*ex parte* communications) apply to proceedings pursuant to this subpart, commencing at the time a petitioner files a petition for review under Rule 1004 (commencement of proceedings), as if such proceedings were contested on-the-record proceedings pending before the Commission.

Subpart K—Petitions for Adjustments Under the NGPA

§ 385.1101 Applicability (Rule 1101).

(a) *Proceedings to which applicable.* Except as provided in paragraph (b) of this section, this subpart applies to proceedings of the Commission held in accordance with:

(1) Section 502(c) of the NGPA to provide for adjustments of:

(i) Commission rules, and

(ii) Commission orders having the applicability and effect of a rule as defined in section 551(4) of title 5 of the United States Code (5 U.S.C. 551(4)) and issued under the NGPA, except orders issued under sections 301, 302, and 303 of the NGPA; and

(2) Section 206(d) of the NGPA to provide for exemptions for industrial boiler fuel facilities from incremental pricing provisions of the NGPA under § 282.206 of this chapter.

(b) This subpart does not apply to:

(1) Proceedings wherein the Commission by order grants an adjustment on its own motion or;

(2) Proceedings for which the Commission by order waives the provision of this subpart.

(c) *Relationship to other rules.* (1) Where a provision of this subpart is inconsistent with a provision in another subpart of this part, the former provision controls.

(2) When provisions of other subparts of this part require Commission action, such provisions as applied under this subpart shall be deemed to require staff action. This subpart does not require a hearing to which subpart E applies.

§ 385.1102 Definitions (Rule 1102).

For purposes of this subpart:

(a) "Adjustment" means an order issued by Staff under Rule 1109 (orders):

(1) Granting relief from an order or rule issued by the Commission under the NGPA,

(i) Including exceptions, exemptions, modification, and recisions of rules and orders have the effect of rule as defined in section 551 of title 5 of the United States Code (5 U.S.C. 551(4)) and issued under the NGPA; but

(ii) Excluding requests for just and reasonable rates under sections 104, 106, and 109 of the NGPA; and

(2) Granting an exemption, in whole or in part, for incrementally priced industrial boiler fuel facilities from section 201 of the NGPA, under the authority of section 206(d) of the NGPA and § 282.206 (industrial boiler fuel facilities exemption);

(b) "Petitioner" means a person who files a petition for adjustment under paragraph (c) of this section;

(c) "Petition" means a petition for adjustment filed under Rule 1103 (commencement of adjustment proceedings);

(d) "NGPA" means the Natural Gas Policy Act of 1978;

(e) "Party" means, with respect to a particular petition for adjustment, the person making the petition, and intervener, or a person who has moved to intervene but whose motion has not been granted or denied under Rule 1105(b) (intervention in adjustment proceedings).

(f) "Staff" means the Director of the Office of Producer and Pipeline Regulation, or a person who is designated by the Director and who is an employee of the Commission.

§ 385.1103 Commencement of proceeding (Rule 1103).

A person commences a proceeding for an adjustment by filing a petition for adjustment with the Commission.

§ 385.1104 Initial petition (Rule 1104).

(a) *Content.* (1) The petition must contain:

(i) A full and complete statement of the relevant facts, including the documentary support pertaining to the circumstances, act or transaction that is the subject of the petition;

(ii) A complete statement of the business reasons why the relief should be granted and the business consequences that will result if the relief is denied; and

(iii) A statement specifying how the denial of relief will cause the applicant to suffer special hardship, inequity, or unfair distribution of burdens.

(2) The petition must contain a complete statement of the legal basis of the relief requested including citations to authorities relied upon to support the petition.

(3) The petition must specify the exact nature of the relief sought.

(4) The certificate of service required under Rule 2010(h) (certificate of service) must indicate the names and addresses of all persons served.

(5) The petition must include a proposed notice of the adjustment proceeding which must state the petitioner's name, the rule or order under the NGPA of which an adjustment is sought, the date of the petition, and a brief summary of the relief requested. The proposed notice must be in the following form:

United States of America

Federal Energy Regulatory Commission

(Name of Petitioner) _____
Docket No. _____

Notice of Petition for Adjustment

On (date petition was filed), (name of petitioner) filed with the Federal Energy Regulatory Commission a petition for an adjustment under the rule or order under the NGPA of which an adjustment is sought, wherein (name of petitioner) sought (relief requested).

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

(b) *Service.* (1) The petitioner must serve a copy of the petition, or a copy from which confidential information has been deleted in accordance with Rule 1112 (requests for confidential treatment) on each person who is reasonably ascertainable by the petitioner as a person who may suffer direct and measurable economic impact if the relief is granted.

(2) Notwithstanding paragraph (b)(1) of this section, if a petitioner determines that compliance with such paragraph of this section would be impracticable, the petitioner must:

(i) Comply with the requirements of such paragraph with regard to those persons whom it is reasonable and practicable to serve; and

(ii) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) Staff may require the petitioner to provide alternate or additional service and will cause notice of the application to be published in the **Federal Register.**

§ 385.1105 Intervention (Rule 1105).

(a) A motion to intervene in an adjustment proceeding, in conformity with Rule 214 (intervention) must be filed within 15 days after publication in the **Federal Register** of notice of the petition for adjustment.

(b) A motion to intervene is granted unless it is denied by staff within 75 days after the day on which it was filed.

§ 385.1106 Other filings (Rule 1106).

(a) *Interveners.* Responses to the petition must be filed at the time the motion to intervene is filed.

(b) *Petitioner.* The petitioner may respond to filings of another party within 15 days after service of such filings. Amended pleadings may be filed under Rule 215 (amendments) if the petitioner discovers facts unavailable at the time the initial petition was filed, or if such pleadings are requested or permitted by Staff under Rule 1107 (evaluations).

§ 385.1107 Evaluations (Rule 1107).

(a) Staff will consider the filings made in connection with the petition for adjustment. Staff may also consider information received under paragraph (b) of this section. If Staff obtains information under paragraphs (b)(1) or (b)(3) of this section and relies upon such information, the petitioner will be advised of such information and will be given 15 days to respond to such information.

(b)(1) Staff may initiate an investigation of any statement in a petition and use in its evaluation of any relevant fact obtained in such an investigation.

(2) Staff may request additional information from the petitioner.

(3) Staff may solicit and accept submissions from interveners or third persons relevant to the petition.

(4) Staff may consider information obtained in informal conferences held under Rule 1111 (adjustment conferences).

§ 385.1108 Criteria (Rule 1108).

(a) Staff will grant a petition where there are sufficient facts to make a determination on the merits and where Staff determines that an adjustment is necessary to prevent or alleviate:

(1) Special hardship;

(2) Inequity; or

(3) An unfair distribution of burdens.

(b) When there are not sufficient facts to make a determination on the merits, the Staff may dismiss the petition without prejudice; except, that when Staff has requested additional material information under Rule 1107 (adjustment evaluations) of this section and the petitioner has failed to provide the requested information, Staff may deny the petition.

§ 385.1109 Orders (Rule 1109).

(a) Staff will issue a decision and an order granting or denying the petition in whole or in part. The order will articulate the basis for the decision, noting any dispute with the factual assertions of the petitioner.

(b) In addition to service otherwise required under this subpart, Staff will serve the decision and order on the persons who sought and were denied an opportunity to participate in the proceeding under this subpart.

(c) If Staff fails to issue an order granting or denying the petition for adjustment within the determination period, the petitioner may treat the application as having been denied and may, within 30 days after the close of the determination period, request review thereof as prescribed in Rule 1110(a) (review of denials). For purposes of this paragraph, "determination period" means the 150 days commencing with the filing of the petition, unless Staff for good cause extends such period.

(d) An order of Staff issued under paragraph (a) of this section granting an adjustment, in whole or in part, is final 30 days after it is issued, unless, during such 30-day period:

(1) A petition for review is filed under Subpart J of this subchapter in accordance with Rule 1110(a) (review of denials) in which case the order is final when the review process under Subpart J has been completed; or

(2) The Commission directs that the order be reviewed under Subpart J in accordance with Rule 1110(b), in which case the order is final when the review process under Subpart J has been completed unless the Commission expressly states that the order shall be effective pending review proceeding.

§ 385.1110 Review of initial decision and order for adjustment (Rule 1110).

(a) *General rule.* (1) Within 30 days after the issuance by Staff of an order granting or denying, in whole or in part, a petition for adjustment relief under this subpart, a person may file a petition for Commission review of that order in accordance with Subpart J of this subchapter, if the person:

(i) Is aggrieved or adversely affected by that order; and

(ii) Participated, or sought and was denied an opportunity to participate, in the proceeding under this subpart.

(2) Except as otherwise provided in this paragraph, the provisions of Subpart J shall apply to Commission review of both grants and denials of adjustment petitions under this subpart.

(i) "Contested order" in Subpart J means the order issued by Staff granting or denying, in whole or in part, a petition for adjustment under this subpart.

(ii) "Staff" is substituted for "Secretary" in Subpart J. With respect to review of an order denying a petition for adjustment under this subpart, Staff may participate in the proceeding in the same manner prescribed for the Secretary in Rule 1005 (replies in reviews of adjustment denials). With respect to review of an order granting a petition for adjustment under this subpart, Staff may not participate in the proceeding except to the extent necessary to file the record as prescribed in Rule 1005(a)(1) (replies in reviews of adjustment denials). With respect to review of an order granting in part and denying in part a petition for

adjustment under this subpart, Staff may participate as prescribed in Rule 1005(a)(1) (replies), only if a petition for review has been filed which specifically seeks review of the portion of the order denying the petition for adjustment.

(3) A motion to intervene under Rule 1005(b) (interventions in adjustment proceedings) may be filed only by a person who sought and was denied an opportunity to participate, in the proceeding under this section.

(4) There is no exhaustion of administrative remedies until a request for review is filed under Subpart J in accordance with this section and the review process under Subpart J is completed by the issuance of an order granting or denying, in whole or in part, the relief requested.

(b) *Review initiated by the Commission.* Within 30 days after the issuance by Staff of an order granting, in whole or in part, a petition for adjustment relief under this subpart, the Commission may direct that the order be reviewed in a proceeding which, insofor as practicable, will conform to proceedings under Subpart J. The order directing such review will specify the manner in which such proceeding will be conducted and the extent to which Subpart J apply.

(c) *Separation of functions.* Any person who participated in the proceeding to review the grant or denial of that adjustment under this Rule as a witness or counsel may not advise the Commission concerning the review of the grant on denial of that adjustment.

§ 385.1111 Conferences (Rule 1111).

Staff may direct that a conference be convened. The conference will be conducted by Staff in accordance with procedures Staff determines will most expeditiously further the purpose of the conference. A conference will be convened only after actual notice of the time, place and nature of the conference is provided to the parties. All parties may attend the conference. However, if a party wishes to present confidential information at the conference, Staff may exclude the other parties from that part of the conference when the confidential information is presented.

§ 385.1112 Requests for confidential treatment (Rule 1112).

(a) If a person filing a document under this subpart claims that some or all of the information contained in a document is exempt from the mandatory disclosure requirements of the Freedom of Information Act, or is otherwise exempt by law from public disclosure, that person may request confidential treatment of such information. At the time request is made for confidential treatment, the person must submit a copy of the document which contains the confidential information and two copies of the document which exclude the information for which confidential treatment is requested. The request for confidential treatment must describe the information deleted and specify the grounds for the claim for confidential treatment. The service requirements of Rule 2010 (service) are deemed satisfied if a copy of the document with the confidential information deleted is served.

(b) If a determination to disclose the information is made under Part 388 (public information and requests), the person who has requested confidential treatment will be given notice thereof and will be afforded no less than 10 days to respond to such determination before the information is disclosed.

§ 385.1113 Interim relief (Rule 1113).

(a) The petitioner may at any time file a request for interim relief in a proceeding under this subpart, setting forth the legal and factual basis for the request. Service of such request must comply with the service requirements set forth in Rule 1104(b) (initial petition of adjustment request) and must be made on each person described in such rule as well as on any other party to the proceeding.

(b) The grounds for granting interim relief are:

(1) A showing that irreparable injury will result in the event the interim relief is denied; and

(ii) A showing that denial of the interim relief requested will result in a more immediate special hardship or inequity to the person requesting the interim relief than the consequences that would result to other persons if the interim relief were granted; or

(2) A showing that it will be in the public interest to grant the interim relief.

(c) A party may within 10 days after the filing of the request for interim relief file a reply to the request for interim relief.

(d) Staff may request a written statement of the views of a party regarding whether the interim relief should be granted and may convene an expedited conference on the request for interim relief.

(e) If Staff has not granted the request for interim relief within 30 days after it is filed, the request is denied.

(f)(1) Subject to paragraph (f)(2) of this section, Staff will issue an order granting or denying the request for interim relief and will notify the parties. Any grant of interim relief is subject to further modification in the order issued under paragraph (f)(1) of this section.

(2) The Commission may, on its own motion, at any time revoke, modify, rescind, stay or take any other appropriate action concerning the order granting interim relief.

§ 385.1114 Motions (Rule 1114).

A party may file a motion at any time. Motions must set forth the ruling or relief requested and must state the grounds therefor and the statutory or other authority relied upon. Staff will rule on all motions.

§ 385.1115 Procedural rulings (Rule 1115).

Staff may make any procedural rule or provide any procedural relief.

§ 385.1116 Appeals (Rule 1116).

All actions under this subpart are taken by Staff, except with respect to requests for public information under Part 388. Except as provided in Rule 1110 (review of initial adjustment decision) of this section, there are no appeals to the Commission from Staff action taken under this section.

§ 385.1117 Petition for adjustment treated as request for interpretations (Rule 1117).

(a) Staff may, if appropriate, treat a petition filed under Rule 1103 (petition for adjustment) as a request for an interpretation under section 502(c) of the NGPA, or rule or order issued under that Act.

(b) If the Staff exercises its discretion under paragraph (a) of this section to treat a petition for adjustment as a request for an interpretation, then:

(1) Staff will notify the parties to the proceeding that the petition is being treated as a request for an interpretation under Rule 1901; and

(2) The time limits in this section are stayed pending issuance of the interpretation.

(c) After the interpretation is issued, if the petitioner wishes to reinstate the adjustment proceeding, the petitioner may do so by notifying the Commission in writing that the petition should be reinstated.

Subpart L—[Reserved]

Subpart M—Cooperative Procedure With State Commissions

§ 385.1301 Policy (Rule 1301).

(a) The Federal Power and Natural Gas Acts, sections 209 and 17, respectively, authorize cooperation between the Federal Energy Regulatory Commission and the State commissions of the several States in the

administration of said Acts, which include authorization for:

(1) Reference of any matter arising in the administration of these Acts to a board to be composed of a member or members from a State or States affected, or to be affected, by the particular matters pending before the Commission;

(2) Conferences with State commissions regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities or natural gas companies subject to the jurisdiction of such State commissions and of the Commission; and

(3) Joint hearings with State commissions in connection with any matter with respect to which the Commission is authorized to act.

(b) The matters that should be the subject of a conference referred to a board, or heard at a joint hearing of State commissions and the Commission, obviously, cannot be determined in advance. It is understood, therefore, that the Commission or any State commission will freely suggest cooperation with respect to any proceeding or matter affecting any public utility or natural gas company subject to the jurisdiction of the Commission and of a State commission, and concerning which it is believed that cooperation will be in the public interest.

§ 385.1302 Notice (Rule 1302).

(a) *By Commission.* (1) Whenever there is instituted before the Commission any proceeding under either the Federal Power Act or the Natural Gas Act, the State commission or commissions of the State or States affected thereby will be given notice thereof immediately by the Commission. As deemed necessary for an understanding of the subject matter, each such notice will be supplemented by copies of applications, complaints, petitions, or orders instituting proceedings. Each such notice given to a State commission will request that the Commission be notified within a reasonable time whether the proceeding is deemed one that should be considered under the cooperative provisions of this subpart, and, if so, to advise the Commission as to the nature of its interest in the matter, and further, to specify whether it desires a conference, the creation of a board, or a joint or concurrent hearing, as defined in this subpart and the reasons for such request.

(2) Any commission suggesting some form of such cooperative procedure should also state whether there is pending, or will be pending before it, a proceeding in which a concurrent hearing might appropriately be held and whether its proposal is for such hearing covering such proceeding and the proceeding pending before the Commission.

(3) A State commission recommending to the Commission reference of a proceeding to a board, under either the Federal Power Act or the Natural Gas Act, should state with fullness the reasons which led it to believe that such reference is desirable and in the public interest.

(4) Upon the receipt from a State commission of a communication suggesting cooperation, the Commission will consider the same, and may confer with the commission making the request and with other interested commissions, if any, in such manner as may be most suitable, and, if cooperation in the manner proposed, or in any other manner, appears to be practicable and desirable, will so advise each interested State commission, and will invite it to participate therein.

(b) *By State commission.* (1) Each State commission should, in like manner, notify the Commission of any proceeding instituted before it the subject matter of which is also subject to the jurisdiction of the Commission, or in which it believes the Commission is interested. Such notice should be supplemented by copies of applications, petitions, complaints, or orders instituting proceedings which may be necessary to an understanding of the subject matter. Such notice should include the suggestions which the State commission may wish to make concerning cooperative procedure.

(2) Upon receipt of such notice, the Commission will consider the same and will promptly notify the State commission whether or not in its opinion cooperation in the manner proposed, or in any other manner, appears to be practicable and desirable. The Commission is free to propose cooperative procedures whether or not such proposal of cooperation has been made by the State commission first giving notice of the proceeding.

(c) *Commission or State commissions to invite participation in cooperative procedure.* In the event that cooperation in a particular proceeding has been determined upon, the Commission or a State commission before which the proceeding is pending will so advise each interested State commission and will invite it to take part therein.

§ 385.1303 Conferences (Rule 1303).

Inasmuch as experience has proved that informal conferences are the means most often used to enable commissions to work together to promote good regulation, affording means whereby common understandings may be reached, and the imposition of inconsistent or conflicting regulations upon companies subject to both Federal and State control may be avoided and means whereby State commissions may secure the assistance in State regulatory work which sections 209 and 17, respectively, of the Federal Power and Natural Gas Acts authorize the Commission to extend, any commission, Federal or State, should always feel free to suggest a conference to another commisison, concerning any matter of regulation subject to the jurisdiction of either, with respect to which it is believed that a cooperative conference may be in the public interest. The commission desiring a conference upon any such matter should notify other interested commissions without delay, and thereupon the Commission or a State commission, as may be agreed, will promptly arrange for a conference in which all interested commissions will be invited to be represented.

§ 385.1304 Procedure governing matters referred to a board (Rule 1304).

(a) It is believed that the statutory provisions of sections 209 and 17, respectively, of the Federal Power and Natural Gas Acts, for the reference of a proceeding to a board constituted as therein provided, were designed for use in unusual cases, and as a means of relief to the Commission when it might find itself unable to hear and determine cases before it, in the usual course, without undue delay.

(b) Whenever the Commission, either upon its own motion or upon the suggestion of a State commission or at the request of any interested party, determines that it is desirable to refer a matter arising in the administration either of the Natural Gas Act or Part II of the Federal Power Act, to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure will be as follows: The Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board. Whenever more than one State is involved, the representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. The Commission will specify the functions to be performed by such board in each instance. When the member or members of any board have been nominated and appointed in accordance with the provisions of either

section 209 of the Federal Power Act or section 17 of the Natural Gas Act, the Commission will issue an order referring the particular matter to such board, and such order will fix the time and place of hearing, define the "force and effect" which an action of the board will have, the manner in which the proceedings will be conducted, and specify the allowances to be made for the expense of the members of the board. As far as applicable, the rules of practice and procedure as from time to time adopted or prescribed by the Commission will govern such board. The board will have authority to adjourn the hearing from day to day, subpoena witnesses, rule on the relevancy, competency, and materiality of evidence, and will, after hearing all interested parties, submit its report to the Commission.

§ 385.1305 Joint and concurrent hearings (Rule 1305).

(a) The term "joint hearing" used in sections 209 and 17, respectively, of the Federal Power and Natural Gas Acts is understood to cover any hearing in which members of the Commission and members of one or more State commissions may sit together in a proceeding pending before one such commission, whether or not a proceeding or proceedings involving similar or corresponding issues be pending before any other commission.

(b) Two different types of proceedings have been called "joint hearings". One is that type of proceeding where members of one or more State commissions sit with members of the Commission for information or in an advisory capacity. The State commissioners in such case do not develop a record for their respective commissions and may not, at their own discretion, make a recommendation to the Commission. The other type of joint hearing is often referred to as a "concurrent hearing". Under this procedure the Commission and one or more State commissions sit together to hear and jointly make a record upon a matter over which all of the participating commissions have jurisdiction and responsibility for action.

(c) The Commission or any State commission or commissions should feel free to suggest or request a joint or concurrent hearing at any time. It is believed that the concurrent hearing is the type of cooperative hearing which is likely to be most useful and effective.

(d) Whenever a concurrent hearing has been agreed upon by the Commission and one or more State commissions, the procedure will be:

(1) Each commission will designate the representative or representatives of such commission to sit at such concurrent hearing, and will designate the representative who will be the presiding officer for such commission.

(2) It will be understood that participation in such concurrent hearing will in no way affect the complete control by each commission of the proceeding before it. It will be understood, also, that participation in either a joint or concurrent hearing will in no way preclude any commission from causing to be presented in any such case pertinent evidence with respect to matters in issue.

(3) The representative designated by the Commission will be the presiding officer to announce rulings with respect to which there is no disagreement; and such rulings will be considered concurrent rulings. However, the presiding officer for any commission which does not concur in any ruling may announce a divergent ruling and such divergent ruling, whether with respect to the admissibility of evidence or any other matter, will be considered the ruling for his or her commission.

(4) The record of the concurrent hearing will be the record of each commission participating, except that, if divergent rulings are made, the rulings will be reported so as to separate and distinguish clearly the record of the respective participating commissions and the evidence admitted in each record, in accordance with the rulings of the respective commissions. If, in any proceeding, the ruling of one presiding officer has the effect of admitting any voluminous exhibit or testimony which is excluded by the ruling of another presiding officer, the taking of such evidence, whenever possible, will be deferred until after the completion of the proceedings which can be conducted under concurrent rulings. When such testimony is taken, the transcript of such evidence will be made available to the participating commissions, if desired.

(5) In all respects concerning which there is no divergence of ruling, the hearing will be conducted in accordance with the rules of practice and procedure prescribed by the Commission, subject to the express understanding that each participating State commission will control its own record and make its own rulings as to the admissibility of evidence and as to other matters affecting its proceedings, and will make its own separate final decision or order therein.

(e) Before either the Commission or a participating State commission will enter any order or orders in a concurrent proceeding, opportunity will be afforded for conference between the Commission and the State commissions participating.

(f) Whenever a joint hearing other than a concurrent hearing is agreed upon, the commissioners which take part therein will agree upon the procedure to be followed in such hearing in advance of the opening of the same. With respect to any concurrent hearing, a special agreement may be made by the commissions taking part therein for a procedure or action differing from that outlined in this plan.

(g) Cooperation between two or more commissions in a concurrent hearing will preclude either from taking the position of an advocate or a litigant. If a commission wishes to take such a position, it will not be a cooperating participant in that proceeding. In such situation the appropriate method of procedure will be intervention under Rule 214.

§ 385.1306 Intervention by State commissions (Rule 1306).

Any interested State commission may intervene in any proceeding before the Federal Energy Regulatory Commission, as provided in Rule 214.

Subpart N—[Reserved]

Subpart O—[Reserved]

Subpart P—[Reserved]

Subpart Q—[Reserved]

Subpart R—[Reserved]

Subpart S—Miscellaneous

§ 385.1901 Interpretations and interpretative rules under the NGPA (Rule 1901).

(a) *Purpose and applicability.*—(1) *Purpose.* The purpose of this section is to provide procedures by which:

(i) A person may seek a written interpretation from the General Counsel construing a provision of the NGPA, or clarifying a rule issued by the Commission under the NGPA; and

(ii) The Commission may publish an interpretative rule that will have general applicability and effect.

(2) *Applicability.* (i) This section applies to requests under section 502(c) of the NGPA for interpretations of the NGPA or of rules or of orders, having the applicability and effect of a rule as defined in 5 U.S.C. 551(4), issued under the NGPA. It does not apply to orders issued under sections 301, 302, and 303 of the NGPA.

(ii) This section applies to requests for interpretations to prospective, existing or completed facts, acts, or transactions. Interpretations based on hypothetical

facts, acts, or transactions will not be considered.

(b) *Definitions.* For the purpose of this section, the following definitions apply.

(1) "Direct participant" means any person or legal entity who is, or plans to be an actual party in the act, transaction, or circumstance presented, and who has an immediate or direct financial interest in the act, transaction, or circumstance.

(2) "Interpretation" means a written statement of the General Counsel which applies a particular rule to a particular set of facts, acts, circumstances or transactions. In the discretion of General Counsel, the interpretation may contain a detailed factual and legal analysis, a summary of the facts or the law, or both, or it may be a conclusory statement.

(3) "Interpretative rule" means an offical interpretative statement of general applicability issued by the Commission and published in the **Federal Register** that applies the NGPA or rules issued thereunder to a specific set of facts, acts, circumstances and transactions.

(4) "NGPA" means the Natural Gas Policy Act of 1978.

(5) "Request" means a request for an interpretation.

(6) "Rule" means a rule or an order having the effect of a rule as defined in 5 U.S.C. 551(4).

(c) *Persons who may request an interpretation.*—(1) Any person who is or will be a direct participant in an act, transaction, or circumstance affected by the NGPA or a rule issued by the Commission under the NGPA may file with the Office of the General Counsel a request for an interpretation.

(2) Requests for interpretations must be addressed to the Office of the General Counsel as follows:

Federal Energy Regulatory Commission, Interpretations Section, Office of the General Counsel, Suite 8000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(3) Requests for interpretation under this paragraph need not be filed with the Secretary.

(d) *Content of request.*—(1) *Facts.* A request for interpretation must contain a full and complete statement of the relevant and material facts pertaining to the act, transaction, or circumstance that is the subject of the request for interpretation. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be included in the request.

(2) *Statement of the question.* The request must clearly designate the section of the statute, regulation, rule, or part thereof which the person making the request seeks to have interpreted and must set forth clearly and concisely the question for which an interpretation is sought. The request may also set forth a proposed answer to the question.

(3) *Analysis.* If the request proposes a particular answer:

(i) The request must set forth a legal analysis in support of the proposed answer and cite relevant authorities in support thereof.

(ii) The request must set forth the legal and business consequences which will flow from the proposed answer.

(4) *Factual statements.* (i) The request must be accompanied by a statement that to the best of the applicant's personal information, knowledge, and belief there is no untrue statement of a material or relevant fact and there is no omission of a material or relevant fact made in the request.

(ii) Any untrue statement or omission of a material or relevant fact upon which the Office of the General Counsel relied in a request for an interpretation is deemed to be a statement or entry under secton 1001 of Title 18, United States Code.

(5) *Notification of other parties.* (i) A person submitting a request must specify each person who is a direct participant in the circumstance, act or transaction; must notify them in writing of the request for an interpretation; and must send them a copy of such request. Such notification and the addresses of the persons notified must be included in a request to the General Counsel.

(ii) Each person notified pursuant to paragraph (d)(5)(i) of this section may submit information regarding any fact provided in the request of which it has personal knowledge, if such fact is different from the facts presented by the applicant. Such fact must be presented to the Office of the General Counsel as set forth in paragraph (d)(4) of this section.

(e) *Additional information.* The General Counsel may request additional information, documentation or legal analysis in connection with any request for any interpretation.

(f) *Referral of information.* Information submitted in a request for interpretation may be used by the Commission or its Staff in their official capacity. Any information received will be placed in a public file in the Commission's Office of Public Information.

(g) *The interpretation.*—(1) Except as provided in paragraph (g)(2) of this section, the General Counsel will provide a copy of his or her written interpretation of the NGPA or rule as applied to the act, transaction, or circumstance presented upon the person who made the request for the interpretation and upon persons named in the request as direct participants in the act, transaction, or circumstance.

(2) The General Counsel may determine not to issue an interpretation, in which case the person who made the request and direct participants as specified in the request will be notified in writing of the decision not to issue an interpretation, and the reason for the decision.

(3) Only those persons to whom an interpretation is specifically addressed and other persons who are named in the request, who have been informed by the applicant for an interpretation of the pendency of the request and who are direct participants in the act, transaction or circumstance presented, may rely upon it. The effectiveness of an interpretation depends entirely on the accuracy of the facts presented to the General Counsel. If a material or relevant fact has been misrepresented or omitted or if any material or relevant fact changes after an interpretation is issued or if the action taken differs from the facts presented in the request, the interpretation may not be relied upon by any person.

(4) An interpretation may be rescinded or modified prospectively at any time. A rescission or modification is effected by notifying persons entitled to rely on the interpretation at the address contained in the original request.

(5) Any interpretation based on the NGPA or a rule issued thereunder in effect at the time of issuance may be relied upon only to the extent such law or rule remains in effect.

(6) Except as provided in paragraphs (g)(3), (g)(4) and (g)(5) of this section, the Staff will not recommend any action to the Commission which is inconsistent with the position espoused in the interpretation. The interpretation of the General Counsel is not the interpretation of the Commission. An interpretation provided by the General Counsel is given without prejudice to the Commission's authority to consider the same or like question and to issue a declaratory order to take other action which has the effect of rescinding, revoking, or modifying the interpretation of the General Counsel.

(h) *Appeal.* There is no appeal to the Commission of an interpretation.

(i) *Interpretative rules.* Upon the petition of any person or upon its own motion, the Commission may publish in the **Federal Register** an interpretative

rule regarding any question arising under the NGPA or a rule promulgated thereunder. Any person is entitled to rely upon an interpretative rule.

(j) *Applications for adjustments treated as requests for interpretations.* Except for the notification provisions of paragraph (d)(5) of this section, the provisions of this section apply to any petition for an adjustment which is deemed a request for an interpretation under Rule 1117. Notice to all parties to an adjustment proceeding under Subpart K of this part that is deemed to be a request for an interpretation will be given under Rule 1117(d)(1).

§ 385.1902 Appeals from action of staff (Rule 1902).

Any staff action, other than a decision or ruling of a presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under Subpart E of this part, taken pursuant to authority delegated to the staff by the Commission that would be final, but for the provisions of this section, may be appealed to the Commission by a party. The challenged staff action may be appealed by filing a petition within 30 days of the action. Answers to such petitions may be filed by any party within 10 days of service of the petition. An appeal from any ruling of a presiding officer referred to in Rule 102(e)(1) made in a proceeding set for hearing under Subpart E of this part will conform to the requirements of Rule 715 (interlocutory appeals to the Commission from rulings of presiding officers). The Commission considers that a petition for appeal from action taken by the staff is deemed denied if not acted upon by the Commission within 30 days after the filing of such petition. The Commission further considers its action on appeals made pursuant to this section to be final agency action that is subject to a request for rehearing under Rule 713 (request for rehearing).

§ 385.1903 Notice in rulemaking proceedings (Rule 1903).

Before the adoption of rule of general applicability or the commencement of hearing on such a proposed rulemaking, the Commission will cause general notice to be given by publication in the Federal Register, such notice to be published therein not less than 15 days prior to the date fixed for the consideration of the adoption of a proposed rule or rules or for the commencement of the hearing, if any, on the proposed rulemaking, except where a shorter period is reasonable and good cause exists therefor; *Provided however,* That:

(a) When the Commission, for good cause, finds it impracticable, unnecessary, or contrary to the public interest to give such notice, it may proceed with the adoption of rules without notice by incorporating therein a finding to such effect and a concise statement of the reasons therefor;

(b) Except when notice or hearing is required by statute, the Commission may issue at any time rules of organization, procedure or practice, or interpretative rules, or statements of policy, without notice or public proceedings; and

(c) This section is not to be construed as applicable to the extent that there may be involved any military, naval, or foreign affairs function of the United States, or any matter relating to the Commission's management or personnel, or to United States property, loans, grants, benefits, or contracts.

§ 385.1904 Copies of transcripts (Rule 1904).

The Commission will cause to be made a stenographic record of public hearings and such copies of the transcript thereof as it requires for its own purposes. Participants desiring copies of such transcript may obtain the same from the official reporter upon payment of the fees fixed therefor.

§ 385.1905 Subpoenas (Rule 1905).

(a) *Issuance.* Subpoenas for the attendance of witnesses or for the production of documentary evidence, unless directed by the Commission, will issue only upon petition in writing to the Commission or the presiding officer, except that during sessions of a hearing in a proceeding, such petition may be made orally on the record before the Commission or presiding officer, who is hereby given authority to determine the relevancy and materiality of the evidence sought and to issue such subpoenas in accordance with such determination. Such written petitions must be verified and must specify as nearly as may be, the general relevance, materiality, and scope of the testimony or documentary evidence sought, including, as to documentary evidence specification as nearly as may be, of the documents desired and the facts to be proved by them in sufficient detail to indicate the materiality and relevance of such documents.

(b) *Service and return.* If service of subpoena is made by a United States marshal or deputy thereof, such service will be evidenced by the return of service. If made by another person, such person must make affidavit, describing the manner in which service was made, and must return such affidavit on or with the original subpoena. In case of failure to make service, the reasons for the failure must be stated on the original subpoena. In making service, a copy of the subpoena must be exhibited to and left with the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit, or statement must be returned forthwith to the Secretary or, if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

(c) *Fees of witnesses.* Witnesses who are subpoenaed will be paid fees as provided in Rule 510(e) (relating to fees).

§ 385.1906 Depositions (Rule 1906).

(a) *When permissible.* The testimony of witness may be taken by deposition, upon application by a participant in a proceeding pending before the Commission, at any time before the hearing is closed, upon approval by the Commission or the presiding officer.

(b) *Notice and application.* Unless notice is waived, no deposition will be taken except after at least 10 days' notice to the parties within the United States, and 15 days' notice when a deposition is to be taken elsewhere. Such notice must be given in writing by the participant proposing to take such deposition or by his or her attorney to the other participants or their attorneys of record and to the Commission. In such notice and application to take evidence by deposition, the participant desiring to take the deposition must state the name and post office address of the witness, the subject matter concerning which the witness is expected to testify, the time and place of taking the deposition, the name and post office address of the officer before whom it is desired that the deposition be taken, and the reason why such deposition should be taken. The other participants may, within the time stated in this section, make any appropriate response to such notice and application.

(c) *Authorization for taking.* Thereupon, if the application so warrants, the Commission or presiding officer, will issue and serve, within a reasonable time in advance of the time fixed for taking testimony, upon the participants or their attorneys an authorization naming the witness whose deposition is to be taken and the time, place and officer before whom the witness is to testify, but such time, place and officer so specified may or may not be the same as those named in the said notice and application.

(d) *Officer before whom taken*—(1) *Within the United States.* Such

depositions may be taken before a member, a presiding officer or other authorized representative of the Commission, any judge, commissioner, or clerk of any court of the United States, any chancellor, judge, or justice of a State court, any mayor or chief magistrate, or a city, or any notary public, not being counsel or attorney for any of the participants, or interested in the proceeding or investigation, according to such designation as may be made in the authorization.

(2) *In foreign countries.* Where such deposition is taken in a foreign country, it may be taken before a secretary of an embassy or legation, counsel general, counsel, vice consul, or consular agent of the United States, or before such person or officer as may be designated in the authorization or agreed upon by the parties by stipulation in writing filed with and approved by the Commission or the presiding officer. The magistrate, person, or officer so designated in this section will be referred to as the Officer.

(e) *Oath and reduction to writing.* Every person whose testimony is taken by deposition will be sworn, or will affirm concerning the matter about which he or she shall testify, before any questions are put or testimony given. The testimony will be reduced to writing by, or at the direction of, the officer, after which the deposition will be subscribed by the witness and certified in the usual form by the Officer. Unless otherwise directed in the authorization, after the deposition has been subscribed and certified, it will be forwarded, together with the number of copies specified in the authorization, the copies being made by, or at the direction of, such Officer in a sealed envelope addressed to the Commission at its office in Washington, D.C., with sufficient postage affixed. Upon receipt thereof, the Secretary will file the original in the proceeding and will forward a copy to each party or his or her attorney of record and to staff counsel.

(f) *Copies.* Rule 2004 (copies of filings) is not applicable with respect to the number of copies to be provided.

(g) *Scope and conduct of examination.* Unless otherwise directed in the authorization, the deponent may be examined regarding any matter which is relevant to the issues involved in the pending proceeding, including the existence, description, nature, custody, condition, and location of any books, documents or other tangible things, and the identity and location of persons having knowledge of relevant facts. Parties or their attorneys and staff counsel will have the right of cross-examination, objection and exception. In making objections to questions or evidence, the grounds relied upon will be stated briefly, but no transcript filed by the Officer shall include argument or debate. Objections to questions on evidence will be noted by the Officer upon the deposition, but the Officer does not have power to decide on the competency or materiality or relevancy of evidence. Objections to questions or evidence not taken before the Officer are deemed to be waived.

(h) *Not part of record unless received in evidence.* No part of a deposition will constitute a part of the record in the proceeding, unless received in evidence by the Commission or presiding officer. Objection may be made at the hearing in the proceeding to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

(i) *Fees of officers and deponents.* Deponents whose depositions are taken and the officers taking the same are entitled to the same fees as are paid for like services in the District Courts of the United States, which fees must be paid by the party or participant at whose instance the depositions are taken.

§ 385.1907 Reports of compliance (Rule 1907).

When any licensee, permittee, or any other person subject to the jurisdiction of the Commission is required to do or perform any act by Commission order, permit, or license provision, there must be filed with the Commission within 30 days following the date when such requirement became effective, a notice, under oath, stating that such requirement has been met or complied with; *Provided, however,* That the Commission, by rule or order, or by making specific provision therefor in a license or permit, may provide otherwise for the giving of such notice of compliance. Five conformed copies of such notice must be filed in lieu of the fourteen conformed copies required by Rule 2004 (copies of filings).

Subpart T—Formal Requirements for Filings in Proceedings Before the Commission

§ 385.2001 Filings (Rule 2001).

(a) *Filings with the Commission.* (1) Except as otherwise provided in this chapter, any document required to be filed with the Commission must comply with Rules 2001 to 2005 and must be submitted to the Secretary by:

(i) Mailing the document to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; or

(ii) Hand delivering the document to Room 3110, 825 North Capitol Street, NE., Washington, D.C.

(2) Any document is considered filed on the date stamped by the Secretary, unless the document is subsequently rejected. Any document received after regular business hours is considered filed on the next regular business day.

(b) *Rejection.* (1) If any filing does not comply with any applicable statute, rule, or order, the filing may be rejected, unless the filing is accompanied by a motion requesting a waiver of the applicable requirement of a rule or order and the motion is granted.

(2) If any filing is rejected, the document is deemed not to have been filed with the Commission.

(3) The Secretary, or the office director to whom the filing has been referred, will return a copy of any document rejected under paragraph (b)(1) of this section, with an indication of the deficiencies in the filing and the reasons for rejection.

(4) If a filing does not comply with any applicable requirement, all or part of the filing may be stricken. Any failure to reject a filing which is not in compliance with an applicable statute, rule, or order does not waive any obligation to comply with the requirements of this chapter.

§ 385.2002 Caption of filings (Rule 2002).

A filing must begin with a caption that sets forth:

(a) The docket designation, if any;

(b) The title of the proceeding if a proceeding has been initiated;

(c) A heading which describes the filing; and

(d) The name of the participant for whom the filing is made, or a shortened designation for the participant.

§ 385.2003 Specifications (Rule 2003).

(a) *Paper.* (1) Any filing with the Commission must be:

(i) Typewritten, printed, or reproduced, with each copy clearly legible; and

(ii) On letter-size unglazed paper which is 8 to 8½ inches wide and 10½ to 11 inches long.

(2) Any log, graph, map, drawing, or chart submitted as part of a filing will be accepted on paper larger than provided in paragraph (a)(1) of this section, if it cannot be provided legibly on letter-size paper.

(b) *Format.* Any filing with the Commission must:

(1) Have double-spaced print with left margins not less than 1½ inch wide,

except that any tariff or rate filing may be single-spaced;

(2) Indent and single-space any quotation which exceeds 50 words;

(3) Be bound or stapled at the left side only, if the filing exceeds one page; and

(4) Be printed in not less than 10 point type with double-leaded text and single-leaded quotations, if the filing is printed.

§ 385.2004 Original and copies of filings (Rule 2004).

Any person filing under this chapter must provide an original of the filing and fourteen exact copies, unless otherwise required by statute, rule, or order.

§ 385.2005 Subscription and verification (Rule 2005).

(a) *Subscription.* (1) Any filing with the Commission must be signed.

(2) The signature on a filing constitutes a certificate that:

(i) The signer has read the filing signed and knows its contents;

(ii) The contents are true as stated, to the best knowledge and belief of the signer; and

(iii) The signer possesses full power and authority to sign the filing.

(3) A filing must be signed by:

(i) The person on behalf of whom the filing is made;

(ii) Any officer of the corporation, trust, association, or other organized group, on behalf of which the filing is made;

(iii) Any officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or

(iv) A representative qualified to practice before the Commission under Rule 2101 who possesses authority to sign.

(4) The signer of any filing may be required to submit evidence of authority to sign the filing.

(b) *Verification.* (1) The facts alleged in any filing need not be verified, unless verification is required by statute, rule, or order.

(2) If verification of any filing is required, the verification must be under oath by a person having knowledge of the matters set forth in the filing. If any verification is made by a person other than the signer, a statement must be attached to the verification explaining why a person other than the signer provides verification.

§ 385.2006 Docket system (Rule 2006).

(1) The Secretary will maintain a system for docketing proceedings.

(2) Any public information in any docket is available for inspection and copying by the public during the office hours of the Commission, to the extent that such availability is consistent with the proper discharge of the Commission's duties and in conformity with Part 388 of this chapter.

§ 385.2007 Time (Rule 2007).

(a) *Computation.* (1) Except as otherwise required by law, any period of time prescribed or allowed by statute or Commission rule or order is computed to exclude the day of the act or event from which the time period begins to run.

(2) The last day of any time period is included in the time period, unless it is a Saturday, Sunday, part-day holiday that affects the Commission, or legal public holiday as designated in section 6103 of title 5, United States Code (5 U.S.C. 6103), in which case the period does not end until midnight of the next day which is not a Saturday, Sunday, part-day holiday that affects the Commission, or legal public holiday.

(b) *Date of issuance of Commission rules or orders.* (1) Any Commission rule or order is deemed issued when the Secretary does the earliest of the following:

(i) Posts a full-text copy in the Division of Public Information;

(ii) Mails or delivers copies of the order to the parties; or

(iii) Makes such copies public.

(2) Any date of issuance specified in a rule or order need not be the date on which the rule or order is adopted by the Commission.

(c) *Effective date of Commission rules or orders.* (1) Unless otherwise ordered by the Commission, rules or orders are effective on the date of issuance.

(2) Any initial decision issued by a presiding officer is effective when the initial decision is final under Rule 708(d).

§ 385.2008 Extensions of time (Rule 2008).

(a) Except as otherwise provided by law, the time by which any person is required or allowed to act under any statute, rule, or order may be extended by the decisional authority for good cause, upon a motion made before the expiration of the period prescribed or previously extended.

(b) If any motion for extension of time is made after the expiration of a specified time period, the decisional authority may permit performance of the act required or allowed, if the movant shows extraordinary circumstances sufficient to justify the failure to act in a timely manner.

§ 385.2009 Notice. (Rule 2009).

Unless actual notice is given or unless newspaper notice is given as required by law, notice by the Commission is provided by the Secretary only by publication in the **Federal Register**. Actual notice is usually given by service under Rule 2010.

§ 385.2010 Service (Rule 2010).

(a) *By participants.* (1) Any participant filing a document in a proceeding must serve a copy of the document on:

(i) Each person whose name is on the official service list, or applicable restricted service list, for the proceeding or phase of the proceeding; and

(ii) Any other person required to be served under Commission rule or order or under law.

(2) If any person receives a rejection letter or deficiency letter from the Commission, the person must serve a copy of the letter on any person previously served copies of the rejected or deficient filing.

(b) *By the Secretary.* The Secretary will serve, as appropriate:

(1) A copy of any complaint on any person against whom the complaint is directed;

(2) A copy of any notice of tariff or rate examination or order to show cause, on any person to whom the notice or order is issued;

(3) A copy of any rule or any order by a decisional authority in a proceeding on any person included on the official service list, or applicable restricted service list, for the proceeding or phase of the proceeding.

(c) *Official service list.* (1) The official service list for any proceeding will contain:

(i) The names and addresses of any person designated for service in the initial pleading, other than a protest, or in the tariff or rate filing which is filed by any participant; and

(ii) The name of counsel for the staff of the Commission.

(2) Any designation of a person for service may be changed by filing a written notice with the Commission and serving the notice on each person whose name is included on the official service list.

(d) *Restricted service list.* (1) For purposes of eliminating unnecessary expense or improving administrative efficiency, the Secretary, an office director, or the presiding officer may establish, by order, a restricted service list for an entire proceeding, a phase of a proceeding, one or more issues in a proceeding, or one or more cases in a consolidated proceeding.

(2) Any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the

list, is an active participant with respect to the proceeding or consolidated proceeding, any phase of the proceeding, or any issue in the proceeding, for which the list is established.

(3) Any restricted service list is maintained in the same manner as, and in addition to, the official service list under paragraph (c) of this section.

(4) Before any restricted service list is established, each person included on the official service list will be given notice of any proposal to establish a restricted service list and an opportunity to show why that person should also be included on the restricted service list or why a restricted service list should not be established.

(5) Any designation of a person for service on a restricted service list may be changed by filing written notice with the Commission and serving that notice on each person whose name is on the applicable restricted service list.

(e) *Interveners.* (1) If any motion to intervene or any notice of intervention is filed within time period prescribed for that motion or notice, the name and address of any person designated for service in the motion or notice are placed on the official service list or any applicable restricted service list. Any person placed on the official service list under this paragraph is entitled to service in accordance with this section. If a motion to intervene is denied, the name and address of each person designated for service pursuant to that motion will be removed from the official service list.

(2) If a motion to intervene is not filed within the period prescribed for that motion, the name and address of any person designated for service in the motion are placed on the official service list, or any applicable restricted service list, only after the motion is granted. Any person who files a late motion to intervene will be served only the documents that are filed after the motion is granted.

(f) *Methods of service.* Service of any document must be made:

(1) By United States mail, first-class or better; or

(2) By delivery in a manner that, and to a place where, the person on whom service is required may reasonably be expected to obtain actual and timely receipt.

(g) *Timing of service.* (1) Service is made under this section when the document served is deposited in the mail or is delivered in another manner.

(2) Service of any document must be made not later than the date of the filing of the document.

(h) *Certification.* (1) At the time any document required to be served is filed with the Commission, the original of a certificate of service must be attached to the document and a copy of the certificate must be attached to each copy of the document filed with the Commission.

(2) The certificate of service must conform to the following format:

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list [or the restricted service list, if applicable] compiled by the Secretary in this proceeding.
Dated at this
day of , 19 .

Name _____

(if applicable)
Address _____

Telephone No. _____

Subpart U—Appearance and Practice Before the Commission

§ 385.2101 Appearances (Rule 2101).

(a) A participant may appear in a proceeding in person or by an attorney or other qualified representative. An individual may appear in his or her own behalf, a member of a partnership may represent the partnership, a bona-fide officer of a corporation, trust, association or organized group may represent the corporation, trust, association or group, and an officer or employee of a State commisssion, of a department or political subdivision of a State or other governmental authority, may represent the State commission or the department or political subdivision of the State or other governmental authority, in any proceeding.

(b) A person compelled to appear or voluntarily testifying or making a statement before the Commission or the presiding officer, may be accompanied, represented, and advised by an attorney or other qualified representative.

(c) A person appearing before the Commission or the presiding officer must conform to the standards of ethical conduct required of practitioners before the Courts of the United States, and where applicable, to the requirements of Section 12(i) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 791(i)).

§ 385.2102 Suspension (Rule 2102).

(a) After a hearing the Commission may disqualify and deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to a person who is found:

(1) Not to possess the requisite qualifications to represent others, or

(2) To have engaged in unethical or improper professional conduct, or

(3) Otherwise to be not qualified.

(b) Contumacious conduct in a hearing before the Commission or a presiding officer will be grounds for exclusion of any person from such hearing and for summary suspension for the duration of the hearing by the Commission or the presiding officer.

§ 385.2103 Appearance of former employees (Rule 2103).

(a) No person having served as a member, officer, expert, administrative law judge, attorney, accountant, engineer, or other employee of the Commission may practice before or act as attorney, expert witness, or representative in connection with any proceeding or matter before the Commission which such person has handled, investigated, advised, or participated in the consideration of while in the service of the Commission.

(b) No person having been so employed may within 1 year after his or her employment has ceased, practice before or act as attorney, expert witness, or representative in connection with any proceeding or matter before the Commission which was under the official responsibility of such person, as defined in 18 U.S.C. 202, while in the service of the Commission.

(c) Nothing in paragraphs (a) and (b) of this section prevents a former member, officer, expert, administrative law judge, attorney, accountant, engineer, or other employee of the Commission with outstanding scientific or technological qualifications from practicing before or acting as an attorney or representative in connection with a particular matter in a scientific or technological field if the Chairman of the Commission makes a certification in writing, published in the **Federal Register**, that the national interest would be served by such action or representation.

Subpart V—Ex Parte Communications; Separation of Functions

§ 385.2201 Ex parte communications (Rule 2201).

In order to avoid all possibilities of prejudice, real or apparent, to the public interest and persons involved in proceedings pending before the Commission:

(a) Except as permitted in paragraph (b) of this section, no person who is a party to, or his or her counsel, agent, or other person acting on his or her behalf, and no interceder in, any on-the-record proceedings, shall submit ex parte, off-the-record communications to any member of the Commission or of his or her personal staff, to the administrative

law judge, or to any other employee of the Commission, regarding any matter pending before the Commission in any contested on-the-record proceeding, and no Commissioner, member of his or her personal staff, Administrative Law Judge, or any other employee of the Commission, shall request or entertain any such ex parte, off-the-record communications. For the purposes of this section, the term "ex parte communication" means an oral or written communication relative to the merits of an on-the-record proceeding pending before the Commission which is not on the public record and with respect to which reasonable prior notice to the parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this section; the term "decisional employee" means a commissioner or member of his or her personal staff, an administrative law judge, or any other employee of the Commission who is or may be reasonably expected to be involved in the decisional process of the proceeding; the term "contested on-the-record proceedings" means a proceeding required by statute, constitution, published Commission rule or regulation or order in a particular case, to be decided on the basis of the record of a Commission hearing, and in which a protest or a petition or notice to intervene in opposition to requested Commission action has been filed; the term "interceder" shall include any individual outside the Commission, whether in private or public life, partnership, corporation, association, or other agency, other than a party or an agent of a party, who volunteers a communication.

(b) The prohibitions contained in paragraph (a) of this section do not apply to a communication:

(1) From an interceder who is a local, State, or Federal agency which has no official interest in and whose official duties are not affected by the outcome of the on-the-record proceedings before the Commission to which the communication relates;

(2) From an interceder relating to matters of procedure only;

(3) From a party to, or his or her counsel, agent, or other person acting on his or her behalf, in an on-the-record proceeding, if the communication relates to matters of procedure only and is directed to the Secretary of the Commission, staff counsel, or any other employee in the presence of or with the prior approval of staff counsel;

(4) From any person when otherwise authorized by law;

(5) When the communication is between the staff counsel assigned to the proceeding or, in the presence of or after coordination with such staff counsel, any other employee of the Commission (except a decisional employee) and any party or counsel to any party or parties to the proceeding or, in the presence of or after coordination with such counsel or party, and agent of any such party: *Provided,* That any employee of the Commission who may reasonably be expected to participate in the decisional process may waive such participation by entering a staff appearance in the proceeding: *Provided further,* That non-unanimous settlement offers shall thereafter be served on the participants in the proceeding prior to the submission of such offers to the Commission;

(6) Which the participants agree may be made on an ex parte basis;

(7) Related to routine safety, construction, and operational inspections of project works by the Commission staff not undertaken to investigate or study a matter pending in issue before the Commission in any on-the-record proceeding;

(8) Related to routine field audits of the accounts or any books or records of a company subject to the Commission's accounting requirements not undertaken to investigate or study a matter pending in issue before the Commission in any on-the-record proceeding;

(9) Which relates solely to a request for supplemental information or data necessary for an understanding of factual materials contained in documents filed with the Commission in a proceeding covered by this section and which is made in the presence of or after coordination with counsel, except a communication with a decisional employee, in the absence of waiver of participation;

(10) The Commission may, by rule or order, modify any provision of this subpart, or 49 CFR Part 1100, Appendix C, as it applies to all or part of a proceeding, to the extent permitted by law. The prohibitions of paragraph (a) of this section do not apply to oil pipeline proceedings which are governed by 49 CFR Part 1100, Appendix C.

(c) All written communications prohibited by paragraph (a) of this section, sworn statements reciting the substance of all such oral communications, and all written responses and sworn statements reciting the substance of all oral responses to such prohibited communications must be delivered to the Secretary of the Commission who will place the communication in public files associated with the case, but separate from the material upon which the Commission can rely in reaching its decision. The Secretary will serve such communications upon parties to the proceeding. The Secretary will also serve a copy of the sworn statement to the communicator and allow him or her a reasonable opportunity to file a response.

(d) A Commissioner, member of his or her immediate staff, administrative law judge, or any other employee of the Commission who receives an oral offer of any communication prohibited by paragraph (a) of this section shall decline to listen to such communication and shall explain that the matter is pending for determination. If unsuccessful in preventing such communication, the recipient thereof shall advise the communicator that he or she will not consider the communication. The recipient shall prepare a sworn statement setting forth the substance of the communication and the circumstances thereof within 48 hours and deliver the statement to the Secretary of the Commission for compliance with the procedures established in paragraph (c) of this section.

(e) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which the Secretary has associated with the record may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Where the communication contains assertions of fact not a part of the record and of which the Commission cannot take official notice, the Commission in lieu of receiving rebuttal material normally will direct that the alleged factual assertion on any proposed rebuttal be disregarded in arriving at a decision. Nor will the Commission normally permit any rebuttal of ex parte endorsements or oppositions by civic or other organizations by the submission of counter endorsements or oppositions.

(f) Upon receipt of a communication knowingly made in violation of paragraph (a) of this section, the Commission, administrative law judge, or other employee presiding at the hearing may require, to the extent consistent with the interests of justice and the policy of underlying statutes, the communicator to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(g) The prohibitions contained in this section shall apply from the time at which a proceeding is noticed for hearing or the person responsible for

such communication has knowledge that it will be noticed for hearing or at the time at which a protest or a motion or notice to intervene in opposition to requested Commission action has been filed, whichever occurs first.

§ 385.2202 Separation of functions of staff (Rule 2202).

In any proceeding in which a Commission adjudication is made after hearing, no officer, employee, or agent assigned to work upon the investigation or trial of the proceeding or to assist in the trial thereof, in that or any factually related proceeding, shall participate or advise as to the findings, conclusion or decision, except as a witness or counsel in public proceedings.

Subpart W—[Reserved]

Subpart X—[Reserved]

Subpart Y—[Reserved]

Subpart Z—[Reserved]

PART 388—PUBLIC INFORMATION AND REQUESTS

Sec.

388.101 Definitions.
388.102 Scope.
388.103 Notice of proceedings.
388.104 Notice and publications of decisions, rules, statements of policy, organization, and operation.
388.105 Public records.
388.106 Index of Commission actions.
388.107 Timetables and procedures in event of withholding public records.
388.108 Procedure in event of subpoena.
388.109 Procedures for requesting information.

Authority: 5 U.S.C. 552 and 553.

§ 388.101 Definitions.

For purposes of this part,

(a) "Filings and submittals" include:

(1) Applications, declarations, complaints, petitions, and other papers seeking Commission action;

(2) Financial and statistical and other reports to the Commission, power system statements of claimed cost of licensed projects, original cost and reclassification studies, proposed accounting entries, certificates of notification (under section 204(e) of the Federal Power Act), rates or rate schedules and related data and concurrences, and other filings and submittals to the Commission in compliance with the requirement of any statute, executive order, or Commission rule, regulation, order, license, or permit;

(3) Answers, replies, responses, objections, protests, motions, stipulations, exceptions, other pleadings, notices, depositions, certificates, proofs of service, transcripts of oral arguments, and briefs in any matter or proceeding; and

(4) Exhibits, attachments and appendices to, amendments and corrections of, supplements to, or transmittals or withdrawals of, any of the foregoing.

(b) "Matter or proceeding" means the Commission elucidation of the relevant facts and applicable law, consideration thereof, and action thereupon with respect to a particular subject within the Commission's jurisdiction, initiated by a filing or submittal or a Commission notice or order.

(c) "Formal record", includes in addition to the filings and submittals in a matter or proceeding, any notice or Commission order initiating the matter or proceeding and, if a hearing is held, the following: The designation of the presiding officer, transcript of hearing, exhibits received in evidence, exhibits offered but not received in evidence, offers of proof, motions, stipulation, subpoenas, proofs of service, references to the Commission, and determinations made by the Commission thereon, certifications to the Commission, and anything else upon which action of the presiding officer or the Commission may be based; it does not include proposed testimony or exhibits not offered or received in evidence.

(d) "Staff papers" include the Commission staff's working notes, papers, records, memoranda, and correspondence, except:

(1) A paper not relating to a proposed settlement or to an application, permission, filing, or submittal under § 35.13, or § 154.66, of this chapter, which are intended for the Commission's consideration and are within the terms of § 388.105(d) of this part (public records) and paragraph 9(e) of this section, because received by the Commission in a matter or proceeding after hearing has commenced and before final Commission action; and

(2) Paper made a part of the public rules and records by inclusion in a formal record or in Commission memorandum or correspondence which is part of the public files and record.

(e) "Commission memoranda" include written communications from the staff or a presiding officer which are intended for the Commission's consideration and those to the staff or a presiding officer which are signed or transmitted by or on behalf of the Chairman, a Commissioner, the Secretary, or the Executive Director.

(b) "Commission correspondence" includes written communications and enclosures received from others than the staff and intended for the Commission or sent to others than the staff and signed by the Chairman, a Commissioner, the Secretary, the Executive Director, or other authorized official, except those which are purely personal.

§ 388.102 Scope.

This part prescribes the rules governing public notice of proceedings, publication of decisions, and public records of the Commission.

§ 388.103 Notice of proceedings.

(a) Public sessions of the Commission for taking evidence or hearing argument and public conferences and hearings before a presiding officer, including substantive rulemaking proceedings, will not be held except upon due notice.

(b) Notice of applications, complaints, and petitions, is governed by Rule 2009 (notice). Notice of applications for certificates of public convenience and necessity under section 7 of the Natural Gas Act is governed by § 157.9 of this chapter (notice of application). Notice of public sessions and proceedings and of meetings of the Commission is governed by Rule 2009 (notice). Notice of hearings and of initiation or pendency of rulemaking proceedings is governed by Rule 1903 (notice in rulemaking proceedings). Notice of applications under Part I of the act for preliminary permits and licenses is governed by §§ 4.31 and 4.81 of this chapter (acceptance or rejection and contents). Notice of proposed alterations or surrenders of license under section 6 of the Federal Power Act may be given by filing and publication in the **Federal Register** as stated in Rule 1903 (notice in rulemaking proceedings), and, where deemed desirable by the Commission, by local newspaper advertisement. Notice of rates charged and changes therein is governed by the filing requirements of Subchapters B and E of this chapter (regulations under the Federal Power Act and Regulations under the Natural Gas Act). Other notice required by statute, rule, regulation, or order, or deemed desirable, may be given by filing and publication in the **Federal Register** as governed by Rule 1903 (notice in rulemaking proceedings) or by service as governed by Rule 2010 (service).

§ 388.104 Notice and publication of decisions, rules, statements of policy, organization, and operations.

Service of intermediate and final decisions upon parties to the proceedings is governed by Rule 2010 (service). Descriptions of the Commission's organization, its methods of operation, statements of policy and

interpretations, procedural and substantive rules, and amendments thereto will be filed with and published in the **Federal Register.** Commission opinions together with accompanying orders, Commission orders, and intermediate decisions will be released to the press and made available to the public promptly. Copies of Commissions opinions, orders in the nature of opinions, rulemaking and selected procedural orders, and intermediate decisions which have become final are published in the *Federal Energy Regulatory Commission Reports* and, upon payment of applicable charges, may be obtained from: Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646. Attention Order Department.

§ 388.105 Public records.

(a) The public records of the Commission, available for inspection and copying upon request reasonably describing the documents during regular business hours in the public reference room maintained by the Division of Public Information, include:

(1) Submittals and filings as follows:

(i) Applications, declarations, complaints petitions, and other papers seeking Commission action;

(ii) Financial, statistical, and other reports to the Commission, power system statements of claimed cost of licensed projects, original cost and reclassification studies, proposed accounting entries, certificates of notification (under section 204(e) of the Federal Power Act), rates or rate schedules and related data and concurrences, and other filings and submittals to the Commission in compliance with the requirement of any statute, executive order, or Commission rule, regulation, order, license, or permit;

(iii) All answers, replies, responses, objections, protests, motions, stipulations, exceptions, other pleadings, notices, depositions, certificates, proof of service, transcripts or oral arguments, and briefs in any matter or proceeding;

(iv) Exhibits, attachments and appendices to, amendments and corrections of, supplements to, or transmittals or withdrawals of, any of the foregoing; and

(v) Commission correspondence relating to the foregoing;

(2) All other parts of the formal record in any matter or proceeding set for formal or statutory hearing and any Commission correspondence related thereto;

(3) Proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence.

(4) Presiding officer actions, correspondence, and memoranda to or from others, with the exception of internal communications within the Office of Administrative Law Judges;

(5) Commission orders, notices, findings, opinions, determinations, and other actions in matter or proceeding and Commission minutes which have been approved;

(6) Commission correspondence relating to any furnishing of data or information, except to or by another branch, department, or agency of the Government;

(7) Commission correspondence with respect to the furnishing of data, information, comments, or recommendations to or by another branch, department, or agency of the Government where furnished to satisfy a specific requirement of a statute or where made public by that branch, department or agency;

(8) Commission correspondence and reports on legislative matters under consideration by the Office of Management and Budget or Congress, but only after made public or released for publication by that Office or the Committee or Member of Congress involved;

(9) Staff reports on statements of claimed cost by licensees when such reports have been served on the licensee;

(10) Commission correspondence on interpretation of the Uniform System of Accounts and letters on such interpretation signed by the Chief Accountant and sent to others than the Commission, a Commissioner, or the staff;

(11) Commission correspondence on the interpretation or applicability of any statute, rule, regulation, order, license, or permit issued or administered by the Commission and letters of opinion on that subject signed by the General Counsel and sent to others than the Commission, a Commissioner, or the staff;

(12) Copies of the filings, certifications, pleadings, records, briefs, orders, judgments, decrees, and mandates in court proceedings to which the Commission is a party and the correspondence with the courts or clerks of court;

(13) The Commission's Administrative and Operating Manual;

(14) Transcripts, electronic recordings, or minutes of Commission meetings closed to public observation containing material nonexempt pursuant to Subpart B of Part 375 of this chapter (Government in the Sunshine Act rules);

(15) Other records of the Commission except those which are:

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b), provided that such statute;

(A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of personal privacy, disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, disclose investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; or

(viii) Geological and geophysical information and data, including maps, concerning wells;

(16) Any reasonably segregable portion of a record after deletion of the portions which are exempt under this section.

(b) The following are examples of information which are not part of the public records of the Commission:

(1) Files and records containing facts or information not permitted to be divulged by section 301 of the Federal Power Act or section 8 of the Natural Gas Act because knowledge thereof was gained during the course of examination of books, records, data, or accounts

pursuant to those sections and divulgence thereof has not been ordered by the Commission;

(2) Files and records classified under Executive Order No. 10501, 3 CFR 1949–53 Comp., p. 979, for national security purposes;

(3) Written communications between or among the Commission, members of the Commission, the Secretary, and expressly designated members of the staff while particularly assigned, in accordance with all applicable legal requirements, to aid the Commission in the drafting of any order and findings, with or without opinion in any matter or proceeding; and

(4) Unaccepted offers of settlements in any matter or proceeding unless or until made public by act of the offeror.

§ 388.106 Index of Commission actions.

The Division of Public Information maintains and makes available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this part to be made available or published. The index will be published quarterly and copies or supplements thereto will be distributed by sale or otherwise.

§ 388.107 Timetables and procedure in event of withholding of public records.

(a)(1) The Director of Public Information will determine within 10 days after receipt of a request for public records whether to comply with such request and will immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal any adverse determination in writing to the Chairman.

(2) Requests filed pursuant to this part must be in writing, addressed to the Director of Public Information, and clearly marked "Freedom of Information Request." Request for information received by the Commission not addressed and marked as indicated in paragraph (a)(2) of this section will be so addressed and marked by Commission personnel as soon as it is properly identified and forwarded immediately to the Director of Public Information. Requests made pursuant to this paragraph will be considered to be received upon actual receipt by the Director of Public Information.

(b)(1) The Chairman, in his or her capacity as administrative head of the agency pursuant to section 401(c) of the DOE Act, will make a determination with respect to any appeal within 20 days after the receipt of such appeal. If on appeal, the denial of the request for records is in whole or in part upheld, the Chairman will notify the person making such request of the provisions for judicial review of that determination.

(2) Appeals filed pursuant to this section must be in writing, addressed to the Chairman of the Commission, and clearly marked "Freedom of Information Appeals." Such an appeal received by the Commission not addressed and marked as indicated in this paragraph will be so addressed and marked by Commission personnel as soon as it is properly identified and forwarded immediately to the Chairman. Appeals taken pursuant to this paragraph will be considered to be received, upon acutal receipt by the Chairman.

(c) In unusual circumstances, the time limits prescribed in this section may be extended by the Secretary by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice will specify a date that would result in an extension for more than 10 working days in the aggregate. One 10-day extension may be invoked at the initial stage or at the appellate stage, or divided between the two, so long as the total extended time does not exceed 10 working days with respect to a particular request. The Secretary will be responsible for allocating distribution of the 10 days on a case-by-case basis. "Unusual circumstances" as used in this paragraph means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the requests;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or;

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(d) If the Commission fails to comply with the applicable time limit provisions of this section, the Commission can request the court for additional time to complete its review of the records by showing that exceptional circumstances exist and that it is exercising due diligence in responding to the request.

(e) Any notification of denial of any request for records under this section will set forth the names and titles or positions of each person responsible for the denial of such request.

(f) Upon any determination to comply with a request for records, the records will be made promptly available to such person making such request.

§ 388.108 Procedure in event of subpoena.

If an officer or employee of the Commission is served with a subpoena duces tecum, for material which is not part of the public file and records of the Commission shall be produced only as authorized by the Commission. Service of such a subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it deems advisable.

Subparts W Through Z [Reserved]

PART 1b—RULES RELATING TO INVESTIGATIONS

4. Part 1b is amended as follows:

§ 1b.12 [Amended]

a. In the last sentence of § 1b.12, by removing "1.21(b) of the rules of practice." and adding in lieu thereof "§ 385.1904(b) of this chapter.";

§ 1b.16 [Amended]

b. In the first sentence of § 1b.16(b), by removing "§ 1.4 of the rules of practice" and adding in lieu thereof "§ 385.2101 of this chapter";

c. In the last sentence of § 1b.16(c)(4), by removing "§ 1.4 of the Commission's rules of practice, and § 1100.1 of the rules of practice of the Interstate Commerce Commission," and adding in lieu thereof "§ 385.2101 of this chapter.";

§ 1b.17 [Amended]

d. In § 1b.17, by removing "§ 1.4 of the Commission's rules of practice" and adding in lieu thereof "Subpart U of part 385 of this chapter".

PART 2—GENERAL POLICY AND INTERPRETATIONS

5. Part 2 is amended as follows:

§ 2.1a [Amended]

a. In the first sentence of § 2.1a(b), by removing "and § 1.7(e) of this Title";

b. In § 2.1a, by removing the text of paragraph (c) and adding in lieu thereof "[Reserved]";

§ 2.17 [Amended]

c. In § 2.17(f), by removing "18 CFR 1.17(c)." and adding in lieu thereof "§ 385.2010(c) of this chapter.";

§ 2.56 [Amended]

d. In the first sentence of § 2.56a(g), by removing "§ 1.7(b) of the Commission's rules of practice and procedure (18 CFR 1.7(b))" and adding in lieu thereof "§ 385.207 of this chapter";

e. In § 2.56b(h), by removing "§ 1.7(b) of the Commission's rules of practice and procedure [18 CFR 1.7(b)]" and adding in lieu thereof "§ 385.207 of this chapter";

§ 2.59 [Removed]

f. By removing § 2.59;

§ 2.62 [Removed]

g. By removing § 2.62;

§ 2.68 [Amended]

h. In the first sentence of § 2.68(b), by removing "§ 1.7 of the Commission's rules of practice and procedure in" and adding in lieu thereof "§ 385.207 of";

§ 2.78 [Amended]

i. In § 2.78(a)(2), by removing "§ 1.7(b) of the Commission's rules of practice and procedure," and adding in lieu thereof "§ 385.207 of this chapter,";

j. In the first sentence of § 2.78(b), by removing "§ 1.7(b) of this chapter and shall conform to the requirements of §§ 1.15 and 1.16" and adding in lieu thereof "§ 385.1501";

§ 2.100 [Amended]

k. In the second sentence of § 2.100(c), by removing "Section 1.31(b)(2) of the Commission's General Rules" and adding in lieu thereof "Section 385.106 of this chapter";

l. In the second sentence of § 2.100(d), by removing "18 CFR 1.4(d)" and adding in lieu thereof "§ 385.2201";

m. In § 2.100(e), by removing "18 CFR § 1.4(c)," and adding in lieu thereof "§ 385.2201,";

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

6. Part 3 is amended as follows:

§ 3.8 [Amended]

a. In the last sentence of § 3.8(e), by removing "§ 1.36(e)" and adding in lieu thereof "§ 388.106 of this chapter";

b. In the last sentence of § 3.8(h), by removing "described in § 3.4(d)".

§ 3.310 (Subpart B)—[Removed]

c. In subpart B by removing the entire subpart, consisting of § 3.103.

PART 3a—NATIONAL SECURITY INFORMATION

7. Part 3a is amended as follows:

§ 3a.11 [Amended]

In § 3a.11(d)(1), by removing "§ 1.36(c)(14) of the rules of practice and procedures of the Federal Power Commission (18 CFR 1.36(c)(14))." and adding in lieu thereof "§ 388.105(n) of this chapter.";

PART 3c—STANDARDS OF CONDUCT

8. Part 3c is amended as follows:

§ 3c.5 [Amended]

a. In § 3c.5(d)(3), by removing "Section 1.4(c) of the Federal Power Commission's rule of practice and procedure [18 CFR 1.4(c)]" and adding in lieu thereof "Section 385.2103 of this chapter";

§ 3c.6 [Amended]

b. In the first sentence of § 3c.6(c), by removing "Section 1.36 of the Commission's rules of practice and procedure (18 CFR 1.36)" and adding in lieu thereof "Part 388 of this chapter", and, in the second sentence thereof, by removing "Section 1.36(f)" and adding in lieu thereof "Section 388.107 of this chapter";

c. In § 3c.6(f), by removing "Section 1.4(d) of the Commission's rules of practice and procedure [18 CFR 1.4(d)]" and adding in lieu thereof "Section 385.2201";

§ 3c.11 [Amended]

d. In § 3c.11(f)(2), by removing "Section 1.36 of the Federal Power Commission's Rules of Practice and Procedure (18 CFR 1.36)" and adding in lieu thereof "Part 388 of this chapter";

e. In § 3c.11(f)(3), by removing "Section 1.4(d) of the Federal Power Commission's Rules of Practice and Procedure [18 CFR 1.4(d)]" and adding in lieu thereof "Section 385.2201 of this chapter";

f. In § 3c.11(g)(2), by removing "Section 1.4(c) of the Federal Power Commission's rules of practice and procedure [18 CFR 1.4(c)]" and adding in lieu thereof "Section 385.2103 of this chapter";

§ 3c.106 [Amended]

g. In the first sentence of § 3c.106(f)(2)(iii), by removing "Section 1.4(c) of the Federal Power Commission's Rules of Practice and Procedure [18 CFR 1.4(c)]" and adding in lieu thereof "Section 385.2103 of this chapter";

§ 3c.107 [Amended]

h. In the first sentence of § 3c.107(b)(2), by removing "Section 1.36 of the Commission's Rules of Practice and Procedure (18 CFR 1.36)" and adding in lieu thereof "Section 388.107 of this chapter";

i. In the second sentence of § 3c.107(b)(2), by removing "Section 1.36(f)" and adding in lieu thereof "Section 388.107 of this chapter";

j. In § 3c.107(b)(5), by removing "Section 1.4(d) of the Commission's Rules of Practice and Procedure [18 CFR 1.4(d)]" and adding in lieu thereof "Section 385.2201 of this chapter";

§ 3c.112 [Amended]

k. In the first sentence of § 3c.112(h)(2), by removing "Section 1.4(c) of the Federal Power Commission's Rule of Practice and Procedure (18 CFR 1.4(c))" and adding in lieu thereof "Section 385.2103 of this chapter";

§ 3c.204 [Amended]

l. In § 3c.204(d)(2)(iii), by removing "Section 1.4(c) of the Federal Power Commission's Rules of Practice and Procedure [18 CFR 1.4(c)]" and adding in lieu thereof "Section 385.2103 of this chapter";

§ 3c.205 [Amended]

m. In the first sentence of § 3c.205(b)(2), by removing "Section 1.36 of the Commission's Rules of Practice and Procedure (18 CFR 1.36)" and adding in lieu thereof "Part 388 of this chapter", and, in the second sentence thereof, by removing "§ 1.36(f)" and adding in lieu thereof "Section 388.107 of this chapter";

n. In § 3c.205(b)(5), by removing "Section 1.4(d) of the Commission's Rules of Practice and Procedure (18 CFR 1.4(d))" and adding in lieu thereof "Section 385.2201 of this chapter";

§ 3c.206 [Amended]

o. In § 3c.206(f)(2), by removing "Section 1.36 of the Federal Power Commission's rules of practice and procedure (18 CFR 1.36)" and adding in lieu thereof "Part 388 of this chapter";

p. In § 3c.206(f)(3), by removing "Section 1.4(d) of the Federal Power Commission's rules of practice and procedure (18 CFR 1.4(d))" and adding in lieu thereof "Section 385.2201";

q. In § 3c.206(h)(3), by removing "Section 1.4(c) of the Federal Power Commission's Rules of Practice and Procedure (18 CFR 1.4(c))" and adding in lieu thereof "§ 385.2103 of this chapter".

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

9. Part 4 is amended as follows:

§ 4.5 [Amended]

a. In § 4.5, by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385";

§ 4.14 [Amended]

b. In § 4.14(a), by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385";

§ 4.23 [Amended]

c. In the third sentence of § 4.23, by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385";

§ 4.31 [Amended]

d. In § 4.31(a)(1) by removing "Conform to the requirements of §§ 1.5, 1.14, 1.15. 1.16, and 1.17 of this chapter, except as otherwise described in this part; and" and adding in lieu thereof "[Reserved]";

e. In the fourth sentence of § 4.31(g), by removing "§ 1.4(d)" and adding in lieu thereof "§ 385.2201";

f. In § 4.31(h), by removing "petition" each time it appears and adding in lieu thereof "motion", by removing "§ 1.8" and adding in lieu thereof "§ 385.214", by deleting "§ 1.8(e)" and adding in lieu thereof "§ 385.204(c)(2)", and by removing "petitions" and adding in lieu thereof "motions";

§ 4.33 [Amended]

g. In § 4.33(b), by removing "must conform to the requirements of §§ 1.14, 1.15, 1.16, and 1.17 of this chapter, and";

§ 4.81 [Amended]

h. In § 4.81(c)(3), by removing "§ 1.14(a)(2)" and adding in lieu thereof "§ 385.207";

§ 4.92 [Amended]

i. In § 4.92(b) by removing the text of paragraph (b)(1) and adding in lieu thereof "[Reserved]";

j. In § 4.92(c)(1)(i), by removing "§ 1.7(b)" and adding in lieu thereof "§ 385.207";

k. In the last sentence of § 4.92(c)(2), by removing "18 CFR § 1.7(b)" and adding in lieu thereof "18 CFR § 385.207";

§ 4.103 [Amended]

l. In § 4.103(d), by removing "§ 1.7" and adding in lieu thereof "§ 385.297";

§ 4.107 [Amended]

m. In § 4.107(a)(1), by removing the last sentence;

§ 4.112 [Amended]

n. In § 4.112(c)(6), by adding "§ 1.15" and adding in lieu thereof "§ 385.2005(a)," and by removing "§ 1.16" and adding in lieu thereof "§ 385.2005(b)";

§ 4.113 [Amended]

o. In § 4.113(c)(6) by removing "§ 1.15" and inserting in lieu thereof "§ 385.2005(a)", and by removing "§ 1.16" and inserting in lieu thereof "§ 2005(b)".

§ 4.201 [Amended]

p. In § 4.201(c), by removing "§ 1.7" and adding in lieu thereof "§ 385.207(c)(4)".

PART 12—SAFETY OF WATER POWER PROJECTS AND PROJECT WORKS

10. Part 12 is amended as follows:

§ 12.2 [Amended]

a. In § 12.2(b), by removing "§ 1.7" and adding in lieu thereof "§ 385.207";

§ 12.4 [Amended]

b. In § 12.4(c)(1) by removing "§ 1.7" and adding in lieu thereof "§ 385.207";

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

11. Part 16 is amended as follows:

§ 16.4 [Amended]

a. In § 16.4, by removing "§§ 1.37 and 2.1" and adding in lieu thereof "§ 2.1 and Subpart M of Part 385";

§ 16.9 [Amended]

b. In § 16.9, by removing "§ 1.34" and adding in lieu thereof "§ 385.713";

PART 25—APPLICATION FOR VACATION OF WITHDRAWAL AND FOR DETERMINATION PERMITTING RESTORATION TO ENTRY

12. Part 25 of Chapter I is amended as follows:

§ 25.2 [Amended]

a. In § 25.2, by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385".

PART 32—INTERCONNECTION OF FACILITIES; EMERGENCIES, TRANSMISSION TO FOREIGN COUNTRY

13. Part 32 is amended as follows:

§ 32.4 [Amended]

a. In § 32.4, by removing "and must conform, in all other respects, to the requirements of §§ 1.15 through 1.17 of this chapter";

§ 32.37 [Amended]

b. In § 32.37, by removing "and must conform, in all other respects, to the requirements of §§ 1.15 through 1.17 of this chapter";

§ 32.61 [Amended]

c. In the first sentence of § 32.61(i), by removing "and shall conform, in all other respects, to the requirements of §§ 1.15 through 1.17 of this chapter".

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF A PUBLIC UTILITY.

14. Part 33 is amended as follows:

§ 33.5 [Amended]

In § 33.5, by removing the text of the entire section and adding in lieu thereof "[Reserved].".

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

15. Part 34 is amended as follows:

§ 34.6 [Amended]

In § 34.6, by removing "§ 1.15" and adding in lieu thereof "Subpart T of Part 385".

PART 35—FILING OF RATE SCHEDULES

16. Part 35 is amended as follows:

§ 35.8 [Amended]

a. In the first sentence of the fourth paragraph of the notice form in § 35.8(a), by removing "§§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.107" and adding in lieu thereof "§§ 385.212 and 385.207 of this chapter.";

b. In the second sentence of § 35.13(a), by removing "§ 1.7" and adding in lieu thereof "§ 385.207";

c. In § 35.14(a)(10), by removing "§ 1.7(b) of the rules of practice and procedure" and adding in lieu thereof "§ 385.207 of this chapter".

PART 41—ACCOUNTS, RECORDS, AND MEMORANDA

17. Part 41 is amended as follows:

§ 41.3 [Amended]

a. In § 41.3, by removing "§ 1.17" and adding in lieu thereof "§ 385.2010";

§ 41.4 [Amended]

b. In § 41.4, by removing the first sentence and adding in lieu thereof "Each copy of such memorandum must be complete in itself.";

c. In the second sentence of § 41.4, by removing "§ 1.29" and adding in lieu thereof "§ 385.706";

§ 41.7 [Amended]

d. In the first sentence of § 41.7, by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385".

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

18. Part 45 is amended as follows:

a. In § 45.7, by removing "§ 1.15" and adding in lieu thereof "Subpart T of Part 385".

PART 131—FORMS

19. Part 131 is amended as follows:

§ 131.1 [Removed and Reserved]

a. In § 131.1, by removing the text of the entire section and adding in lieu thereof "[Reserved].".

PART 152—APPLICATION FOR EXEMPTION FROM THE PROVISIONS OF THE NATURAL GAS ACT PURSUANT TO SECTION 1(c) THEREOF

20. Part 152 is amended as follows:

a. In the first sentence of § 152.2, by removing "and shall conform in all other respects with §§ 1.15 and 1.16 of this chapter";

PART 153—APPLICATION FOR AUTHORIZATION TO EXPORT OR IMPORT NATURAL GAS

21. Part 153 is amended as follows:

§ 153.2 [Amended]

a. In the first sentence of § 153.2, by removing "and shall conform in all other respects with §§ 1.15 and 1.16 of this chapter";

§ 153.11 [Amended]

b. In the first sentence of § 153.11, by removing "and shall conform in all other respects with §§ 1.15 and 1.16 of this chapter".

PART 154—RATE SCHEDULES AND TARIFFS

22. Part 154 is amended as follows:

§ 154.28 [Amended]

a. In the first sentence of the final paragraph of § 154.28, by removing "Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10)" and adding in lieu thereof "Sections 385.214 and 385.211 of this chapter.".

§ 154.94 [Amended]

b. In the second sentence of § 154.94(j)(5)(ii), by removing "Section 1.28" and adding in lieu thereof "Section 385.715";

PART 156—APPLICATIONS FOR ORDERS UNDER SECTION 7(a) OF THE NATURAL GAS ACT

23. Part 156 is amended as follows:

§ 156.3 [Amended]

a. In the second sentence of § 156.3(a), by removing ", and applicable requirements of the Commission's rules of practice and procedure, particularly §§ 1.5, 1.15, 1.16, and 1.17 of this chapter";

b. In the second sentence of § 156.3(a), by removing "§ 1.11" and adding in lieu thereof "§§ 385.213 and 385.214";

§ 156.5 [Amended]

c. In § 156.5(c), by removing the last sentence;

§ 156.7 [Amended]

d. In § 156.7, by removing the next to the last sentence.

§ 156.10 [Amended]

e. In § 156.10, by removing "§ 1.19(b)" and adding in lieu thereof "§ 385.2009".

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

24. Part 157 is amended as follows:

§ 157.6 [Amended]

a. In the second sentence of § 157.6(a), by removing ", and other applicable requirements of the Commission's rules of practice and procedure, particularly §§ 1.5, 1.15, 1.16, and 1.17 of this chapter";

b. In the third sentence of § 157.6(a), by removing "§ 1.11" and adding in lieu thereof "§§ 385.213 and 385.214";

c. In § 157.6(c), by removing "§ 1.32(b)" and adding in lieu thereof "§ 385.802";

§ 157.8 [Amended]

d. In the third sentence of § 157.8, by removing "§ 1.14" and adding in lieu thereof "§ 385.2001(b)";

§ 157.10 [Amended]

e. In the first sentence of § 157.10, by removing "§ 1.8" and adding in lieu thereof "§ 385.214";

f. In § 157.10, by removing the fourth sentence;

g. In the last sentence of § 157.10, by removing "§ 1.10" and adding in lieu thereof "§ 385.209";

§ 157.11 [Amended]

h. In § 157.11(b), by removing "§ 1.32(b)" and adding in lieu thereof "§ 385.802";

§ 157.14 [Amended]

i. In the last sentence of § 157.14(a)(10)(vi), by removing "paragraph (f) of § 1.36" and adding in lieu thereof "§ 388.197";

j. In the second sentence of § 157.14(c), by removing "and shall conform in all other respects with §§ 1.15, 1.16, and 1.17 of this chapter unless otherwise directed by the Secretary";

§ 157.26 [Amended]

k. In § 157.26, by removing the text of the section and adding in lieu thereof "An application under § 157.23 (which shall include the originals of all exhibits accompanying the applications) shall be verified.";

§ 157.101 [Amended]

l. § In §157.101(c), by removing "§ 1.34" and adding in lieu thereof "§ 385.713".

PART 158—ACCOUNTS, RECORDS, AND MEMORANDA

25. Part 158 is amended as follows:

§ 158.3 [Amended]

a. In the first sentence of § 158.3, by removing "§ 1.17" and adding in lieu thereof "§ 385.2010";

§ 158.4 [Amended]

b. In § 158.4, by removing the first sentence and adding in lieu thereof "Each memorandum must be complete in itself."; and in the second sentence, by removing "§ 1.29" and adding in lieu thereof "§ 385.706";

§ 158.7 [Amended]

c. In § 158.7, by removing "§ 1.20" and adding in lieu thereof "Subpart E of Part 385".

PART 250—FORMS

26. Part 250 is amended as follows:

§ 250.1 [Amended]

In § 250.1, by removing the text of the section and adding in lieu thereof "[Reserved].".

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

27. Part 270 is amended as follows:

§ 270.202 [Amended]

In § 270.202(d), by removing "§ 1.41" and adding in lieu thereof "Subpart K of Part 385".

PART 271—CEILING PRICES

28. Part 271 is amended as follows:

§ 271.402 [Amended]

In the first sentence of § 271.402(c)(5), by removing "§ 1.7(b)" and adding in lieu thereof "§ 385.1901";

PART 275—COMMISSION DETERMINATIONS AND REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

29. Part 275 is amended as follows:

§ 275.204 [Amended]

In § 275.204(f), by removing "§§ 1.17 and 1.51" and adding in lieu thereof "§ 385.2010".

PART 281—NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978

30. Part 281 is amended as follows:

§ 281.110 [Amended]

a. In § 281.110(b), by removing "§ 1.6" and adding in lieu thereof "§ 385.206";

§ 281.111 [Amended]

b. In the first sentence of § 281.111, by removing "§ 1.7 of the Commission Regulations" and adding in lieu thereof "§ 385.207 of this chapter";

§ 281.214 [Amended]

c. In § 281.214(a), by removing "§ 1.6" and adding in lieu thereof "§ 385.206";

§ 281.215 [Amended]

d. In the first sentence of § 281.215, by removing "§ 1.7 of the Commission Regulations" and adding in lieu thereof "§ 385.207"; of this chapter".

PART 282—INCREMENTAL PRICING

31. Part 282 is amended as follows:

§ 282.201 [Amended]

a. In the last sentence of § 282.201, by removing "§ 1.41" and adding in lieu thereof "Subpart K of Part 385 of this chapter";

§ 282.204 [Amended]

b. In § 282.204(f)(2), by removing "§ 1.10" and adding in lieu thereof "§ 385.209 of this chapter";

§ 282.206 [Amended]

c. In § 282.206(a)(2)(i), by removing "§ 1.7" and adding in lieu thereof "§ 385.207 of this chapter";

§ 282.206 [Amended]

d. In § 282.206(b)(1), by removing "§ 1.41" and adding in lieu thereof "§ 385.1108".

e. In § 282.206(b)(2), by removing "§ 1.41(h)" and adding in lieu thereof "§ 385.1108(h) of this chapter";

§ 282.405 [Amended]

f. In § 282.405(c)(1), by removing "§ 1.7 of the Commission's Rules of Practice and Procedure" and adding in lieu thereof "§ 385.207".

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

32. Part 284 is amended as follows:

§ 284.6 [Amended]

a. In § 284.6(a) by removing "§ 1.42" and adding in lieu thereof "Subpart L of Part 385";

§ 284.208 [Amended]

b. In § 284.208(d)(1), by removing "§ 1.32" and adding in lieu thereof "Subpart H of Part 385";

§ 284.222 [Amended]

c. In the first sentence of § 284.222(b), by removing "§§ 1.32 and 157.11" and adding in lieu thereof "§ 157.11 and Subpart H of Part 385".

PART 286—ADMINISTRATIVE PROCEDURES

33. Part 286 is amended as follows:

§ 286.102 [Amended]

In § 286.102(c) by removing "Part I, Subchapter A, Chapter I" and adding in lieu thereof "§ 385.713 of this chapter".

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

34. Part 292 is amended as follows:

§ 292.207 [Amended]

In the first sentence of the third paragraph of the notice form in § 292.207(b)(6)(ii), by removing "§§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure" and adding in lieu thereof "§§ 385.209 and 385.214 of this chapter".

PART 375—THE COMMISSION

35. Part 375 is amended as follows:

§ 375.202 [Amended]

a. In § 375.202(b)(1), by removing "§ 1.1(f)(19)" and adding in lieu thereof "§ 388.101(c)";

b. In § 375.202(b)(2), by removing "§ 1.36(c)(2)" and adding in lieu thereof "§ 388.105(b)";

§ 375.301 [Amended]

c. In the last sentence of § 375.301(a), by removing "§ 1.7(d)" and adding in lieu thereof "§ 385.1902";

d. By adding to § 375.301 a new paragraph (c) to read as follows:

§ 375.301 Purpose.

* * * * *

(c) For purposes of Subpart C, "uncontested" and "in contested cases" mean that no motion to intervene, or notice of intervention, in opposition to the pending matter made under § 385.214 (intervention) has been received by the Commission.

§ 375.302 [Amended]

e. In the first sentence of § 375.302(b), by removing "§ 1.8" and adding in lieu thereof "§ 385.212";

f. In § 375.302, by removing paragraph (f);

g. In § 375.302(g), by adding after "time" and before "which" the following: "(other than motions made while a proceeding is pending before a presiding officer as defined in § 385.102(d))", and by removing "Part 1" and adding in lieu thereof "Part 385";

§ 375.304 [Amended]

h. In § 375.304, by removing "the Commission's rules of practice and procedure, particularly "§ 1.27" and adding in lieu thereof "Part 385, particularly "§ 385.504";

§ 375.307 [Amended]

i. In § 375.307(g), by removing "1.11(d)(1) of this Chapter" and adding in lieu thereof "§ 385.214 of this chapter";

j. In § 375.307(j), by removing "§ 1.14(s)(2) of this Chapter" and adding in lieu thereof "§ 385.2001 of this chapter";

§ 375.308 [Amended]

k. In § 375.308(h), by removing "§ 1.11(d)(3)" and adding in lieu thereof "§ 385.214";

§ 375.309 [Amended]

l. In § 375.309(o), by removing "§ 1.14(a)(2)" and adding in lieu thereof "§ 385.2001";

§ 375.308 [Amended]

m. In § 375.308(gg), by removing "§ 1.14(a)(2) of this Chapter" and adding in lieu thereof "§ 385.2001 of this chapter";

§ 375.309 [Amended]

n. In § 375.309(b), by removing "§ 1.12 of this Chapter" and adding in lieu thereof "§ 1b.12 of this chapter"; and

§ 375.310 [Amended]

o. In § 375.310(a), by removing "§ 1.38 and § 1.40" and adding in lieu thereof "Subpart I and Subpart J of Part 385 of this chapter".

[FR Doc. 82-11575 Filed 4-30-82; 8:45 am]
BILLING CODE 6717-01-M

federal register

Monday
May 3, 1982

Part IV

Department of the Interior

Bureau of Land Management

Public Administrative Procedures; Recordable Disclaimers of Interest in Land; Correction of Conveyancing Documents

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 1820 and 1860

Public Administrative Procedures; Recordable Disclaimers of Interest in Land; Correction of Conveyancing Documents

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Secretary of the Interior is authorized by section 315 of the Federal Land Policy and Management Act of 1976 to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation where the disclaimer will help remove a cloud on the title of such lands. He also is authorized by section 316 of that Act to correct patents or documents of conveyance where necessary in order to eliminate errors. This proposed rulemaking sets forth the procedures for carrying out this authority.

DATE: Comments by July 2, 1982.

ADDRESS: Send comments to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address from 7:45 a.m. to 4:15 p.m. on regular work days.

FOR FURTHER INFORMATION CONTACT:
Henry B. Beauchamp (202) 343–8693
or
Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: Under Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), the Secretary of the Interior may issue a document of disclaimer of interest or interests in any lands in a form suitable for recordation where the disclaimer will help remove a cloud on the title of such lands. The Secretary is authorized to issue such document, after consulting with any affected Federal agency, where it is determined that a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or that the lands lying between the meander line shown on an official plat of survey and the actual shoreline of a body of water are not lands of the United States; or that accredted, relicted or avulsed lands are not lands of the United States. Issuance of a document or disclaimer by the Secretary shall have the same effect as a quitclaim deed from the United States.

Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) provides that the Secretary of the Interior may correct patents or other documents of conveyance issued under any of the public land laws regardless of whether such patents or other documents of conveyance were issued prior to or after October 21, 1976.

These proposed regulations provide the procedures for applicants to make application to the Secretary of the Interior for the issuance of disclaimers and for correction of patents and other documents of conveyance.

The proposed regulations apply regardless of whether lands are within the boundaries of Indian reservations, the National Forest System, the National Park System, the National Wildlife Refuge System or any other Federal system, area, component or unit.

This rulemaking is not to be construed as requiring persons to apply for a disclaimer in order to exhaust administrative remedies prior to a quiet title suit against the United States where there is a definite claim by the United States to or against title.

The principal author of this proposed rulemaking is Henry B. Beauchamp, Division of Land Resources and Realty, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in 43 CFR Subparts 1864 and 1865 do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than 10 respondents annually.

Subject Listings for 43 CFR Part 1860

Administrative practice and procedure, Public lands.

PART 1860—CONVEYANCING DOCUMENTS

Under the authority of sections 315 and 316 of the Federal Land Policy and Management Act (43 U.S.C. 1745, 1746), it is proposed to amend Part 1860, Group 1800, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

1. Part 1860 is revised by adding a new subpart 1864 as follows:

Subpart 1864—Recordable Disclaimers of Interest in Land

Sec.

1864.01 Purpose.
1864.02 Objectives.
1864.03 Authority.
1864.05 Definitions.
1864.1 Application for issuance of a document of disclaimer.
1864.1–1 Filing of application.
1864.1–2 Form of application.
1864.1–3 Action on application.
1864.1–4 Consultation with other Federal agencies.
1864.2 Action upon determination of issuance of document of disclaimer.
1864.3 Issuance of document of disclaimer.
1864.4 Effect of disclaimer.
1864.5 Appeals.

Subpart 1864—Recordable Disclaimers of Interest in Land

§ 1864.0–1 Purpose.

The purpose of these regulations is to establish procedures under section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), by anyone who wishes to use them for the issuance of documents of disclaimer of interest or interests in any lands in any form suitable for recordation where the disclaimer will help remove a cloud on the title of such lands.

§ 1864.0–2 Objectives.

The objective of the disclaimer is to help remove clouds on titles of lands where the Secretary of the Interior determines that:

(a) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or

(b) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or

(c) accreted, relicted, or avulsed lands are not lands of the United States.

It is not the intent of the disclaimer to purport to convey any real property interest of the United States and such disclaimer is not considered to be a document of conveyance, although its effect is the same as a quitclaim deed.

§ 1864.0–3 Authority.

Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), authorizes the Secretary of the Interior to issues a document of disclaimer of interest or interests in any lands in any form suitable for

recordation, where the disclaimer will help remove a cloud on the title of such lands, if certain determinations are made and conditions are met.

§ 1864.0-5 Definitions.

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(b) "Accreted lands" are lands that have been gradually and imperceptibly formed along the banks of a body of water by deposition of water-borne soil.

(e) "Avulsed lands" are lands that have been uncovered by a relatively sudden change in alignment of the channel of a river, or by a comparable change in some other body of water, or that remain as uplands following such a change, or that are located in the bed of the new channel.

(d) "Actual shoreline" means the line which is washed by the water wherever it covers the bed of a body of water at its mean high water level.

(e) "Lands" means lands and interests in lands.

(f) "Meander line" means a survey line established for the purpose of representing the location of the actual shoreline of a permanent natural body of water, without showing all the details of its windings and irregularities. A meander line rarely runs straight for any substantial distance. It is established not as a boundary line but in order to permit calculation of the quantity of lands in the fractional sections remaining after segregation of the water area.

(g) "Prospective owner" means one who has a contract or option to purchase the lands included in the application.

(h) "Relicted lands" are lands gradually uncovered when water recedes permanently.

§ 1864.1 Application for issuance of a document of disclaimer.

§ 1864.1-1 Filing of application.

Any present or prospective owner of lands may file an application to have a disclaimer of interest issued if there is reason to believe that the United States claims or might claim an interest in the lands and such claim would cloud the title of such lands.

§ 1864.1-2 Form of application.

(a) An application shall be filed in writing with the proper Bureau of Land Management Office as listed in § 1821.2-1(d) of this title.

(b) No specific form of application is required.

(c) A non-refundable fee of $50 shall accompany the application.

(d) Each application shall include:

(1) A description of the lands by legal subdivision according to the official survey plat, or by metes and bounds in relation to the official survey plat if the lands are not shown on the survey plat;

(2) The applicant's name, mailing address, and telephone number and the names, addresses and telephone numbers of others known or believed to have or claim an interest in the lands;

(3) All documents which show the applicant's title to the lands, or, in the case of a prospective owner, a copy of the contract or option by which the prospective record owner would acquire title;

(4) As complete a statement as possible concerning:

(i) The nature and extent of the cloud on the title, and

(ii) The reasons the applicant believes:

(A) The record title interest of the United States in the lands included in the application has terminated by operation of law or is otherwise invalid, including a copy or legal citation of relevant provisions of law; or

(B) The lands between the meander line shown on the plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States, including as documentation an official plat of survey or a reference to a date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue; or

(C) The lands are subject to accretion, reliction or avulsion and are no longer lands of the United States, including submission for the uplands portion of the body of water affected a copy an official plat of survey or a reference to it by date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue;

(5) Any available documents or title evidence, such as historical and current maps, photographs, and water movement data, that support the application;

(6) The name, mailing address, and telephone number of any known adverse claimant or occupant of the lands included in the application; and

(7) Any request the applicant may have that the disclaimer be issued in a particular form suitable for use in the jurisdiction in which it will be recorded.

§ 1864.1-3 Action on application.

(a) The authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit needed to cover the administrative costs of processing the application and issuing a disclaimer and inform the applicant within 90 days of receipt of the application.

(b) The applicant shall submit a deposit in an amount determined by authorized officer.

§ 1864.1-4 Consultation with other Federal agencies.

If the lands included in the application are under the administrative jurisdiction of a Federal agency other than the Department of the Interior or if the issuance of a disclaimer for the lands would affect another Federal agency, the authorized officer shall refer the application to that Federal agency for comment.

§ 1864.2 Notice of intent to issue disclaimer.

(a) The authorized officer shall notify the applicant, in writing, of a determination to issue a disclaimer. Such notification shall include a full and complete statement of the cost incurred in reaching such determination, including any sum due the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs of issuing the disclaimer exceed the amount of the deposit required of the applicant under this subpart, the applicant shall be informed that a payment is required for the difference between the actual costs and the deposit. The notification shall also require that payment be made within 120 days from the date of mailing of the notice. If the deposit exceeds the administrative costs of issuing the disclaimer, the applicant shall be informed that a credit for or a refund of the excess will be made. The notification shall also state that the authorized officer will publish notice of the determination, including the grounds supporting it, in the **Federal Register**. Publication in the **Federal Register** shall be made at least 90 days preceding the issuance of the disclaimer, but not until the applicant has paid the administrative costs. Failure to pay the required amount within the allotted time shall constitute grounds for rejection of the application.

§ 1864.3 Issuance of document of disclaimer.

Upon receipt of the payment and following, by not less than 90 days, the publication required by § 1864.2 of this title, the authorized officer shall issue to the applicant a document in a form suitable for recordation disclaiming interest in the lands covered by the application.

§ 1864.4 Effect of disclaimer.

A document of disclaimer by the authorized officer under the provisions of these regulations shall have the same effect as a quitclaim deed from the United States.

§ 1864.5 Appeals.

An applicant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to 43 CFR Part 4.

2. Part 1860 is revised by adding a new subpart 1865 as follows:

Subpart 1865—Correction of Conveyancing Documents

Sec.

1865.0–1 Purpose.
1865.0–2 Objectives.
1865.0–3 Authority.
1865.0–5 Definitions.
1865.1–1 Application for correction of conveyancing documents.
1865.1–1 Filing of application.
1865.1–2 Form of application.
1865.1–3 Action on application.
1865.2 Issurance of corrected patent or document of conveyance.
1865.3 Issuance of patent or document of conveyance on motion of authorized officer.
1865.4 Appeals.

Subpart 1865—Correction of Conveyancing Documents

§ 1865.0–1 Purpose.

The purpose of these regulations is to establish procedures under section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746), for the correction and elimination of errors in patents and other documents for the conveyancing of public lands. The regulations apply to any situation involving an error in patents and other documents of conveyance, the most typical of which is an erroneous legal description of the lands conveyed.

§ 1865.0–2 Objectives.

The objective is to provide a procedure for the correction and elimination of errors in patents and documents of conveyance.

§ 1865.0–3 Authority.

Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746), authorizes the Secretary of the Interior to correct patents or documents of conveyance issued pursuant to laws applicable to the disposal of lands, where necessary to eliminate errors.

§ 1865.0–5 Definitions.

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(b) "Error" means the inclusion of erroneous descriptions, terms, conditions, covenants, reservations, provisions and names or the omission of requisite descriptions, terms, conditions, covenants, reservations, provisions and names either in their entirety or in part, in a patent or document of conveyance as a result of factual error or unitentional or inadvertent deviation from statutory or regulatory requirements.

(c) "Prospective owner" means one who has a contract or other agreement to acquire lands included in a patent or other document of conveyance containing an error or that would have been included but for an error.

(d) "Lands" mean lands or interest in lands.

1865.1 Application for correction of conveyancing documents.

§ 1865.1–1 Filing of application.

Any existing or prospective record owner of lands or interests in lands that are in non-Federal ownership may file an application to have an error corrected or eliminated from a patent or document of conveyance that has been issued by the Federal Government.

§ 1865.1–2 Form of aplication.

(a) An application shall be fired in writing with the proper Bureau of Land Management Office as listed in section 1821.2–1(d) of this title.

(b) No specific form of application is required.

(c) A non-refundable fee of $50 shall accompany the application.

(d) Each application shall include:

(1) The name, mailing address, and telephone number of the applicant and any others known or believed to have or claim an interest in the lands.

(2) All documents which show the applicant's title to the lands included in the application, or, in the case of a prospective owner, a copy of the contract or agreement by which the applicant would acquire title;

(3) A certified copy of any patent or other document of conveyance conveying the lands included in the application to the applicant or predecessor(s) in interest; and

(4) As complete a statement as possible concerning:

(i) The nature and extent of the error;

(ii) The manner in which the error can be corrected or eliminated; and

(iii) The form in which it is recommended the corrected patent or document of conveyance be issued.

§ 1865.1–3 Action on application.

(a) The authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit needed to cover the administrative costs of processing the application and issuing the corrected patent or other document of conveyance and inform the applicant within 90 days of receipt of the application.

(b) The applicant shall submit a deposit in the amount determined by the authorized officer.

(c) The authorized officer shall, upon review of the factual data and information submitted with the application, and upon a finding that an error was made in the patent or document of conveyance, notify the applicant, in writing, that a corrected patent or document of conveyance shall be issued. The notification shall include a description of how the error is to be corrected or eliminated in the patent or document of conveyance. The notice shall require the applicant to surrender the original patent or other document of conveyance to be corrected. Where such original document is unavailable, a statement setting forth the reasons for its unavailability shall be submitted in lieu of the original document. The notice may include a requirement for quitclaiming to the United States the lands erroneously included, and shall specify any terms or conditions required for the quitclaim. such notification shall include a full and complete statement of the administrative costs involved in issuing the corrected patent or document of conveyance, and shall include any sum due to the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs of issuing the corrected patent or document of conveyance exceed the amount of the deposit required of the applicant under this subpart, the applicant shall be informed that a payment is required for the difference between the actual costs and the deposit. The notification shall also require that payment be made within 60 days from the date of mailing of the notice. If the deposit exceeds the administrative costs of issuing the corrected patent or document of conveyance, the applicant shall be informed that a credit for or a refund of the excess will be made. Failure to pay the required amount within the allotted time shall constitute grounds for rejection of the application.

§ 1865.2 Issuance of corrected patent or document of conveyance.

Upon the authorized officer's determination that all of the

requirements of the Act for issuance of a corrected patent or document of conveyance have been met, and upon receipt of the payment required by § 1865.1–3 of this title, the authorized officer shall issue a corrected patent or document of conveyance.

§ 1865.3 Issuance of patent or document of conveyance on motion of authorized officer.

The authorized officer may initiate and make corrections in patents or other documents of conveyance on his/her own motion, if all existing or prospective owners agree.

§ 1865.4 Appeals.

An applicant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to 43 CFR Part 4.

PART 1820—APPLICATION PROCEDURES

§§ 1821.6—1821.6–6 [Removed]

§§ 1821.7—1821.7–2 [Redesignated as §§ 1821.6 through 1821.6–2]

3. Part 1820 is revised by removing §§ 1821.6 through 1821.6–6 in their entirety and by redesignating §§ 1821.7 through 1821.7–2 as §§ 1821.6 through 1821.6–2.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 12, 1982.

[FR Doc. 82–12027 Filed 4–30–82; 8:45 am]

BILLING CODE 4310–84–M

federal register

Monday
May 3, 1982

Part V

Department of the Interior

Bureau of Land Management

Office of the Secretary

Mineral Materials Disposal and Surface Exploration; Mining and Reclamation of Land

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3600, 3610, and 3620

Office of the Secretary

43 CFR Part 23

Mineral Materials Disposal and Surface Exploration; Mining and Reclamation of Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking revises and consolidates the present regulations for the disposal of mineral materials on the public lands and Federal mineral interests administered by the Bureau of Land Management. In accordance with Executive Order 12291, the proposed rulemaking totally revises the current regulations to consolidate and clarify the current mineral material disposal procedures and to eliminate unnecessary language.

In addition, this proposed rulemaking removes provisions in 43 CFR Part 23 that relate to mineral materials and incorporates them into Part 3600 of Title 43 of the Code of Federal Regulations. This consolidates all regulations relating to mineral materials into a single Part.

DATE: Comments by July 2, 1982

ADDRESS: Send comments to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Brenda Horton; (202) 343–8537

SUPPLEMENTARY INFORMATION: The proposed rulemaking revises the regulations in 43 CFR Part 3600 to eliminate unnecessary language and obsolete sections, clarify procedures and limitations and maintain consistency wih other published rules. This is in accordance with the directive in Executive Order 12291 to identify and reduce needless, burdensome and counterproductive regulations. Overall, the proposed rulemaking simplifies procedures for disposal of mineral materials (i.e., common varieties of sand, store, gravel, pumice, etc.).

In addition, the provisions for exploration, mining and reclamation under 43 CFR Part 23 relative to mineral materials are deleted from Part 23 of this title and are incorporated into subpart 3601 of the proposed rulemaking. As a result, the proposed rulemaking contains, in a single Part, all regulatory requirements for disposal of mineral materials.

The authority section, 3600.0–3 of this title, has been amended to include provisions for multiple use and sustained yield under section 302 of the Fedeal Land Policy and Management Act of 1976 (43 U.S.C. 1732). As a result, a new subpart is added to provide for the collection of hobby mineral specimens and clarify existing collection procedures.

Reference to pumicite disposals within Katmai National Monument, Alaska, has been deleted, since no applications are pending and the authorizing statute (68 Stat. 53) has expired.

The principal author of these proposed revisions is: Brenda Horton, Division of Mineral and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of the proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. (Pub. L. 96–354)

The information collection requirements contained in 43 CFR Part 3600 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Under the authority of the Materials Act of July 31, 1947, as amended, (30 U.S.C. 601, 602), it is proposed to revise Part 23, Subtitle A, Chapter I and Part 3600, and to add Parts 3610 and 3620 Group 3600, Subchapter B Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Part 3600 is revised as follows:

Group 3600—Mineral Materials Disposal

PART 3600—MINERAL MATERIALS DISPOSAL: GENERAL

Subpart 3600—General

Sec.

3600.0–1 Purpose.
3600.0–3 Authority.
3600.0–4 Policy.
3600.0–5 Definitions.

Subpart 3601—Limitations

3601.1 Limitations, disposals of mineral materials.
3601.1–1 Valid existing rights and unpatented mining claims.
3601.1–2 Authorization to use lands subject to material sales contracts and free use permits.
3601.1–3 Removal of materials.
3601.2 Planning and environmental protection.

Subpart 3602—Disposal of Mineral Materials; General

3602.1 Mining and reclamation plans.
3602.1–1 Mining plans.
3602.1–2 Reclamation plans.
3602.1–3 Approval and modification of mining and reclamation plans.
3602.2 Sampling and testing.

Subpart 3603—Unauthorized Use

3603.1 Unauthorized Use.

Subpart 3604—Community Pits and Common Use Areas

3604.1 Non-exclusive disposal.
3604.2 Reclamation.

Subpart 3600—General

§ 3600.0–1 Purpose.

The regulations in this part establish procedures for the exploration, development and disposal of mineral material resources as well as the protection of the environment of the public lands under permit or contract for sale or free use.

§ 3600.0–3 Authority.

(a) The Act of July 31, 1947, as amended, (30 U.S.C. 601 et seq.) provides:

(1) Authority for the disposal of mineral materials including, but not limited to, petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders and clay, in the public lands of the United States, and from lands on which the mineral rights have been reserved to the United States, if the disposal of these materials (i) is not authorized by law, including, but not limited to the Act of June 28, 1934, as amended (43 U.S.C. 315 et seq.) and the United States mining laws, (ii) is not prohibited by the laws of the United States, and (iii) would not be detrimental to the public interest.

(2) That where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this Part only with the consent of such Federal department or agency or of such State or local governmental unit;

(3) That the Secretary of Agriculture shall dispose of materials from lands administered by him/her for national forest purposes or for purposes of Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.) or where withdrawn for any other function of the Department of Agriculture. (See 36 CFR, Part 251 for Forest Service regulations relative to the disposal of materials in the national forests.)

(4) That disposal of mineral materials under the Materials Act may not be made from any lands in any national park or national monument or from any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive Order for the use of Indians.

(5) Authority for the Secretary of the Interior to permit free use of mineral materials by any Federal or State government agency, unit or subdivision, including municipalities, or any non-profit association or corporation. The Materials Act *does not* permit these materials to be used for commercial or industrial purposes, resale or barter.

(b) Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) directs the Secretary:

(1) To manage public lands under the principles of multiple use and sustained yield in accordance with the land use plans developed under the Act (see Part 1601 of this title).

(2) To regulate, through easements, permits, leases, licenses, published rules or other instruments deemed appropriate, the use, occupancy and development of public lands.

(3) To prevent unnecessary and undue degradation of the public lands.

(c) Section 2 of the Act of September 28, 1962 (76 Stat. 652) requires the Secretary of the Interior to provide by regulation that limited quantities of petrified wood may be removed without charges from public lands which he shall specify. Section 2 of the above Act applies to the same public lands as the Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Specifically excluded are lands in any national park, or national monument, or any Indian lands.

§ 3600.0-4 Policy.

It is the policy of the Bureau of Land Management to permit the disposal of mineral material resources under the Bureau's jurisdiction at fair market value while insuring that adequate measures are taken to protect the environment and minimize damage to public health and safety during the authorized exploration for and the removeal of such minerals. No mineral material shall be disposed of if the Secretary determines that the aggregate damage to public lands and resources would exceed the benefits to be derived from the proposed sale.

§ 3600.0-5 Definitions.

As used in this group, the term:

(a) "Bureau" means Bureau of Land Management, Department of the Interior.

(b) "Director" means the Director of the Bureau of Land Management.

(c) "Permittee" means any person, corporation, partnership and association, Federal, or State agency, unit, or subdivision, including municipalities, and non-profit organization or corporation or other entity that has been issued a contract or a free-use permit for the removal of mineral materials from the public lands.

(d) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this Part.

(e) "Mineral material" means, but is not limited to "common varieties" of sand, stone, gravel, pumice, pumicite, cinders, clay and other mineral materials and petrified wood.

(f) "Public lands" means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard to how the United States acquired ownership, except: (1) Lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(g) "Community pit" means sites which are noted on the appropriate Bureau of Land Management State Office records and posted on the ground from which nonexclusive disposals of common variety mineral materials can be made.

(h) "Common use areas" mean generally broad geographic areas, not noted on appropriate Bureau of Land Management State Office records or posted on the ground, from which nonexclusive disposals of common variety minerals can be made.

(i) "Performance bond" means a bond to ensure compliance with the terms of the contract and reclamation of the site as required by the authorized officer.

(j) "Hobby specimens" include, but are not limited to, rocks, mineral specimens and gem stones.

(k) "Act" means the Materials Act of July 31, 1947, as amended, (30 U.S.C. 601, et seq.).

(l) "Unnecessary or undue degradation" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations, Unnecessary and undue degradation may involve failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed area; creation of a nuisance; or failure to comply with applicable environmental protection statutes and regulations.

Subpart 3601—Limitations

§ 3601.1 Limitations; disposal of mineral materials.

§ 3601.1-1 Valid existing rights and unpatented mining claims.

(a) Mineral material disposals may not be made by the authorized officer from public lands where:

(1) There are any unpatented mining claims which have not been cancelled by appropriate legal proceeding;

(2) Expressly prohibited by law.

§ 3601.1-2 Authorization to use lands subject to material sales contracts and free use permits.

(a) The permittee under contract of sale or permit for free use shall, unless otherwise provided, have the right to:

(1) Extract, remove, process and stockpile the materials until the termination of the contract regardless of any subsequent appropriation under the provisions of the general land laws; or

(2) Use and occupy the described lands if it is determined by the authorized officer to be necessary for fulfillment of the contract until termination of that contract.

(b) The permittee shall be subject to the continuing rights of the United States to issue leases, permits and licenses for the use and occupancy of the lands, provided that this authorized use does not endanger or materially interfere with the production or removal of materials under contract.

(c) Any person that has a subsequent settlement, location, lease, sale or other appropriation under the general land laws, including the mineral leasing and mining laws on lands covered by a material sale contract or free use permit shall be subject to the existing use authorization.

§ 3601.1-3 Removal of materials.

The authorized officer shall not dispose of mineral material under this Part where he/she determines that the

damage to public lands and resources exceeds the benefits derived from the disposal of the mineral material. The permittee shall comply with all appropriate Federal, State and local laws and regulations.

§ 3601.2 Planning and environmental protection.

Land use decisions involving mineral material disposals shall be consistent with the resource planning process (see 43 CFR Part 1600 of this title). Upon receipt of an application for sale or free use of mineral materials, the authorized officer shall complete an environmental assessment to assure that, where possible, mitigation of undue or unnecessary degradation is accomplished.

Subpart 3602—Disposal of Mineral Materials; General

§ 3602.1 Mining and reclamation plans.

The authorized officer may require the permittee to prepare mining and reclamation plans prior to issuance of a contract or permit.

§ 3602.1-1 Mining plans.

The permittee, when required by the authorized officer, shall prepare a mining plan that includes, but is not limited to:

(a) A description of the location and area to be affected by the operations;

(b) A map, sketch or aerial photograph showing the area covered by the permit or contract, the name and location of major topographic and cultural features, and the drainage pattern of the area to be mined;

(c) A statement of proposed methods of operating, including: (i) A description of roads or vehicular trails proposed to be constructed, or, if in existence, to be used, and (ii) the size, location and description of structures and facilities to be built;

(d) An estimate of the quantity and source of water to be used and pollutants that are expected to enter any receiving waters;

(e) A design for the proposed impoundment, treatment or control of all runoff water and drainage from workings that will reduce soil erosion and sedimentation and to prevent the pollution of receiving waters; and

(f) A description of measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife, and hazards to public health and safety.

§ 3602.1-2 Reclamation plans.

The permittee, when required by the authorized officer, shall prepare a reclamation plan that includes, but is not limited to:

(a) A statement of the proposed manner and time for completion of the reclamation of the areas disturbed by the permittee's operations;

(b) A map or sketch which delineates location and area to be reclaimed;

(c) Proposed methods of preparing and fertilizing the soil prior to replanting;

(d) Types of vegetation to be planted; and

(e) Types and methods of planting, including the weight and mixture of seed per acre.

§ 3602.1-3 Approval and modification of mining and reclamation plans.

(a) Upon review of the mining and reclamation plans, the authorized officer shall promptly notify the applicant of any deficiencies in the plan and of changes needed to prevent undue and unnecessary degradation of the lands. Necessary changes shall be made as agreed by the authorized officer and the applicant.

(b) The permittee shall not deviate from the plan approved by the authorized officer.

(c) An approved mining or reclamation plan may be modified by mutual agreement of the authorized officer and permittee at any time to adjust to changed conditions, or correct any oversight potentially resulting in undue or unnecessary degradation. Any change shall be consistent with the requirements under § 3601.2 of this title.

§ 3602.2 Sampling and testing.

(a) The authorized officer may issue permits under Part 2920 of this title for temporary use and occupancy of lands to allow sampling and testing of mineral materials prior to issuance of a sales contract or free use permit. The permittee shall submit his findings to the authorized officer. Information and data submitted and specifically identified by the permittee as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination in accordance with the provisions of the Freedom of Information Act. A determination concerning information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

(b) A permit for temporary use and occupancy under Part 2920 of this title does not give the permittee a preference right to a sales contract or free use permit. The permittee shall conform to all applicable Federal, State and local laws, rules and regulations.

(c) The authorized officer may impose bonding and reclamation requirements on permits for temporary use and occupany.

Subpart 3603—Unauthorized Use

§ 3603.1 Unauthorized Use.

Except when authorized by sale or permit under law and the regulations of the Department of the Interior, the extraction, severance or removal of mineral materials from public lands under the jurisdiction of the Department of the Interior is unauthorized use. Unauthorized users shall be liable in damages to the United States, and shall be subject to prosecution for such unlawful acts (see subpart 9239 of this title).

Subpart 3604—Community Pits and Common Use Areas

§ 3604.1 Nonexclusive disposal.

(a) Non-exclusive mineral material sales and free use under permit may be made from the same deposit within areas designated by the authorized officer, and consistent with other provisions under this part. These designated community pit sites or common use areas are not limited in size.

(b) A person having a contract or permit for the sale or removal of material from established community pit sites has a superior right to remove the material as against any subsequent claim or entry of the lands.

(c) A person authorized by permit or sale to remove mineral material from a common use area does not have the superior right to remove the material as against any subsequent claim or entry of the land.

(d) Sales from community pit sites or common use areas shall be made at fair market value, plus a prorata share of the estimated cost of reclaiming the area, if applicable. Permittees qualifying for free use shall reimburse the government of the cost of reclamation. No mining plan shall be required, but the permittee shall comply with the terms of the contract or permit to protect health and safety and prevent undue of unnecessary degradation of the public lands.

§ 3604.2 Reclamation.

(a) Permits or contracts for the extraction of mineral materials from community pits or common use areas shall not require reclamation but shall require payment of costs of reclamation, as provided in paragraph (c) of this section. However, the authorized officer may allow permittees to reclaim in lieu of paying reclamation charges.

(b) Reclamation shall be performed by the United States when more than 1 permit or contract is expected to be issued for materials in a particular deposit or tract of land, such as community pits or common use areas.

(c) The permittee or contractor shall, in addition to paying the sales price required under his/her permit or contract, reimburse the United States for the cost of reclamation. The amount of reimbursement shall be a proportionate share of the estimated cost of reclamation after the mineral materials are extracted, shall be determined by using a ratio of the material extracted under the permit or contract to the total estimated volume of the material is be extracted.

2. Part 3610 is added to read as follows:

PART 3610—SALES

Subpart 3610—Mineral Material Sales

Sec.

3610.1 Procedures; general.
3610.1–1 Qualifications of applicants.
3610.1–2 Request for sale.
3610.1–3 Appraisal, reappraisals and measurements.
3610.1–4 Payments.
3610.1–5 Refunds.
3610.1–6 Performance and reclamation bonds.
3610.1–7 Assignments.
3610.1–8 Extension of time.
3610.1–9 Removal of improvements.
3610.2 Non-competitive sales.
3610.2–1 Limitations in value.
3610.2–2 Government programs.
3610.2–3 Federal mineral leases.
3610.2–4 Term of contract.
3610.3 Competitive sales.
3610.3–1 General.
3610.3–2 Advertising.
3610.3–3 Conduct of sales.
3610.3–4 Bid deposits.
3610.3–5 Contracts.
3610.3–6 Term of contract.

Subpart 3610—Mineral Material Sales

§ 3610.1 Procedures; general.

§ 3610.1–1 Qualifications of applicants.

No person may purchase mineral materials unless he/she is:

(a) A citizen of the United States; or

(b) A partnership of United States citizens; or

(c) An unincorporated association composed wholly of such citizens, or

(d) A domestic corporation authorized to transact business in the State in which the mineral material is located.

§ 3610.1–2 Request for sale.

Under the provisions of this part, the authorized officer may sell mineral materials upon:

(a) Receipt of a written or verbal request by any person who expresses an interest in mineral materials; or

(b) His/her own initiative.

§ 3610.1–3 Appraisal, reappraisal and measurements.

(a) No mineral materials shall be sold at less than fair market value as determined by a mineral appraisal.

(b) The authorized officer shall reappraise mineral material disposed under §§ 3610.2 and 3610.3 of this title at intervals of 2 years and shall adjust the contract unit price accordingly.

(b) Mineral materials may be measured by volume or weight.

§ 3610.1–4 Payments and termination by agreement.

(a) Under a contract of sale for mineral materials, the permittee:

(1) Shall not remove mineral materials until advance payment is made as provided in the contract;

(2) Shall, for contract sales of $2,000 or less, pay the full amount at execution of the contract;

(3) May, when the sale exceeds $2,000, make installment payments of not less than $500 or 10 percent of the total purchase price, whichever is greater and shall: (i) For non-competitive sales, pay the first installment prior to or at the time the contract is awarded; (ii) for competitive sales, pay the first installment as a deposit at the time the bid is submitted, and (iii) pay each subsequent installment for non-competitive and competitive sales in an amount equal to the value of the mineral material removed prior to removal of the material;

(4) Shall pay the total amount of the purchase price no later than 60 days before the expiration date of the contract;

(5) Shall annually produce an amount sufficient to pay to the United States a sum of money equal to the first installment, or in lieu of such production, shall make an annual payment in the amount of the first installment which shall not be credited to future production. Annual payments shall be due on or before the anniversary date of the execution of the contract;

(6) Shall forfeit all monies paid when the required payments under the terms and conditions of the contract are not met. Failure to comply with the terms and conditions for payment shall constitute a breach of contract and the authorized officer may terminate the contract;

(7) Shall be required to make an annual report of production under the contract and to provide written verification of the amount of mineral materials removed upon request by the authorized officer to allow verification of payments.

(b) Ther permittee and the authorized officer may, by agreement, terminate the contract of sale at any time.

§ 3610.1–5 Refunds

Refunds may be made to the contractor or permittee:

(a) If total payments made exceed the total value of mineral materials covered by the contract;

(b) If insufficient mineral materials existed in the sales area to fulfill the terms of the contract; or

(c) If the contract is terminated by agreement of the authorized officer and the permittee.

§ 3610.1–6 Performance and reclamation bonds.

(a) The authorized officer shall require a performance and reclamation bond of not less than $500 or 20 percent of the total contract value, whichever is greater, for contracts of $500 or more, except for contract sales or permits made from community pits when a reclamation fee is paid by the permittee.

(b) The authorized officer may require a reclamation or performance bond for contract sales of less than $500.

(c) A performance and reclamation bond may be a:

(1) Bond of a corporate surety shown on the approved list issued by the U.S. Treasury Department and executed on an approved standard form; or

(2) Personal surety bond executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contracts; or

(3) Cash bond; or

(4) Negotiable securities of the United States of a par value equal to the amount of the required surety bond, together with a power of attorney executed as required by the authorized officer.

§ 3610.1–7 Assignments.

(a) The permittee may not assign the contract, permit or any interest therein without the written approval of the authorized officer. The authorized officer shall ensure that all terms and conditions agreed upon are contained in the assignment and are assumed by the assignee.

(b) The authorized officer shall not approve any proposed assignments involving contract performances unless the assignee:

(1) Is qualified pursuant to § 3610.1–1 of this title; and

(2) Furnishes a performance bond as required by § 3610.1–6 of this title, or obtains a written commitment from the previous surety to be bound by the assignment when approved.

(c) Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and be subject to all the obligations under the contract, and the permittee shall be released from any further liability under the contract.

§ 3610.1–8 Extension of time.

The authorized officer may grant an extension of time, not to exceed 1 year, if the permittee:

(a) Submits a written request that is received by the authorized officer no later than 30 days or earlier than 90 days prior to the expiration date of the contract; and

(b) Shows, in writing, that the delay in removal of the mineral materials was due to causes beyond the control of and without fault or negligence of the permittee.

§ 3610.1–9 Removal of improvements.

After the permit period expires, the authorized officer may grant the permittee no more than 90 days, not including periods of inclement weather to remove equipment, personal property and any other improvements placed on the public lands by the permittee. Improvements such as roads, culverts and bridges may remain in place with the consent of the authorized officer. If the permittee fails to remove such equipment, personal property or any other improvements they shall become the property of the United States but the permittee shall remain liable for the cost of removal of such equipment, personal property and any other improvement and for restoration of the site.

§ 3610.2 Noncompetitive sales.

§ 3610.2–1 Limitations in volumn.

(a) When it is determined to be in the public interest, and where it is impracticable to obtain competition, the authorized officer may sell at not less than fair market value, without advertising or calling for bids, mineral materials not to exceed 100,000 cubic yards (or weight equivalent) in any individual sale.

(b) The authorized officer shall not approve noncompetitive sales that exceed the total aggregate of 200,000 cubic yards (or weight equivalent) made in any one State for the benefit of any one individual, partnership, corporation or entity in any one calendar year.

(c) The volume limitations in paragraphs (a) and (b) of this section shall not apply to sales in the State of Alaska of mineral materials which the authorized officer determines are needed for construction, operation, maintenance or termination of the Trans-Alaska Pipelines System or the Alaska Natural Gas Transportation System.

§ 3610.2–2 Government programs.

The authorized officer may sell mineral materials not exceeding 200,000 cubic yards (or weight equivalent) at not less than fair market value without advertising or calling for bids when:

(a) The authorized officer determines the sale to be in the public interest; and

(b) The materials are to be used in connection with a public works improvement program that requires urgent attention on behalf of a Federal, State or local governmental agency and that does not permit time required for advertising.

§ 3610.2–3 Federal mineral leases.

Where the materials are to be used in connection with the development of public lands under a mineral lease issued by the United States, the authorized officer may without calling for competitive bids, sell a volume of mineral materials not to exceed 200,000 cubic yards (or weight equivalent) to any one permittee in one State in any calendar year. No charge shall be made for mineral materials necessarily moved in the process of extracting minerals under Federal lease, as long as the materials remain within the boundaries of the lease and are used for lease development.

§ 3610.2–4 Term of contract.

The term for noncompetitive contracts for the sale of mineral materials is limited to no more than 5 years.

§ 3610.3 Competitive sales.

§ 3610.3–1 General.

(a) The authorized officer shall make sales, except those specified in Subpart 3604 and § 3610.2 of this title, only after inviting competitive bids through publication and posting in conformance with § 3610.3 of this title.

(b) The authorized officer shall not hold sales sooner than 1 week after the last advertisement.

§ 3610.3–2 Advertising.

(a) When offering mineral materials for sale by competitive bidding, the authorized officer:

(1) Shall advertise the sale through publication in a newspaper of general circulation in the area where the material is located, on the same day once a week for two consecutive weeks;

(2) May extend the period of time for advertising; and

(3) Shall post a notice of sale in a conspicuous place in the office where bids are to be submitted.

(b) In the advertisement of sale, the authorized officer shall state:

(1) The location by legal description of the tract or tracts on which the material is being offered;

(2) The kind of materials being offered;

(3) The estimated quantities of materials being offered;

(4) The unit of measurement;

(5) The appraised prices;

(6) The time and place for receiving and opening of bids;

(7) The minimum deposit required;

(8) The access requirement;

(9) The method of bidding;

(10) The qualification of bidders;

(11) The requirement that mining and reclamation plans shall be filed and that reclamation will be required;

(12) The bonding requirement;

(13) The location for inspection of contract terms and proposed stipulations;

(14) The office where additional information may be obtained; and

(15) Any additional information deemed necessary.

3610.3–3 Conduct of sales.

(a) Bidding at competitive sales shall be by the submission of written sealed bids, oral bids or a combination of both, as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bid shall be determined by oral auction among the persons making high bids. If no oral bid is made which is higher than the sealed bids, the highest bid shall then be determined by lot. In oral auctions, immediately after the high bid is announced the person offering the high bid shall confirm that bid in writing.

(b) At the request of the authorized officer, or the officer conducting the sale, all persons making bids shall furnish evidence of qualification or if such evidence has already been furnished, make appropriate reference to the record containing it.

(c) When it is in the interest of the Goverment to do so, the authorized officer may reject any of all bids and may waive minor deficiencies in the bids.

§ 3610.3–4 Bid deposits.

A person making a bid to purchase mineral materials shall submit a deposit in advance of the sale.

(a) Sealed bids shall be accompanied by a deposit. At oral auctions, persons making bids shall make the deposit prior to opening of the bidding. The amount of the deposit shall be:

(1) For cash sales, not less than $2,000 or 10 percent whichever is greater, of the appraised value as specified in the advertisement of the sale. The authorized officer may, at his discretion, require larger bid deposits;

(2) For installment sales, not less than the amount of the first installment required under § 3610.1–4 of this title based upon the appraised value as specified in the advertisement of the sale.

(b) Deposits may be in the form of cash, money orders, bank drafts, cashier's or certified checks made payable to the Bureau of Land Management, or bid bonds of a corporate surety shown on the approved list of the U.S. Treasury Department.

(c) The bid deposits of all persons making bids, except the high bid, shall be returned upon conclusion of the bidding.

(d) The deposit of the person making the successful bid shall be applied to the purchase price at the time the contract is signed by the authorized officer.

§ 3610.3–5 Contracts.

(a) The authorized officer may require the person making the high bid to furnish information that is necessary to determine his/her ability to perform the obligations of the contract. The contract shall be awarded by the authorized officer to the person making the high bid, unless he/she is not qualified or is unwilling to accept the terms of the contract or unless all bids are rejected. If the person making the high bid is not qualified or fails to sign and return the contract together with the required performance bond, and mining and reclamation plans when applicable, the authorized officer may offer and award the contract for the amount of the high bid to the person making the next highest bid who is qualified and willing to accept the contract.

(b) Within 30 days after receipt of the contract, the person making the successful bid shall sign and return the contract, together with any required performance bond and mining and reclamation plan when applicable. The authorized officer may extend this period an additional 30 days upon written request of the applicant, within the first 30-day period. If the person making the successful bid fails to comply within the first 30-day period, or an approved 30-day extension, the successful bidder shall forfeit the bid deposit as liquidated damages.

(c) The authorized officer shall make all sales on contract forms approved by the Director, Bureau of Land Management. The authorized officer may include in the contract such additional provisions as are deemed necessary to protect other resource values or prevent unnecessary and undue degradation of the public lands, and shall make these provisions available for inspection by persons who may bid during the advertising period.

§ 3610.3–6 Term of Contract.

The term for competitive contracts of sale for mineral materials is limited to no more than 10 years.

3. Part 3620 is added to read as set forth below:

PART 3620—FREE USE

Subpart 3621—Free Use; General

Sec.

3621.1 Permits; general.
3621.1–1 Applications.
3621.1–2 Terms.
3621.1–3 Assignment.
3621.1–4 Conditions.
3621.1–5 Removal of materials and improvements.
3621.1–6 Bonds.
3621.1–7 Cancellation.
3621.2 Permits; governmental units and non-profit organizations.

Subpart 3622—Free Use of Petrified Wood

3622.1 Program; general.
3622.2 Procedures; permits.
3622.3 Designation of areas.
3622.4 Collection rules.

Subpart 3623—Free Use; Collecting-Hobby Mineral Specimens

3623.1 Limitations; procedures and permits.

Subpart 3621—Free use, general

§ 3621.1 Permits; general.

§ 3621.1–1 Applications.

Application for a free use permit shall be filed in duplicate with the authorized officer on forms approved by the Director.

§ 3621.1–2 Terms.

The authorized officer may grant free use permits to any Federal, or State agency, unit or subdivision, including municipalities, for periods deemed appropriate, not to exceed 10 years. The authorized officer may issue free use permits not to exceed 1 year in duration to non-profit organizations, and may extend the free use permit for a single additional period not to exceed 1 year.

§ 3621.1–3 Assignment.

A free use permit may be assigned or transferred to persons or other entities qualified to hold a free use permit with written approval of the authorized officer.

§ 3621.1–4 Conditions.

(a) The authorized officer shall incorporate the provisions governing the selection, removal and use of the mineral materials in the free use permit.

(b) The authorized officer shall not issue a free use permit upon determination that the applicant owns or controls an adequate supply of the mineral materials that are readily available and are economically and environmentally feasible to meet the applicant's needs.

(c) Mineral materials obtained under a free use permit shall not be bartered or resold.

(d) The permittee shall not remove the mineral materials before a permit is issued or after a permit has expired.

§ 3621.1–5 Removal of materials and improvements.

(a) *Conservation practices.* The permittee shall extract all mineral materials as specified under the free use permit and shall protect and preserve all scenic, recreational, watershed and other values of the lands and resources to the maximum extent feasible.

(b) *Removal by agent.* A free use permittee may allow an agent to extract the mineral materials. This agent shall not:

(1) Be paid more than fair compensation for time, labor and money expended in extracting, processing and removing mineral materials;

(2) Charge the permittee for materials extracted, processed or removed; and

(3) Receive mineral materials from the permit area as payment for services rendered, or as a donation or gift.

(c) *Removal of improvements.* Upon expiration of the permit period, the authorized officer may approve a period of time not to exceed 90 days, not counting periods of inclement weather, to remove equipment, personal property and any improvements placed on the lands by the permittee. The authorized officer may allow improvements such as roads, culverts and bridges placed on the lands to remain. If the holder fails to remove all such structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

§ 3621.1–6 Bond.

The authorized officer may require a bond as a guarantee of faithful

performance of the provisions of the permit and applicable regulations.

§ 3621.1–7 Cancellation.

The authorized officer may cancel a permit if the permittee fails, after adequate notice, to observe the terms and conditions of the permit.

§ 3621.2 Permits to governmental units and non-profit organizations.

(a) The authorized officer may issue a free use permit to any Federal or State agency, unit or subdivision without limitation as to the number of permits or as to the value of the mineral materials to be extracted or removed, provided the applicant makes a satisfactory showing to the authorized officer that these materials will be used for a public project.

(b) The authorized officer may issue a free use permit to a non-profit organization or corporation for not more than 5,000 cubic yards (or weight equivalent) in any one calendar year.

(c) Permits issued under this section shall constitute a superior right to remove the materials and shall continue in full force and effect, in accordance with its terms and provisions, as against any subsequent claim to or entry of the lands.

Subpart 3622—Free Use of Petrified Wood

§ 3622.1 Program; general.

(a) Persons may collect limited quantities of petrified wood for noncommercial purposes under terms and conditions consistent with the preservation of significant deposits as a public recreational resource.

(b) Purchase of petrified wood for commerical purposes is provided by § 3610.1 of this title.

§ 3622.2 Procedures; permits.

No application or permit for free use is required except for specimens over 250 pounds in weight. The authorized officer may issue permits, under subpart 3621 of this title, for the removal of such specimens as the permittee certifies shall be displayed to the public in a museum or similar institution.

§ 3622.3 Designation of areas.

(a) All public lands administered by the Bureau of Land Management and the Bureau of Reclamation are open to or available for free use removal of petrified wood unless otherwise posted. Specific areas may be closed to free use removal of petrified wood by public notice or may be otherwise closed to public entry. Free use areas under the jurisdiction of said Bureaus may be modified or canceled by notices published in the **Federal Register**.

(b) The heads of other Bureaus in the Department of the Interior may publish in the **Federal Register** designations, modifications or cancellations of free use areas for petrified wood on lands under their jurisdiction.

(c) The Secretary of the Interior may designate, modify or cancel free use areas for petrified wood on public lands which are under the jurisdiction of other Federal departments or agencies, other than the Department of Agriculture, with the consent of the head of other Federal departments or agencies concerned, upon publication of notice in the **Federal Register**.

§ 3622.4 Collection rules.

(a) *General.* The authorized officer shall control the removal without charge of petrified wood from public lands under the following criteria:

(1) The maximum quantity of petrified wood that any one person is allowed to remove without charge per day is 25 pounds in weight plus one piece, provided that the maximum total amount that one person may remove in one calendar year shall not exceed 250 pounds. Pooling of quotas to obtain pieces larger than 250 pounds is not allowed.

(2) Except for permits issued under Subpart 3621 of this title to remove museum pieces, no person shall use explosives and power equipment, including but not limited to tractors, bulldozers, plows, power-shovels, trucks or semi-trailers or other heavy equipment for the excavation or removal of petrified wood.

(3) Petrified wood obtained under this section shall be for personal use and shall not be bartered or sold to commercial dealers.

(4) The collection of petrified wood shall be accomplished in a manner that prevents soil erosion and unnecessary and undue degradation of lands or other resources and the environment.

(b) *Additional rules.* The head of the agency having jurisdiction over a free use area may establish and publish additional rules for collecting petrified wood for noncommercial purposes to supplement those included in § 3622.4(a) of this title.

Subpart 3623—Free Use; Collecting—Hobby Mineral Specimens

§ 3623.1 Limitations; procedures and permits.

(a) Collection by amateur collector of limited quantities of hobby mineral specimens for noncommercial purposes may be authorized under terms and conditions which shall be consistent with preservation of significant deposits as a public recreational resource.

(b) Commercial disposals may be made under Part 3610 of this title.

(c) The procedures and limitations set forth for collection of petrified wood under Subparts 3622 and 8363 of this title apply to mineral specimens removed under this subpart.

PART 23—SURFACE EXPLORATION, MINING AND RECLAMATION OF LANDS

2. Part 23 is amended as follows:

Authority [Amended]

a. The authority section is amended by removing the citation "61 Stat. 681, as amended; 30 U.S.C. 601" after the citation "30 U.S.C. 359".

§ 23.2 [Amended]

b. Section 23.2(a) is amended by the removal of the citation "the Materials Act of July 31, 1947, as amended, (30 U.S.C. 601–604)."

c. Section 23.2(c) is removed in its entirety and paragraph (d) is redesignated as (c).

§ 23.3 [Amended]

d. Section 23.3(b) is removed in its entirety and the succeeding paragraphs are appropriately renumbered.

§ 23.4 [Amended]

e. Section 23.4 is amended by the removal of the words "or the Materials Act" after the words "subject to disposition under the mineral leasing Acts".

§ 23.5 [Amended]

f. Section 23.5(a)(1) is amended by removing the words "or an application for a permit or an offer to make a contract under the Materials Act".

g. Section 23.5(b) is amended by inserting the word "or" between the words "permit" and "lease", by removing the words "or contract" "and upon acceptance and by removing from the fourth sentence the words "or the Materials Act".

§ 23.7 [Amended]

h. Section 23.7(b) is removed in its entirety and the succeeding paragraphs are appropriately renumbered.

§ 23.8 [Amended]

i. Section 23.8(a) is amended by removing subparagraph (2) in its entirety and renumbering paragraph (a)(1) as (a).

§ 23.10 [Amended]

j. Section 23.10(a)(1) is amended by removing the sentence, "The holder of a permit or a party to a contract under the Materials Act shall file such reports with the district manager."

k. Section 23.10(a)(2) is amended by removing the words "and upon district managers with respect to permits issued or contracts made under the Materials Act".

l. Section 23.10(b)(1) is revised to read: "(1) An identification of the permit or lease and the location of the operation."

m. Section 23.10(e)(2)(ii) is amended by removing the phrase "a permit, lease or contract issued under the mineral leasing acts or the materials Act" and replacing it with the phrase "a permit or lease issued under the mineral leasing acts".

n. Section 23.10(e)(2)(iii) is amended by removing the phrase "a permit, lease or contract issued under the Mineral Leasing Act of 1920 or the Materials Act" and replacing it with the phrase "a permit or lease issued under the Mineral Leasing Act of 1920".

§ 23.11 [Amended]

o. Section 23.11(a) is amended by removing the words "and upon district managers with respect to permits issued or contracts made under the Materials Act".

p. Section 23.11(b) is amended by removing the words "or contract" in the two places it appears and inserting the word "or" between the words "permit" and "lease" in the two places they appear.

q. Section 23.11(c) is amended by removing the words "or contract" and inserting the word "or" between the words "permit" and "lease".

r. Section 23.11(d) is amended by removing the words "or contract" after the words "terms and conditions of a permit, lease" and by inserting the word "or" between the words "permit" and "lease".

s. Section 23.11(e) is amended by removing the words "or contract" and by inserting the word "or" between the words "permit, lease".

§§ 23.12, 23.13 [Amended]

t. Sections 23.12(c) and 23.13 are amended by removing the words "or contract" after the words "In any case involving", and by adding the word "or" and deleting "," between the words "permit" and "lease".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 9, 1982.

[FR Doc. 82-12026 Filed 4-30-82; 8:45 am]

BILLING CODE 4310-84-M

federal register

Monday
May 3, 1982

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation; Permanent Program Regulations: Prime Farmlands

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 783, 785, and 823

Surface Coal Mining and Reclamation; Permanent Program Regulations: Prime Farmlands

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) proposes to modify the special permanent program permit application and performance standard rules for operations on prime farmland. The revised rules are proposed in order to reduce the burden of existing rules, minimize duplication, and provide internal consistency. The proposed rules would (1) combine provisions for reconnaissance inspections with permit application requirements, (2) provide a limited exemption for lands occupied by mine support facilities, (3) modify provisions for soil removal and stockpiling, and (4) establish new procedures for determining success in the restoration of soil productivity.

DATES: *Written comments:* Accepted until 5 p.m. (eastern time) on July 2, 1982.

Public hearings: Held on request only, on June 16, 1982 at 9:00 a.m. (local).

Public meetings: Scheduled on request only.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.13), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.13), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Springfield, Ill.—Illinois Department of Transportation Auditorium, 2300 Dirksen Parkway.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Springfield, Ill.; Kansas City, Mo.; Pittsburgh, Pa., and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Donald F. Smith, Division of Technical Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5954.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rules
IV. Procedural Matters

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received after the time indicated under "Dates" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will conclude on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

These proposed rules are intended to amend, remove, or revise OSM's special permit application and performance standard rules for mining operations conducted on prime farmlands, currently set forth in 30 CFR 779.27, 783.27, 785.17 and Part 823. These rules were originally published at 44 FR 14901 (March 13, 1979). A preproposal draft of amendments to the performance standards for prime farmland was provided to State regulatory authorities and other interested parties. Following distribution of this preproposal draft, meetings were held with representatives of State regulatory authorities on July 21, 22, and 23, 1981, at which time the preproposal draft of the prime farmland rules was a topic of discussion. Written comments received on the preproposal draft are in the Administrative Record and will continue to be considered during the course of this rulemaking.

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmlands as defined in Section 701(20) of the Act. Permit application information and approval requirements are contained in Sections 507(b)(16), 508(a)(2)(C), 508(a)(5), and 510(d). Section 507(b)(16) requires that permit applications contain a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmlands. Section 508(a)(2)(C) requires

that permit applications contain a statement of the productivity of the land prior to mining including the appropriate classification as prime farmlands. Furthermore, Section 510(d)(1) provides that the regulatory authority shall grant a permit to mine on prime farmland if it "finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in Section 515(b)(7)." Rules implementing these permit application and approval provisions are found at 30 CFR 779.27, 783.27, 785.17, and 786.19(1).

Statutory performance standards for prime farmlands are found in Sections 515 (b)(7) and (b)(20) of the Act. Section 515(b)(7) sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. Section 515(b)(20) establishes when the period of responsibility for successful revegetation shall begin and provides an exception to vegetative cover requirements when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use. In addition, Section 519(c)(2) states that performance bonds shall not be released "until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey." Rules implementing these performance and bonding provisions are found at 30 CFR 805.13 and Part 823.

III. Discussion of Proposed Rules

Prime farmland permit information requirements for surface mines are found in § 779.27 and correspond to the prime farmland information requirements for underground mines found in § 783.27. While separate rules govern surface and underground mining, they are nearly identical. Accordingly, in this preamble, OSM will refer to § 779.27 with the understanding that the discussion will also apply to § 783.27. If the proposal were adopted, both of these sections would be removed and some of their requirements put into Part 785.

A. Reconnaissance Inspection

This proposal would amend existing § 785.17(b) to incorporate the requirements of existing § 779.27 which would be deleted. Section 785.17 establishes permit requirements for prime farmland.

Existing § 779.27 is closely related to § 785.17 in that it provides procedures for identifying prime farmland through a preapplication investigation. OSM believes that a consolidation of these sections would provide a more logical and useful rule.

Under this proposal, paragraph (b) of existing § 785.17 would be amended to require that the results of reconnaissance inspections for locating prime farmland be included in all permit applications. This provision is necessary to comply with Section 507(b)(16) of the Act. It is similar to existing § 779.27(a), but the term "preapplication investigation" has been changed to "reconnaissance inspection" which is the term used in the Act.

The criteria found in existing § 779.27(b) which may be used by a permit applicant to demonstrate that no prime farmland exists within the proposed permit area would be omitted from the proposed rule. In place of such provisions, proposed § 785.17(b)(1) would permit State regulatory authorities in consultation with the U.S. Department of Agriculture (USDA) Soil Conservation Service to determine the nature and extent of the reconnaissance inspection, including criteria which could be used to show that no prime farmland is present. These criteria may include, but are not limited to, any of the standards of the National Cooperative Soil Survey. The historical use test of existing § 779.27(b)(1) would still be applicable because it is an element in the definition of prime farmland as set forth in § 701.5.

This change was proposed after reconsidering the comments received on § 779.27(b) as published at 44 FR 15046 (March 13, 1979). Because these comments indicated several problems in applying uniform criteria on a nationwide basis, OSM now believes that such criteria can be best developed and implemented on a State-by-State basis.

Existing § 779.27(c) requires the applicant to submit a request for a negative determination if no prime farmland was found to be present during the preapplication investigation. Proposed § 785.17(b)(2) would simply require the applicant to submit a statement to the effect that no prime farmland historically used for cropland was found and to include the basis upon which such a conclusion was reached.

Where the reconnaissance inspection indicates that there may be prime farmland, existing § 779.27(d) requires the applicant to seek the assistance of the USDA Soil Conservation Service to determine if a soil survey exists for the lands and whether soil-map units have been designated and prime farmlands. If no soil survey is found to exist, the applicant shall cause such a survey to be made. These requirements would be retained in proposed § 785.17(b)(3). In addition, the proposal specifies that the soil survey used by the USDA Soil Conservation Service for operational conservation planning would be used to identify and locate prime farmland soils. This provision was added at the request of the Soil Conservation Service to describe the size of the map unit to be used for identifying prime farmland soils in the field.

The proposal would delete existing paragraphs (d) (1) and (2) of § 779.27 which direct the applicant to submit an application in accordance with the special permitting requirements of § 785.17 when prime farmland is determined to exist within the proposed permit area and to submit a request for a negative determination if no prime farmland is present. Instead, the proposal would direct the applicant to submit a statement that no prime farmland exists if none were found and to comply with proposed § 785.17(c), "Application contents: Prime farmland," when prime farmland soils are present.

B. Application Contents

Existing § 785.17(b), which establishes permit application requirements for prime farmland, would be revised to simplify the language used and would be redesignated as proposed § 785.17(c). Paragraphs (b)(1) and (b)(1)(i) would be redesignated as proposed Paragraphs (c)(1) and (c)(1)(i). Aside from the change in proposed Paragraph (c)(1)(i) to reflect OSM's new organizational structure, these proposed rules would be the same as the existing rules.

Existing § 785.17(b)(1)(ii) would be reworded by specifying that a representative soil-profile description must include, but is not limited to, information on soil-horizon depths, pH, and the range in soil densities. These three elements of the soil-profile description would be added as a requirement to the existing section because OSM believes such information is essential for determining the adequacy of all proposed soil reconstruction plans. Information on other physical and chemical soil properties may also be required by the regulatory authority to make the determination that the operator has the technological capability to restore the permit area to the soil reconstruction standards.

Furthermore, existing § 785.17(b)(1)(ii) allows other representative soil-profile

descriptions from the locality to be approved by the regulatory authority as long as these profiles were prepared in conjunction with the National Cooperative Soil Survey. OSM and the USDA have reviewed their responsibilities under the Act and have determined that such approval is the proper responsibility of the Secretary of Agriculture as stated in Sections 507(b)(16) and 515(b)(7). The Secretary of Agriculture has delegated this responsibility to the Soil Conservation Service. Therefore, alternative soil-profile descriptions that are proposed for use in satisfying the requirement must be approved by the USDA Soil Conservation Service within each State. This change in responsibility is reflected in proposed § 785.17(c)(1)(ii).

Existing § 785.17(b)(2) would be amended and redesignated as § 785.17(c)(2). The existing section requires permit applications for prime farmland to identify the proposed method and type of equipment to be used for removal, storage, and replacement of the soil in accordance with Part 823. The proposed rule would use the terminology of Section 508(a)(5) of the Act in requiring the operator to establish the technological capability to comply with the performance standards of Part 823 by submitting a plan for soil reconstruction, replacement, and stabilization.

Existing § 785.17(b)(7) would be amended and redesignated as § 785.17(c)(3). It would require that documentation be submitted as part of the permit application to demonstrate that the proposed method of reclamation will achieve, within a reasonable time, equivalent or higher levels of yield after mining as existed before mining. This requirement is needed to comply with Section 510(b)(2) and (d)(1) of the Act. An additional sentence would be added to this section in order to inform applicants that such documentation would also be needed to support the use of proposed soil mixing or soil substitutes.

Paragraphs, (b)(3), (b)(4), (b)(5), (b)(6), (b)(8), and (b)(9) of existing § 785.17(b) would be deleted. Paragraph (b)(3), which established a specific requirement to report the moist bulk density of each major soil horizon of each prime farmland soil, was suspended on December 31, 1979, at 44 FR 77455. Soil density information, however, would still need to be reported in order to satisfy the requirements of proposed § 785.17(c)(1)(ii). That proposed section calls for the submission of a representative soil-profile description showing the range of soil densities that are present on each prime farmland soil-map unit within the permit area. Thus, soil density would continue to be a soil reconstruction standard.

The issue of soil density measurement is discussed under the heading "Compaction" which apears in this preamble under the explanation of proposed performance standards for prime farmland.

Existing paragraph (b)(4) requires permit applications for prime farmlands to contain the location of areas to be used for the separate stockpiling of soil and plans for soil stabilization before redistribution. The proposed rules would delete this paragraph because it repeats permit application rules found in existing §§ 780.14(b)(5), 780.18(b)(3) and (b)(4), 784.13(b)(3) and (b)(4), and 784.23(b)(5).

Existing paragraph (b)(5) would be deleted because the requirement to submit documentation supporting the proposed use of soil mixtures and substitutes is contained in proposed paragraph (c)(3). Existing paragraph (b)(6) would be deleted because plans for seeding or cropping the final graded land are required as part of the revegetation plan in §§780.18(b)(5) and 784.13(b)(5). The reporting of conservation practices that will be used to control erosion and sedimentation is unnecessary because they are already required to be reported by §§780.18(b)(3) and 784.13(b)(3) of the general requirments for reclamation plans. The remaining requirement of paragraph (b)(6) would not be needed because applicants are required by § 816.24(b)(3) (Topsoil: Redistribution) to redistribute topsoil and other materials in a manner that protects the soil surface from wind and water erosion before and after it is seeded and planted. This provision is interpreted to include adjustment to the timing of topsoil redistribution so that the final graded surface is not exposed to excessive erosion when other erosion control practices are known to be inadequate.

Existing paragraph (b)(8) would be deleted because a new procedure for setting crop yield requirements is proposed in § 823.15. This new procedure would eliminate the need to specify target yields in the permit application. The final paragraph in existing § 785.17(b) would be deleted from the permit application requirements because it is actually a performance standard that is more appropriatedly addressed in § 823.15(c).

Existing § 785.17(c) and (d) would be unchanged except for their redesignation as proposed § 785.17(d) and (e), respectively, and for changes in cross-references needed to reflect the reordering of the paragraphs within the section.

C. Performance Standards: Scope and Special Requirements

Existing § 823.1 (Scope) would not be changed except that the term "purpose" would be added to its heading to more accurately identify the content of the section.

Existing § 823.2 (Objective) is proposed to be deleted because its only function is to provide a general description of the intent behind the rules in this part. OSM believes this section is unnecessary because the objectives of the performance standards for prime farmland should be self-evident.

Existing § 823.11 (Prime farmlands: Special requirements) would be deleted and replaced with a new section (Applicability) because it repeats other parts of the rules and would therefore be unnecessary. Paragraph (a) of this section requires a permit to be obtained under 30 CFR 785.17. The requirement to obtain a valid permit before engaging in or carrying out surface coal mining and reclamation operations is found in § 771.11. To be considered valid, the permit must be in accordance with § 785.17 when the proposed permit area includes prime farmlands. Existing paragraph (b) requires that soil materials be removed before drilling, blasting, or mining in a manner that prevents mixing or contamination with undesirable materials. The rule further states that the regulatory authority shall specify methods to control erosion of exposed overburden. These provisions are also found in § § 816.22(a) and 816.23(b) which specify methods to be used for the removal and storage of all topsoil, regardless of its location on prime farmland or other lands. Paragraph (c) which establishes requirements for the measurement of revegetation success would be covered in proposed § 823.15(c).

D. Support Facilities, Water Bodies, and Grandfathered Lands

Section 823.11 also would be amended to implement the District Court decision in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D. D.C., May 16, 1980), pps. 1–3. The District Court ruled that the prime farmland performance standards of the Act apply to underground mining operations but suggested to the Secretary that a limited exemption be promulgated for surface facilities actively used for extended periods, but which affect a minimal amount of land.

Proposed § 823.11(a) would exclude from the prime farmland reconstruction standards lands occupied by support facilities of surface and underground mines which are utilized over long periods of time (20 or more years), and which affect a minimal area. The operator would still be required to do a reconnaissance inspection and to comply with permit and bonding requirements. General revegetation performance standards found in Parts 816 and 817 would be applicable to those lands where an exception to the prime farmland standards would be granted. Because of the similarity of support facilities of both surface and underground mines, OSM proposes to extend this exclusion to include support facilites of surface mines which will be actively used over long periods of time but which will affect a minimal amount of land. OSM specifically requests comments on the proposed rule, especially with regard to the type of support facilities which should be included in the exclusion, the duration of their use, and the maximum size of the land area that could be affected.

Proposed § 823.11(b) does not have a counterpart in the existing rules. It has been proposed to provide an exception to Part 823 where the approved postmining land use is a pond or other water body. Such areas would be required to meet the performance standards for permanent and temporary impoundments.

Proposed § 823.11(c) would also be a new section which would clarify that lands grandfathered in accordance with § 785.17(a) are excluded from the special prime farmland performance standards of this part.

E. Soil Removal and Stockpiling

The existing soil removal rules of § 823.12 and the soil stockpiling rules of § 823.13 would be combined under proposed § 823.12 for better organization and clarity. Sections 823.12(a) (2) and (3) would be combined as proposed § 823.12(b) at the suggestion of the USDA Soil Conservation Service for the same reasons. The stockpiling provisions contained in the first sentence of existing § 823.13 would be reworded and placed in proposed § 823.12 (a) and (b). Other changes were made to simplify the regulatory language.

Proposed § 823.12(b) would also contain a new provision which would not require separate removal and stockpiling where combinations of soil horizons have equal or greater productive capacity than that which existed prior to mining. This would be added to allow operators to avoid the extra cost of separate soil handling when the productive capacity could be maintained or even enhanced by the mixing of soil horizons. Proposed § 785.17(c)(4) would require an operator who proposes to use such a soil mixture to demonstrate that the proposed mixing will achieve, within a reasonable time, equivalent or higher level of yield after mining as existing before mining. Proposed § 823.12(c) would establish the same requirements which were present in the last two sentences of existing rule § 823.13. Existing § 823.12(b) would be relocated under the heading of proposed § 823.12. In summary, the proposed consolidation of existing §§ 823.12 and 823.13 is not believed or intended to have resulted in any substantive changes in the requirements for soil removal and storage other than those specifically addressed above.

F. Soil Replacement

Sections 507(b)(16) and 515(b)(7) of the Act assign to the Secretary of Agriculture responsibility for establishing soil survey standards and soil removal, storage, replacement, and reconstruction specifications. The Secretary of the Interior and the Secretary of Agriculture have agreed that detailed specifications for soil reconstruction should be determined on a State-by-State basis and that the permanent program rules which are national in scope should be limited to identifying general elements of concern in soil reconstruction. Proposed §823.14(a) would implement this agreement and the statutory responsibility assigned to the Secretary of Agriculture for establishing soil reconstruction specifications. There is no counterpart to this provision in the existing rules.

The USDA Soil Conservation Service has performed extensive soil surveys throughout the United States which have included prime farmland soils. More than 500 counties have a published soil survey with interpretations for prime farmlands. Over 500 additional maps identifying prime farmland soils are in the process of being prepared. Soil survey data on the physical and chemical characteristics of prime farmland soils and corresponding crop yields are available from the USDA Soil Conservation Service.

Under proposed § 823.14(a), each State Conservationist of the USDA Soil Conservation Service would supply to the State regulatory authority a list of prime farmland soils and their location where available, their physical and chemical characteristics, crop yields, and associated data necessary to support an adequate soil description. These soil descriptions would include soil horizon depths, soil densities, pH, and other data that is pertinent to achieving equal or higher levels of soil productivity as established by the soil survey. The State regulatory authority would use this technical data as soil reconstruction standards when approving permit applications under § 785.17.

(a) *Scarification and minimum soil depth.* The scarification requirements of existing § 823.14(b) would be deleted. Because prime farmland soils are on relatively level ground, scarification for purposes of slippage control is not needed. Where tillage is needed to loosen the soil, it can be required by the regulatory authority on a site-specific basis. Proposed § 823.14(b) would continue the requirement from existing § 823.14(a) of a general soil depth of 48 inches, although soil depths would be specified to the regulatory authority by the USDA Soil Conservation Service within each State based upon the soil survey. The exceptions in existing § 823.14(a) for lesser or greater soil depth depending on local conditions would be retained with some rewording to condense and clarify the provisions. The standards for determining when a soil horizon may be considered root inhibiting would be retained in proposed § 823.14(b).

Existing § 823.14(b) also requires mine operators to replace soil material only on land which has been first returned to the final grade. This provision has been deleted from the proposed rules because it is covered by the backfilling and grading requirements of §§ 816.101 and 816.102.

(b) *Compaction.* The moist bulk density requirement of existing § 823.14(c) would be deleted from the OSM rules by this proposal. The moist bulk density standard was suspended on December 31, 1979, at 44 FR 77455. Soil density, however, remains a soil reconstruction standard as specified to the regulatory authority from the National Cooperative Soil Survey by the USDA Soil Conservation Service within each State. Proposed § 823.14(c) would adopt the wording of Section 515(b)(7)(C) of the Act by requiring soil horizons or other root zone material to be replaced and regraded with "proper compaction and uniform depth." The chronological development of the rule dealing with compaction of prime farmland soils is presented below.

On December 13, 1977, at 42 FR 62639 the Secretary promulgated special requirements in 30 CFR 716.7(f)(5)(i) of the interim program rules concerning excess compaction of the surface layer

and underlying material. A reduction of permeability to less than 0.06 inch per hour in the upper 20 inches of the reconstructed soil profile was prohibited.

On March 13, 1979 (44 FR 14902, 15373), the Secretary published permanent program rules (30 CFR 785.17(b)(3)) which used a moist bulk density standard for soil restoration. In the performance standards, 30 CFR 823.14(c), the Secretary allowed an increase of 0.1 gram per cubic centimeter over the moist bulk density values stated in the approved permit application under 30 CFR 785.17(b)(3) for the equivalent layer of the undisturbed soil. The change from permeability to density was made as a result of public comment, stating that permeability was more difficult to measure than bulk density. OSM adopted a moist bulk density criterion as a measure of compaction, and maintained the standard of the National Cooperative Soil Survey of 0.1 gram per cubic centimeter of soil for determining moist bulk density limits in the laboratory.

As a result of issues raised during litigation on the permanent program rules (*In re: Permanent Surface Mining Regulations Litigation*, No. 79–1144, D.D.C. filed May 1979), OSM suspended the moist bulk density standards in §§ 785.17(b)(3) and 823.14(c) in order to review technical findings and further clarify the moist bulk density requirements. This review showed that confusion existed when the terms "soil bulk density" and "moist bulk density" were mistakenly interchanged. Soil bulk density is defined as the mass of dry soil per unit bulk volume. Bulk volume is defined as the volume including the solids and the pores of an arbitrary soil mass (Soil Science Society of America, 1978). (Note: Full citations of reference texts are provided at the end of the discussion of proposed rules.) As defined in § 701.5, moist bulk density is based on the weight of a natural soil structural unit containing water in equilibrium at ⅓-bar moisture tension. The difference between these terms is that the latter takes into account water occupying a portion of the pore space, whereas the former is based on dry soil. In some soils having a high affinity for water, the difference between moist bulk density and soil bulk density can be considerable.

The procedure for determining moist bulk density requires the use of natural soil structural units (U.S. Soil Conservation Service, 1972). Reconstructed soils usually lack these natural soil structural units upon which procedures for determining moist bulk density are based. This complicates the interpretation of moist bulk density data and points out a need to determine the effect that such properties may have on estimated density values.

The Secretary of Agriculture would require, as set forth in proposed § 785.17(b)(1), a soil survey to be performed to the standards of the National Cooperative Soil Survey which includes soil horizon thickness, pH, soil density, estimated crop yields, and related soils information. These parameters found in the soil survey would in practice become reconstruction standards because of the interrelationship between soil properties and crop yields.

Instead of specifying a moist bulk density soil reconstruction standard through national rules the Secretary of Agriculture has chosen to specify soil density and all other soil reconstruction standards to the regulatory authority through the USDA Soil Conservation Service within each State. In this manner the soil reconstruction standards can be tailored to each prime farmland soil within each State.

OSM is aware that the compaction criterion of Section 515(b)(7)(C) of the Act applies only to the B and C soil horizons and that normal tillage operations on the topsoil or A horizon would alleviate compaction problems that may result from replacement of the topsoil. It has been shown that compacted soil layers can be loosened using deep tillage technology to achieve a suitable rooting medium (Guernsey and others, 1979). OSM is mostly concerned with the compaction of the B and C soil horizons which are at greater depths within the soil profile and therefore more difficult to loosen if overly compacted.

Soil compaction is a major impediment to achieving premining soil productivity. Literature reviews by H. M. Taylor (1979) and R. C. Rawles (1977) of research on soil compaction have identified more than 10 different crops that have had reduced yields directly or indirectly related to compacted soils. If excessive compaction is allowed to occur, failure of the equal or higher level of productivity standard will result. Thus, the requirement under proposed § 823.14(c) to replace soils with proper compaction, implies that operators will have to use the best methods and technologies for handling soil materials and for managing reconstructed cropland.

Proposed § 823.14(d) would be changed to reflect the joining together of existing § 823.12(a) (2) and (3) into proposed § 823.12(b). The reference to 30 CFR 785.17(b)(1)(ii) within existing § 823.14(e) would be replaced by the words "soil survey" to clarify the rule. The term "soil survey" is defined in § 701.5. The requirement that the topsoil must be stabilized from the erosive forces of wind and water would be deleted because this provision is also found in proposed § 823.15(a). Existing § 823.14(f), which refers to the application of nutrients and soil amendments would be deleted because it is not a specific standard, but rather an established good farm management practice.

G. Revegetation and Restoration of Soil Productivity

The heading of § 823.15 would be changed to include the "restoration of soil productivity" which more accurately identifies the content of the section.

Existing § 823.15(a) would be shortened by eliminating revegetation provisions already covered under 30 CFR 816.111–816.117. The 10-year period within which cropping must be begun would be retained in proposed § 823.15(b). In the existing rule this period started after the completion of backfilling and rough grading. The proposed rule would initiate the 10-year period after completion of soil replacement since this is the first point in time when cropping could begin. OSM believes that the beginning of the trial period cannot be specified accurately in the permit application which would be prepared many years in advance of actual cropping. Therefore, this requirement would not be retained in the proposed rules. The provision for growing hay in rotation with crops would be deleted because it was not a requirement, just a suggestion. The sentence allowing the regulatory authority to approve the use of perennial plants for hay, if such is a common long-term use of prime farmland soils in the surrounding area, would be deleted because such a decision is within the regulatory authority's discretion in approving the reclamation plan. Use of prime farmland soils must be consistent with uses made on similar soils in the surrounding area under the Act.

The sentence in existing § 823.15(b) prescribing the level of management would be moved to proposed § 823.15(c). Proposed § 823.15(c) would reflect the levels of management required by various sections of the Act for prime farmland soils; "equivalent levels of management" is a requirement for permit approval (Section 510(d)(1) of the Act), and "equivalent management practice" is a requirement for bond

release (Section 519(c) of the Act). Since performance standards are the link between permit approval and final successful reclamation judged at the time of bond release, the level of management that would be required by these performance standards is essentially the same as the two virtually identical statutory phrases for permit approval and bond release.

The soil survey reports crop yields achieved under various levels of management. These levels of management reported in the soil survey have not been consistent in the past; therefore it is difficult to specify specific management inputs relative to crop yields. The coordination contemplated through this proposal between the USDA Soil Conservation Service and the State regulatory authority will serve to provide this technical information specific to variables found in major coal/crop production areas. The proposed paragraph would require such coordination by requiring the same level of management as used in the surrounding prime farmland areas.

The adjustments for weather induced variability found in existing § 823.15(c)(2) would be moved to proposed § 823.15(c)(3)(iii). Existing § 823.15(c)(3) would be changed to reflect alternative methods of determining crop yields as proof of soil productivity for bond release. The alternative method proposed in § 823.15(c)(3)(i) would allow reference crop yields to be determined from the yield records of representative local farms in the surrounding area with concurrence by the USDA Soil Conservation Service. This alternative is proposed because Section 519(c)(2) of the Act requires postmining crop yields to be judged on the basis of yields from the same soil type in the surrounding area. The alternative method in proposed § 823.15(c)(3)(ii) would allow for the use of average county yields that have been adjusted by the USDA Soil Conservation Service. This alternative was proposed because yield records from local farms may not always be available.

Under proposed § 823.15(c)(4), crops which would exploit the full capability of the reconstructed prime farmland soil must be grown. This is not a new requirement since operators are required by sections 515(b)(2) and 519(c)(2) of the Act to return lands to their premining capability.

OSM's implementation of the Act's prime farmland restoration requirement in Section 510(d)(1) has been the subject of much controversy and litigation. The original permanent program rules provided that a permit to mine prime farmland could be issued only after finding that the proposed postmining land use would be cropland, 30 CFR 785.17(d)(1), 823.11(c), and 823.15. The validity of these rules was litigated in the District Court for the District of Columbia, and two court decisions containing conflicting conclusions were received. On February 26, 1980, the District Court remanded 30 CFR 823.11(c), 823.15(d), and 823.15(c) because the "the Act fails to provide statutory support for requiring coal operators to engage in farming." *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, February 26, 1980, slip op. 59. The Court also stated that the operator's obligation to demonstrate capability of prime farmlands to support premining productivity could be met through a soil survey.

On May 16, 1980, the District Court upheld 30 CFR 785.17(d), stating that:

> Illinois mistakenly reads Section 515(b)(2) in isolation. That section requires an operator to "restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining * * *" This statutory command is a generic description relating to postmining land use. But, the Act prescribes additional and specific requirements for prime farmland. For example, the SMCRA prohibits release of bond "until soil productivity of prime farmlands has returned to equivalent levels of yield as non-mined land of the same soil type in the surrounding area * * *" Section 519(c)(2) of the Act, 30 U.S.C. 1269(b)(2). This equivalency standard could not be achieved absent the postmining employment of prime farmland as cropland. Section 510(d)(1) of the Act, 30 U.S.C., and 1260(d)(1), corroborates the imposition of an additional requirement for mining on prime farmland: The land must be reclaimed and used as cropland. This statutory section addresses permit approval. It states: (The Court then quoted a portion of Section 510(d)(1) of the Act).
>
> A regulatory authority therefore cannot grant a permit to mine unless the operator demonstrates an ability to restore prime farmland to equivalent yields of the surrounding non-mined land.
>
> These statutory sections demonstrate clear congressional intent to restore prime farmland to cropland. 30 CFR § 785.17(d)(1) only requires what the Act expressly commands (footnote omitted).
>
> *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, May 16, 1980, slip op. 5–6.

The District Court's decision of February 26, 1980, would appear to prohibit OSM from requiring that actual crop yields be used as the means for determining the success of soil reconstruction whereas the May 16, 1980, decision appears to support such a requirement. In light of these apparent conflicting decisions and the Government's appeal of portions of the decisions, OSM has chosen to adopt the guidance provided in the May 16, 1980, decision and propose § 823.15(b) and (c) which would require that crops be grown to demonstrate the restoration of soil productivity.

H. Reference materials

Reference materials used to develop these proposed rules are as follows:

Guernsey, P. M., Mausel, P., Oliver, J., and Smith, D., 1979, Technical guidance for evaluating crop yields during the premining and reclamation processes, Volume II: Unpublished Report, July 1979, 84 pp.

Rawles, R. C., 1977, Response of corn to in-row subsoiling on Alabama soils: Master of Science thesis, Auburn University, Auburn, Alabama, 56 pp.

Soil Science Society of America, 1978, Glossary of soil science terms: Madison, Wisconsin, 36 pp.

Taylor, H. M., 1979, Mechanical impedance to root growth: Paper prepared for International Symposium on Priorities for Alleviating Soil-Related Constraints to Food Production in the Tropics, International Rice Research Institute, Los Banos, Philippines, June 4–8, 1979, 27 pp.

U.S. Soil Conservation Service, 1972 (Revised), Soil survey laboratory methods and procedures for collecting soil samples: U.S. Department of Agriculture Soil Survey Investigations Report No. 1, 16 pp.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in the Midwest.

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Parts

779, 783, and 785 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers 1029–0035, 1029–0038 and 1029–0040 on April 1, 1981. This approval was identified in notes at the introduction to 30 CFR Parts 779 and 785 under the old numbers R0605, R0608, and R0610 (all under No. B–190462). OSM will delete those notes and codify the OMB approvals under new sections. The information required by 30 CFR Parts 779, 783, and 785 will be used by the regulatory authority in permitting surface and underground mining activities to ensure that they are conducted in a manner which preserves and enhances environmental and other values of the Act. This information required by 30 CFR Parts 779, 783 and 785 is mandatory.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an initial finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA also will be completed before this rule is made final.

List of Subjects

30 CFR Part 779

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting requirements, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 823

Agriculture, Coal mining, Environmental protection, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 779, 783, 785, and 823 are proposed to be amended as set forth herein.

Dated: April 16, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 779.27 [Removed]

1. Section 779.27 is removed.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 783.27 [Removed]

2. Section 783.27 is removed.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

3. In § 785.17, paragraph (b) is revised; paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; new paragraph (c) is added; and newly redesignated paragraphs (d) and (e)(2) are revised to read as follows:

§ 785.17 Prime Farmland.

* * * * *

(b) *Application contents: Reconnaissance inspection.* (1) All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The State regulatory authority in consultation with the USDA Soil Conservation Service shall determine the nature and extent of the required reconnaissance inspection.

(2) If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the applicant shall submit a statement that no prime farmland is present. The statement shall identify the basis upon which such a conclusion was reached.

(3) If the reconnaissance inspection indicates that land within the proposed permit area may be prime farmland historically used for cropland, the applicant with the assistance of the USDA Soil Conservation Service shall determine if a soil survey exists for the lands and whether soil-map units have been designated prime farmland. The applicant shall have a soil survey made if no soil survey exists. Soil surveys used by the USDA Soil Conservation Service for operational conservation planning will be used to identify and locate prime farmland soils.

(i) When the soil survey indicates that no prime farmland soils are present within the proposed permit area, paragraph (b)(2) of this section shall apply.

(ii) When the soil survey indicates that prime farmland soils are present within the proposed permit area, paragraph (c) of this section shall apply.

(c) *Application contents: Prime farmland.* All permit applications where prime farmland has been identified within the proposed permit area shall include the following:

(1) A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1951).

(i) These publications are hereby incorporated by reference as they exist on the date of adoption of this part. Notices of changes made to these publications will be periodically published by OSM in the Federal Register. Agriculture Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual) are on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Building, Washington, DC 20240, at each OSM Technical Service Center and State Office, and at the central office of the applicable State regulatory authority, if any. Copies of these publications may also be obtained by written request to the above locations. Copies of these documents are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 001–000–02597–0 and Stock No. 001–000–00688–6. In addition, these documents are available for inspection at the national, State, and local offices of the Soil Conservation Service, U.S. Department of Agriculture, and at the Federal Register library, 1100 L Street, NW., Washington, D.C. Incorporation by reference provisions approved by the Director of the Federal Register on June 29, 1981. The Director's approval of this incorporation by reference expires on July 1, 1982.

(ii) The soil survey shall include map units and a representative soil-profile description, including soil-horizon depths, pH, and the range of soil densities for each prime farmland soil unit within the permit area. Other representative soil-profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the USDA Soil Conservation Service.

(2) A plan for soil reconstruction, replacement,and stabilization for the

purpose of establishing the technological capability of the mine operator to comply with the requirements of Part 823 of this chapter.

(3) Agricultural school studies or other scientific data for areas with comparable soils, climate, and management that demonstrate the proposed method of reclamation will achieve, within a reasonable time, equivalent or higher levels of yield after mining as existed before mining. In addition, such documentation shall be submitted if the applicant proposes to use soil mixing or soil substitutes.

(d) *Consultation with Secretary of Agriculture.* Before any permit is issued for areas that include prime farmlands, the regulatory authority shall consult with the Secretary of Agriculture. The Secretary of Agriculture shall provide for review and comment of the proposed method of soil reconstruction in the plan submitted under paragraph (c) of this section. If the Secretary considers those methods to be inadequate, he or she shall suggest revisions resulting in more complete and adequate reconstruction. The Secretary of Agriculture has assigned his responsibilities under this section to the Administrator of the USDA Soil Conservation Service. The USDA Soil Conservation Service shall carry out consultation and review through the State Conservationist located in each State.

(e) * * *

(2) The permit incorporates as specific conditions the contents of the plan submitted under paragraph (c) of this section, after consideration of any revisions to that plan suggested by the Secretary of Agriculture under paragraph (d) of this section;

* * * * *

4. Part 823 is revised to read as follows:

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

Sec.

823.1 Scope and purpose.
823.11 Applicability.
823.12 Prime farmland: Soil removal and stockpiling.
823.14 Prime farmland: Soil replacement.
823.15 Prime farmland: Revegetation and restoration of soil productivity.

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

§823.1 Scope and purpose.

This part sets forth special environmental protection performance, reclamation, and design standards for surface coal mining and reclamation operations on prime farmland.

§823.11 Applicability.

The requirements of this part shall not apply—

(a) Where support facilities of surface and underground mines are actively used over extended periods of time and where such support facilites affect a minimal amount of land. Such facilities must continue to meet the requirements of Part 816 of this chapter for surface mining and Part 817 of this chapter for underground mining;

(b) Where there are approved water bodies. Such areas must meet the requirements of §§ 816.49 and 817.49; and

(c) Where prime farmlands have been excluded in accordance with § 785.17(a).

§§823.12 Prime farmland: Soil removal and stockpiling.

The minimum depth of soil and soil materials to be removed and stored for use in the reconstruction of prime farmland shall be sufficient to meet the requirements of § 823.14(b). Soil removal and stockpiling operations on prime farmlands shall be conducted to—

(a) Separately remove the entire A horizon or other suitable soil materials which will create a final soil having an equal or greater productive capacity than that which existed prior to mining. If not utilized immediately, this material shall be placed in stockpiles separate from the spoil and all other excavated materials;

(b) Separately remove the B and C horizons or other suitable soil material to provide the thickness of suitable soil required by § 823.14(b), and stockpile separately from the spoil. Where combinations of soil horizons created by mixing have been shown to have equal or greater productive capacity than that which existed prior to mining, separate handling may not be necessary; and

(c) Stockpiles shall be placed within the permit area where they will not be disturbed or subject to excessive erosion. If left in place for more than 30 days, stockpiles shall meet the requirements of §§ 816.23 or 817.23 of this chapter.

§ 823.14 Prime Farmland: Soil replacement.

(a) Soil reconstruction standards shall be established by the USDA Soil Conservation Service within each State. These standards shall be based upon the National Cooperative Soil Survey and shall include, as a minimum, soil horizon depths, soil densities, soil pH, and other specifications such that reconstructed soils will have the capability of achieving equal or higher levels of yield as nonmined prime farmland in the surrounding area.

(b) The minimum depth of soil and soil material to be reconstructed shall be 48 inches, or a lesser depth equal to the depth to a subsurface horizon in the natural soil that inhibits root penetration, or a greater depth if determined necessary to restore the original soil productive capacity. Soil horizon depths shall be specified to the regulatory authority by the USDA Soil Conservation Service based upon the soil survey. Soil horizons shall be considered as inhibiting root penetration if their densities, chemical properties, or water supplying capacities restrict or prevent penetration by roots of plants common to the vicinity of the permit area and have little or no beneficial effect on soil productive capacity.

(c) The operator shall replace and regrade the soil horizons or other root zone material with proper compaction and uniform depth.

(d) The operator shall replace the B horizon, C horizon, or other suitable material specified in § 823.12(b) to the thickness needed to meet the requirements of paragraph (b) of this section.

(e) The operator shall replace the A horizon or other suitable soil materials specified in § 823.12(a) as the final surface soil layer. This surface soil layer shall equal or exceed the thickness of the original surface soil layer, as determined by the soil survey.

§ 823.15 Prime farmland: Revegetation and restoration of soil productivity.

Each person who conducts surface coal mining and reclamation operations on prime farmlands shall meet the following ground cover or cropping requirements:

(a) Following soil replacement the soil surface shall be stabilized with a vegetative cover or other means that effectively controls soil loss by wind and water erosion.

(b) Within 10 years after completion of soil replacement, any portion of the disturbed area which is prime farmland historically used as cropland shall be used for crops commonly grown on surrounding prime farmland.

(c) The restoration of soil productivity shall be measured using techniques approved by the regulatory authority in consultation with the USDA, Soil Conservation Service. As a minimum, the following shall be met:

(1) Average annual crop production shall be determined based upon a minimum of 3 crop years prior to release of the operator's performance bond.

(2) The level of management applied during the 3-year proof of reclamation period shall be the same as the level of

management used in the surrounding prime farmland area.

(3) Restoration of soil productivity shall be considered achieved when the average yield during the 3-year proof of reclamation period is equal to or exceeds the average yield of the reference crop grown during the same period on nonmined soils of the same soil type in the surrounding area under equivalent management practices. Reference crop yields for a given crop season are to be determined—

(i) From the yield records of representative local farms in the surrounding area, with concurrence by the USDA Soil Conservation Service; or

(ii) From the average county yields established annually by the USDA Statistical Reporting Service which have been adjusted by the USDA Soil Conservation Service for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produced a crop; and

(iii) With either procedure in paragraphs (c)(3)(i) or (ii) of this section, the annual crop yield may be adjusted for weather-induced variations.

(4) The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on prime farmland in the local area. Where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as the reference crop.

[FR Doc. 82-11942 Filed 4-30-82; 8:45 am]
BILLING CODE 4310-05-M

federal register

Monday
May 3, 1982

Part VII

Department of Education

Office of Postsecondary Education

Guaranteed Student Loan Program; Amended Family Contribution Schedule

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Guaranteed Student Loan Program; Amended Family Contribution Schedule

AGENCY: Education Department.

ACTION: Notice of amended GSL family contribution schedule.

SUMMARY: The Secretary amends the family contribution schedule for the Guaranteed Student Loan (GSL) program which appeared in the Federal Register on September 11, 1981 (46 FR 45486), for the period beginning July 1, 1982. This amended schedule will apply to loans for any period of instruction which begins on or after July 1, 1982, but not later than June 30, 1983. The schedule is used to determine whether a student is eligible to receive an interest subsidy under the GSL program.

EFFECTIVE DATE: The amended family contribution schedule is effective 30 legislative days after the date of publication of this notice, unless the Senate or the House of Representatives adopts a resolution of disapproval before the expiration of the 30-day period.

SUPPLEMENTARY INFORMATION:

General

Section 428(a) of the Higher Education Act of 1965, as amended ("Act"), sets forth the eligibility requirements for an interest subsidy under the GSL program. An otherwise eligible student may receive an interest subsidy only if the adjusted gross income of the student's family is: (a) Less than or equal to $30,000; or (b) greater than $30,000 and the student demonstrates a financial need for the loan.

In a notice published in the Federal Register on September 11, 1981, the Secretary of Education established an initial GSL Family contribution Schedule for use in determining whether a student qualifies for an interest subsidy under the GSL program. That initial schedule applied to loans for which an educational institution completes its portion of a student's GSL application on or after October 1, 1981, but not later than June 30, 1982, for any period of instruction beginning not later than June 30, 1982.

Section 428(a)(2)(E)(iii) of the Act provides that the method of determining the expected family contribution established in the initial schedule shall remain in effect until superseded or amended. The Secretary is empowered to amend the initial schedule under clause (i)(IV) of section 428(a)(2)(E). Congress intended the Secretary to amend the initial schedule for use in the 1982–83 academic year. (H.R. Conf. Rep. 97–208, 745, reprinted in (1981) United State Code Cong. & Ad. News 1010, 1106). Any amendment ot the initial schedule promulgated by the secretary is subject to Congressional approval, under clause (iv) of section 428(a)(2)(E), but is exempt from public comment under clause (i)(III). Accordingly, the Secretary amends the initial schedule in the following respects:

(1) The initial schedule shall apply to loans for periods of instruction beginning before July 1, 1982, regardless of whether an educational institution completes its portion of a student's GSL application after June 30, 1982. The schedule as amended below shall apply to loans for periods of instruction beginning on or after July 1, 1982, but not later than June 30, 1983, regardless of when an educational institution completes its portion of student's GSL application.

(2) The definition of "independent student" is revised to take into account the student's status in 1981 and 1982, rather than in 1980 and 1981, unless the student is married at the time the detemination of the adjusted gross family income is made, in which case the student's status in 1982 alone is taken into account. The maximum amount of financial assistance a student may receive from his or her family in either year, or in 1982 in the case of a married student, to be considered "independent" is reduced from $1,000 to $750. This brings the definition of "independent student" into conformity with the definition of that term used in all other student financial assistance programs authorized under Title IV of the Act.

(3) The schedule is revised to require an education institution in determining the adjusted gross income of the student's family, to consider the income reported by each family member on the 1981 Federal income tax return, rather than on the 1980 Federal income tax return.

(4) The schedule is revised to require an educational institution, in determining which of the approved need analysis systems may be used to calculate the student's expected family contribution, to consider whether the student has received financial assistance under the Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), or National Direct Student Loan (NDSL) program for the 1982–83 award year, rather than for the 1981–82 award year.

(5) The schedule is amended to make clear that where a student has not received financial assistance for the 1982–83 award year under the SEOG, CWS, or NDSL program, the educational institution may use any need analysis system approved for use in the SEOG, CWS, or NDSL program, whether or not the educational institution participates in those programs.

(6) The family contribution amounts in Tables A, B, C and D are revised to reflect the 1981 Federal income tax standard deductions and the most recent Bureau of Labor Statistics low budget standard.

(7) The maximum adjusted gross income figure on the four tables is reduced from $100,124 to $75,000, and a provision is added requiring an educational institution to calculate the expected family contribution of a student whose adjusted gross family income exceeds $75,000 under any need analysis system approved by the Secretary for use in the SEOG, CWS or NDSL program.

Under the amended schedule, the adjusted gross income of the student's family means the adjusted gross income of (1) the student, (2) the student's spouse, if any, and (3) the student's mother and father, as set forth below. In all cases, the income referred to is the income reported on the 1981 Federal income tax return. The educational institution determines the adjusted gross income of the student's family based upon data provided, and certified to, by each person whose income is required to be considered. The adjusted gross income of the student's parent(s) is relevant only if the student is determined to be a "dependent student" rather than an "independent student." For this purpose:

"Dependent student" means a student who does not qualify as an independent student; and

"Independent student" means:

(1) An unmarried student who for 1981 and 1982—

(a) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s);

(b) Has not received and will not receive financial assistance of more than $750 in each year from his or her parent(s); and

(c) Has not lived and will not live for more than six weeks in each year in the home of his or her parent(s).

(2) A married student who for 1982—

(a) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s);

(b) Has not received and will not receive financial assistance of more than $750 from his or her parent(s); and

(c) Has not lived and will not live for more than six weeks in the home of his or her parent(s).

If the student's parents are divorced or separated, or if one of the student's parents has died, the student is considered as being from a one-parent family.

If the student's parents are divorced or separated, the adjusted gross family income is the adjusted gross income of the student, the student's spouse, and the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application. If the student did not reside with either parent during that period, the adjusted gross family income is the adjusted gross income of the student, the student's spouse, and the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application. If the student did not reside with either parent or was not supported by either parent during that period, the adjusted gross family income is the adjusted gross income of the student, the student's spouse, and the parent who provided the greater support for the period commencing January 1, 1981, and ending 12 months prior to the date of application.

If the parent of the student whose income would otherwise be used remarries, the student is considered as being from a two-parent family if the student lives in the home of the parent and step-parent for more than six weeks in 1981 or 1982, or if the student received or will receive financial assistance of more than $750 from the step-parent in either of those two years.

The student's status as of the date he or she applies determines whether the student is considered a "dependent student" or an "independent student" and which persons are considered members of the student's "family."

For a student whose adjusted gross family income exceeds $30,000, the educational institution which the student attends determines whether the student has a financial need for a loan by subtracting from the student's estimated cost of attendance both the student's estimated financial assistance and the expected family contribution. The educational institution calculates the student's expected family contribution in accordance with the family contribution schedule as amended by the Secretary in this notice. For all information required in this calculation, the educational institution relies on statements made, and certified to, by the student.

The amended family contribution schedule for the GSL program for the period from July 1, 1982, through June 30, 1983, is as follows:

GSL Family Contribution Schedule

For the period July 1, 1982, through June 30, 1983, the educational institution which the student attends shall calculate the expected family contribution of an applicant for a Guaranteed Student Loan whose adjusted gross family income exceeds $30,000 as follows:

(a) If the student receives financial assistance for the award year 1982–83 (July 1, 1982–June 30, 1983) under the Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), or National Direct Student Loan (NDSL) program, the student's expected family contribution for the GSL program is his or her expected family contribution calculated for the SEOG, CWS, or NDSL program.

(b) If the student has not received financial assistance under the SEOG, CWS, or NDSL program for the 1982–83 award year at the time he or she applies for a Guaranteed Student Loan, the educational institution shall calculate the student's expected family contribution under either—

(1) Any need analysis system which has been approved by the Secretary for the SEOG, CWS, or NDSL program; or

(2) The system used in conjunction with the following four tables, except where the adjusted gross family income exceeds $75,000. In such a case, the educational institution shall calculate the student's expected family contribution under paragraph (b)(1).

Paperwork Reduction Act of 1980

The educational institution shall retain all information, determinations and certifications required by this notice in accordance with the record retention requirements of 34 CFR 682.612(c). In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the recordkeeping provisions that are applicable to this notice have been or will be submitted for approval to the Office of Management and Budget (OMB). These provisions (§ 682.612(c)) are not effective for the purpose of this notice until OMB approval has been obtained and the public notified to that effect through a notice published in the **Federal Register.**

BILLING CODE 4000-01-M

Table C - EXPECTED FAMILY CONTRIBUTION FOR A MARRIED INDEPENDENT STUDENT

For a married independent student, the educational institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

The contributions set forth in Table C are based on a 12-month budget. If an educational institution calculates an independent student's budget on a 9-month basis, it must multiply the contribution in the table by .75.

As used in Table C--

"Family members" include the student, the student's spouse and their dependents.

Table D - EXPECTED FAMILY CONTRIBUTION FOR A SINGLE INDEPENDENT STUDENT

For a single independent student, the educational institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

The contributions set forth in Table D are based on a 12-month budget. If an educational institution calculates an independent student's budget on a 9-month basis, it must multiply the contribution in the table by .75.

As used in Table D--

"Family members" include the student and the student's dependents.

Table A - EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A TWO-PARENT FAMILY

For a dependent student from a two-parent family, the educational institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table A--

"Family members" include the student, the student's spouse and their dependents, and the student's mother and father and their dependents. If the family includes a step-parent whose income is included in the adjusted gross family income, family members also include the step-parent and the dependents of the step-parent.

Table B - EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A ONE-PARENT FAMILY

For a dependent student from a one-parent family, the educational institution determines the applicant's expected family contribution by calculating the family contribution according to the following table and dividing the amount obtained from the table by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table B--

"Family members" include the student, the student's spouse and their dependents, and the student's parent and the parent's dependents.

Table A - Expected Family Contribution for a Dependent Student From a Two-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 3	4	5	6	7	8	9	10	11	12
LESS THAN 30001	AUTOMATICALLY ELIGIBLE									
030001-030124	2950	2340	1850	1380	1070	760	460	150	0	0
030125-030374	3000	2380	1890	1410	1090	790	480	170	0	0
030375-030624	3060	2430	1930	1450	1130	820	520	210	0	0
030625-030874	3120	2480	1970	1480	1160	860	550	240	0	0
030875-031124	3180	2530	2020	1520	1200	890	590	280	0	0
031125-031374	3240	2580	2060	1560	1230	930	620	310	10	0
031375-031624	3290	2630	2100	1600	1270	960	660	350	40	0
031625-031874	3350	2680	2140	1630	1300	1000	690	380	80	0
031875-032124	3410	2730	2190	1670	1330	1030	730	420	110	0
032125-032374	3480	2780	2230	1710	1370	1070	760	450	150	0
032375-032624	3550	2840	2280	1740	1410	1100	790	490	180	0
032625-032874	3620	2900	2330	1790	1440	1140	830	520	220	0
032875-033124	3690	2960	2380	1830	1480	1170	860	560	250	0
033125-033374	3760	3020	2430	1870	1520	1200	900	590	290	0
033375-033624	3820	3080	2480	1910	1550	1230	930	630	320	10
033625-033874	3880	3140	2540	1960	1590	1270	970	660	360	50
033875-034124	3950	3200	2590	2000	1630	1300	1000	700	390	80
034125-034374	4010	3250	2640	2040	1670	1330	1030	730	430	120
034375-034624	4080	3310	2690	2090	1700	1360	1070	770	460	150
034625-034874	4140	3360	2740	2130	1740	1400	1100	800	500	190
034875-035124	4200	3420	2790	2170	1780	1440	1130	830	530	220
035125-035374	4270	3480	2840	2220	1820	1480	1160	870	570	260
035375-035624	4330	3540	2900	2260	1870	1510	1200	900	600	290
035625-035874	4400	3610	2950	2320	1910	1550	1230	930	630	330
035875-036124	4460	3670	3010	2360	1950	1590	1260	960	670	360
036125-036374	4520	3740	3060	2410	2000	1620	1290	1000	700	400
036375-036624	4590	3800	3120	2460	2040	1660	1330	1030	730	430
036625-036874	4650	3860	3170	2500	2080	1700	1360	1060	760	470
036875-037124	4720	3930	3230	2550	2120	1740	1400	1090	800	500
037125-037374	4780	3990	3280	2600	2160	1770	1430	1130	830	530
037375-037624	4840	4060	3330	2640	2200	1820	1470	1160	860	560
037625-037874	4910	4120	3390	2690	2250	1860	1510	1190	890	600
037875-038124	4970	4180	3450	2730	2290	1900	1550	1230	930	630
038125-038374	5030	4250	3510	2780	2340	1940	1580	1260	960	660
038375-038624	5090	4310	3580	2840	2380	1980	1620	1290	990	690
038625-038874	5150	4380	3640	2890	2430	2020	1660	1320	1030	730
038875-039124	5210	4440	3700	2950	2480	2060	1690	1360	1060	760
039125-039374	5260	4500	3770	3000	2520	2100	1730	1390	1090	790
039375-039624	5320	4560	3830	3060	2570	2140	1760	1430	1120	830
039625-039874	5380	4620	3900	3110	2620	2180	1800	1470	1160	860

Table A - Expected Family Contribution for a Dependent Student From a Two-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
039875-040124	5430	4670	3960	3160	2660	2220	1840	1500	1190	890
040125-040374	5490	4730	4020	3220	2710	2260	1880	1540	1220	920
040375-040624	5550	4790	4080	3270	2750	2310	1920	1570	1250	960
040625-040874	5600	4850	4140	3330	2810	2360	1960	1610	1290	990
040875-041124	5660	4900	4190	3380	2860	2400	2000	1640	1320	1020
041125-041374	5720	4960	4250	3440	2920	2450	2040	1670	1350	1050
041375-041624	5780	5020	4310	3500	2970	2500	2080	1710	1380	1090
041625-041874	5830	5070	4370	3560	3020	2540	2120	1740	1420	1120
041875-042124	5890	5130	4420	3610	3080	2590	2160	1780	1450	1150
042125-042374	5950	5190	4480	3670	3130	2630	2200	1820	1480	1180
042375-042624	6000	5240	4540	3730	3180	2680	2240	1860	1520	1210
042625-042874	6060	5300	4590	3780	3230	2730	2280	1900	1550	1240
042875-043124	6120	5360	4650	3840	3280	2770	2330	1940	1590	1270
043125-043374	6180	5420	4710	3900	3330	2830	2380	1980	1620	1300
043375-043624	6230	5470	4760	3950	3370	2880	2420	2010	1650	1330
043625-043874	6290	5530	4820	4010	3430	2930	2470	2050	1690	1360
043875-044124	6350	5590	4880	4070	3480	2970	2520	2090	1720	1400
044125-044374	6400	5640	4940	4130	3540	3020	2560	2130	1760	1430
044375-044624	6460	5700	4990	4180	3600	3070	2600	2170	1790	1460
044625-044874	6520	5760	5050	4240	3650	3120	2640	2210	1830	1500
044875-045124	6570	5810	5110	4300	3710	3170	2680	2260	1870	1530
045125-045374	6630	5870	5160	4350	3770	3220	2730	2300	1910	1570
045375-045624	6690	5930	5220	4410	3820	3260	2770	2340	1950	1600
045625-045874	6750	5990	5280	4470	3880	3310	2820	2380	1990	1630
045875-046124	6800	6040	5340	4520	3940	3360	2860	2430	2030	1670
046125-046374	6860	6100	5390	4580	4000	3410	2910	2470	2070	1700
046375-046624	6920	6160	5450	4640	4050	3470	2960	2510	2100	1740
046625-046874	6970	6210	5510	4700	4110	3530	3010	2550	2140	1770
046875-047124	7030	6270	5560	4750	4170	3580	3060	2590	2180	1810
047125-047374	7090	6330	5620	4810	4220	3640	3110	2630	2210	1850
047375-047624	7140	6380	5680	4870	4280	3700	3150	2670	2250	1880
047625-047874	7200	6440	5730	4920	4340	3750	3200	2710	2290	1920
047875-048124	7260	6500	5790	4980	4400	3810	3250	2760	2330	1960
048125-048374	7320	6560	5850	5040	4450	3870	3300	2800	2370	1990
048375-048624	7370	6610	5910	5090	4510	3920	3350	2850	2410	2030
048625-048874	7430	6670	5960	5150	4570	3980	3400	2900	2460	2060
048875-049124	7480	6730	6020	5210	4620	4040	3450	2950	2500	2100
049125-049374	7530	6780	6080	5270	4680	4100	3510	3000	2540	2130
049375-049624	7580	6840	6130	5320	4740	4150	3570	3050	2580	2170
049625-049874	7630	6900	6190	5380	4790	4210	3620	3090	2620	2200

Table A - Expected Family Contribution for a Dependent Student From a Two-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
049875-050124	7660	6950	6250	5440	4850	4270	3680	3140	2660	2240
050125-050374	7730	7000	6310	5490	4910	4320	3740	3190	2700	2280
050375-050624	7780	7050	6360	5550	4970	4380	3790	3240	2740	2320
050625-050874	7850	7100	6420	5610	5020	4440	3850	3290	2790	2360
050875-051124	7880	7150	6470	5660	5080	4490	3910	3340	2840	2400
051125-051374	7930	7200	6520	5720	5140	4550	3970	3390	2890	2450
051375-051624	7980	7250	6570	5760	5190	4610	4020	3440	2940	2490
051625-051874	8030	7300	6620	5840	5250	4670	4080	3500	2980	2530
051875-052124	8080	7350	6670	5890	5310	4720	4140	3550	3030	2570
052125-052374	8130	7400	6720	5940	5370	4780	4190	3610	3080	2610
052375-052624	8180	7450	6770	5990	5420	4840	4250	3670	3130	2650
052625-052874	8230	7500	6820	6040	5480	4890	4310	3720	3180	2690
052875-053124	8280	7550	6870	6090	5530	4950	4370	3780	3230	2730
053125-053374	8330	7600	6920	6140	5580	5010	4420	3840	3280	2780
053375-053624	8380	7650	6970	6190	5630	5060	4480	3890	3320	2830
053625-053874	8430	7700	7020	6240	5680	5120	4540	3950	3370	2870
053875-054124	8480	7750	7070	6290	5730	5170	4590	4010	3420	2920
054125-054374	8530	7800	7120	6340	5780	5220	4650	4070	3480	2970
054375-054624	8580	7850	7170	6390	5830	5270	4710	4120	3540	3020
054625-054874	8630	7900	7220	6440	5880	5320	4760	4180	3590	3070
054875-055124	8680	7950	7270	6490	5930	5370	4820	4240	3650	3120
055125-055374	8730	8000	7320	6540	5980	5420	4870	4290	3710	3170
055375-055624	8780	8050	7370	6590	6030	5470	4920	4350	3770	3210
055625-055874	8830	8100	7420	6640	6080	5520	4970	4410	3820	3260
055875-056124	8880	8150	7470	6690	6130	5570	5020	4460	3880	3310
056125-056374	8930	8200	7520	6740	6180	5620	5070	4510	3940	3360
056375-056624	8980	8250	7570	6790	6230	5670	5120	4560	3990	3410
056625-056874	9030	8300	7620	6840	6280	5720	5170	4610	4050	3470
056875-057124	9080	8350	7670	6890	6330	5770	5220	4660	4100	3520
057125-057374	9130	8400	7720	6940	6380	5820	5270	4710	4150	3580
057375-057624	9180	8450	7770	6990	6430	5870	5320	4760	4200	3640
057625-057874	9230	8500	7820	7040	6480	5920	5370	4810	4250	3690
057875-058124	9280	8550	7870	7090	6530	5970	5420	4860	4300	3740
058125-058374	9330	8600	7920	7140	6580	6020	5470	4910	4350	3790
058375-058624	9380	8650	7970	7190	6630	6070	5520	4960	4400	3840
058625-058874	9430	8700	8020	7240	6680	6130	5570	5010	4450	3890
058875-059124	9480	8750	8070	7290	6730	6170	5620	5060	4500	3940
059125-059374	9530	8800	8120	7340	6780	6230	5670	5110	4550	3990
059375-059624	9580	8850	8170	7390	6830	6270	5720	5160	4600	4040
059625-059874	9630	8900	8220	7440	6880	6330	5770	5210	4650	4100

Table A - Expected Family Contribution for a Dependent Student From a Two-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
059875-060124	9660	8950	8270	7490	6930	6370	5820	5260	4700	4140
060125-060374	9730	9000	8320	7540	6980	6430	5870	5310	4750	4200
060375-060624	9780	9050	8370	7590	7030	6480	5920	5360	4800	4250
060625-060874	9830	9100	8420	7640	7080	6530	5970	5410	4850	4300
060875-061124	9880	9150	8470	7690	7130	6580	6020	5460	4900	4350
061125-061374	9930	9200	8520	7740	7180	6630	6070	5510	4950	4400
061375-061624	9980	9250	8570	7790	7230	6680	6120	5560	5000	4450
061625-061874	10030	9300	8620	7840	7280	6730	6170	5610	5050	4500
061875-062124	10080	9350	8670	7890	7330	6780	6220	5660	5100	4550
062125-062374	10140	9400	8720	7940	7380	6830	6270	5710	5150	4600
062375-062624	10180	9450	8770	7990	7430	6880	6320	5760	5200	4650
062625-062874	10240	9500	8820	8040	7480	6930	6370	5810	5250	4700
062875-063124	10280	9550	8870	8090	7530	6980	6420	5860	5300	4750
063125-063374	10330	9600	8920	8140	7580	7030	6470	5910	5350	4800
063375-063624	10370	9650	8970	8190	7630	7080	6520	5960	5400	4850
063625-063874	10420	9700	9020	8240	7680	7130	6570	6010	5450	4900
063875-064124	10460	9750	9070	8290	7730	7180	6620	6060	5500	4950
064125-064374	10510	9800	9120	8340	7780	7230	6670	6110	5550	5000
064375-064624	10550	9840	9170	8390	7830	7280	6720	6160	5600	5050
064625-064874	10590	9690	9220	8440	7880	7330	6770	6210	5650	5100
064875-065124	10640	9930	9270	8490	7930	7380	6820	6260	5700	5150
065125-065374	10680	9980	9320	8540	7980	7430	6870	6310	5750	5200
065375-065624	10730	10020	9360	8590	8030	7480	6920	6360	5800	5250
065625-065874	10770	10060	9410	8640	8080	7530	6970	6410	5850	5300
065875-066124	10820	10110	9450	8690	8130	7580	7020	6460	5900	5350
066125-066374	10860	10150	9500	8740	8180	7630	7070	6510	5950	5400
066375-066624	10900	10200	9540	8780	8230	7680	7120	6560	6000	5450
066625-066874	10950	10240	9580	8820	8280	7730	7170	6610	6050	5500
066875-067124	10990	10280	9630	8870	8330	7780	7220	6660	6100	5550
067125-067374	11040	10330	9670	8910	8380	7830	7270	6710	6150	5600
067375-067624	11080	10370	9720	8960	8420	7880	7320	6760	6200	5650
067625-067874	11130	10420	9760	9000	8470	7930	7370	6810	6260	5700
067875-068124	11170	10460	9810	9050	8510	7980	7420	6860	6300	5750
068125-068374	11210	10510	9850	9090	8560	8020	7470	6910	6360	5800
068375-068624	11260	10550	9890	9130	8600	8070	7520	6960	6400	5850
068625-068874	11300	10600	9940	9180	8640	8110	7570	7010	6460	5900
068875-069124	11350	10640	9980	9220	8690	8150	7620	7060	6500	5950
069125-069374	11390	10680	10030	9270	8730	8200	7660	7110	6560	6000
069375-069624	11440	10730	10070	9310	8780	8240	7710	7160	6600	6050
069625-069874	11480	10770	10120	9360	8820	8290	7750	7210	6660	6100

Table A - Expected Family Contribution for a Dependent Student From a Two-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS									
	3	4	5	6	7	8	9	10	11	12
069875-070124	11520	10820	10160	9400	8870	8330	7800	7260	6700	6150
070125-070374	11570	10860	10200	9440	8910	8380	7840	7310	6760	6200
070375-070624	11610	10900	10250	9490	8950	8420	7890	7350	6810	6250
070625-070874	11660	10950	10290	9530	9000	8460	7930	7400	6860	6300
070875-071124	11700	10990	10340	9580	9040	8510	7970	7440	6910	6350
071125-071374	11750	11040	10380	9620	9090	8550	8020	7480	6950	6400
071375-071624	11790	11080	10430	9670	9130	8600	8060	7530	6990	6450
071625-071874	11830	11130	10470	9710	9180	8640	8110	7570	7040	6500
071875-072124	11880	11170	10510	9750	9220	8690	8150	7620	7080	6550
072125-072374	11920	11210	10560	9800	9260	8730	8200	7660	7130	6590
072375-072624	11970	11260	10600	9840	9310	8770	8240	7710	7170	6640
072625-072874	12010	11300	10650	9890	9350	8820	8280	7750	7220	6680
072875-073124	12060	11350	10690	9930	9400	8860	8330	7790	7260	6730
073125-073374	12100	11390	10740	9980	9440	8910	8370	7840	7300	6770
073375-073624	12140	11440	10780	10020	9490	8950	8420	7880	7350	6810
073625-073874	12190	11480	10820	10060	9530	9000	8460	7930	7390	6860
073875-074124	12230	11520	10870	10110	9570	9040	8510	7970	7440	6900
074125-074374	12280	11570	10910	10150	9620	9080	8550	8020	7480	6950
074375-074624	12320	11610	10960	10200	9660	9130	8590	8060	7530	6990
074625-074874	12370	11660	11000	10240	9710	9170	8640	8100	7570	7040
074875- 075000	12410	11700	11040	10280	9750	9220	8680	8150	7610	7080

Table B - Expected Family Contribution for a Dependent Student From a One-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
LESS THAN 30001	AUTOMATICALLY ELIGIBLE										
030001-030124	2460	2030	1570	1200	810	510	210	0	0	0	0
030125-030374	2500	2060	1600	1220	830	540	240	0	0	0	0
030375-030624	2540	2100	1630	1250	860	570	270	0	0	0	0
030625-030874	2590	2140	1670	1280	890	600	300	0	0	0	0
030875-031124	2630	2180	1700	1310	920	630	340	40	0	0	0
031125-031374	2680	2220	1740	1350	950	660	370	70	0	0	0
031375-031624	2720	2270	1770	1380	980	690	400	100	0	0	0
031625-031874	2760	2320	1810	1410	1010	720	430	140	0	0	0
031875-032124	2810	2360	1850	1450	1040	750	460	170	0	0	0
032125-032374	2860	2400	1890	1480	1070	780	490	200	0	0	0
032375-032624	2910	2440	1930	1520	1100	810	520	240	0	0	0
032625-032874	2960	2490	1970	1550	1130	840	550	270	0	0	0
032875-033124	3010	2530	2010	1590	1160	870	590	300	0	0	0
033125-033374	3060	2570	2050	1620	1190	910	620	330	30	0	0
033375-033624	3110	2610	2080	1660	1220	940	650	360	70	0	0
033625-033874	3160	2650	2120	1690	1260	970	680	390	100	0	0
033875-034124	3210	2700	2150	1720	1290	1000	710	420	130	0	0
034125-034374	3250	2740	2190	1750	1320	1030	740	450	160	0	0
034375-034624	3300	2780	2230	1790	1350	1060	770	480	190	0	0
034625-034874	3350	2830	2270	1820	1380	1090	800	510	220	0	0
034875-035124	3400	2880	2310	1860	1410	1120	830	540	250	0	0
035125-035374	3460	2930	2350	1900	1440	1150	860	570	280	0	0
035375-035624	3520	2980	2400	1930	1470	1180	890	600	310	20	0
035625-035874	3580	3030	2440	1970	1500	1210	920	630	340	50	0
035875-036124	3640	3080	2480	2000	1540	1240	950	660	370	80	0
036125-036374	3690	3130	2520	2040	1570	1270	980	690	400	110	0
036375-036624	3740	3180	2560	2070	1600	1290	1010	720	430	140	0
036625-036874	3800	3230	2610	2110	1630	1320	1040	750	460	180	0
036875-037124	3850	3280	2650	2150	1660	1350	1070	780	490	210	0
037125-037374	3910	3320	2690	2180	1690	1380	1100	810	530	240	0
037375-037624	3960	3370	2730	2220	1720	1410	1130	850	560	270	0
037625-037874	4010	3420	2780	2260	1750	1440	1150	880	590	300	10
037875-038124	4070	3470	2830	2300	1790	1470	1180	900	620	330	40
038125-038374	4120	3520	2870	2340	1820	1500	1210	930	650	360	70
038375-038624	4170	3580	2920	2390	1860	1530	1230	960	680	390	100
038625-038874	4230	3630	2960	2430	1890	1560	1260	990	710	420	130
038875-039124	4280	3680	3010	2470	1930	1590	1290	1010	740	450	160
039125-039374	4330	3740	3060	2510	1970	1620	1320	1040	760	480	190
039375-039624	4390	3790	3100	2550	2000	1650	1340	1070	790	510	220
039625-039874	4440	3850	3150	2590	2040	1690	1370	1090	820	540	250

Table B - Expected Family Contribution for a Dependent Student From a One-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
039875-040124	4490	3900	3190	2630	2070	1720	1400	1120	850	570	280
040125-040374	4550	3950	3240	2670	2110	1750	1430	1150	870	600	310
040375-040624	4600	4010	3280	2700	2140	1780	1460	1180	900	620	340
040625-040874	4650	4060	3330	2740	2170	1820	1500	1200	930	650	370
040875-041124	4710	4110	3370	2780	2210	1850	1530	1230	950	680	400
041125-041374	4760	4170	3420	2830	2240	1890	1560	1260	980	710	430
041375-041624	4820	4220	3480	2870	2280	1920	1590	1280	1010	730	460
041625-041874	4870	4270	3530	2920	2320	1950	1620	1310	1040	760	480
041875-042124	4920	4320	3580	2970	2360	1990	1650	1340	1060	790	510
042125-042374	4980	4380	3640	3010	2400	2020	1680	1370	1090	810	540
042375-042624	5030	4430	3690	3060	2440	2050	1710	1400	1120	840	570
042625-042874	5080	4490	3740	3100	2480	2090	1740	1430	1140	870	590
042875-043124	5140	4540	3800	3150	2510	2120	1770	1460	1170	900	620
043125-043374	5190	4600	3850	3190	2550	2150	1800	1490	1200	920	650
043375-043624	5240	4650	3900	3240	2590	2190	1830	1520	1230	950	670
043625-043874	5300	4700	3960	3290	2630	2220	1870	1550	1250	980	700
043875-044124	5350	4760	4010	3330	2670	2260	1900	1580	1280	1000	730
044125-044374	5400	4810	4060	3380	2710	2290	1930	1600	1310	1030	760
044375-044624	5460	4860	4120	3420	2750	2330	1960	1630	1330	1060	780
044625-044874	5510	4920	4170	3480	2790	2370	2000	1660	1360	1090	810
044875-045124	5560	4970	4220	3530	2830	2410	2030	1690	1390	1110	840
045125-045374	5620	5020	4280	3580	2880	2450	2060	1720	1410	1140	870
045375-045624	5670	5080	4330	3640	2930	2490	2100	1750	1440	1160	890
045625-045874	5730	5130	4390	3690	2970	2530	2130	1780	1470	1190	920
045875-046124	5780	5180	4440	3750	3020	2570	2160	1810	1500	1210	950
046125-046374	5830	5240	4490	3800	3060	2600	2200	1840	1530	1240	970
046375-046624	5890	5290	4550	3850	3110	2640	2230	1880	1560	1270	1000
046625-046874	5940	5350	4600	3910	3150	2680	2270	1910	1580	1290	1020
046875-047124	5980	5400	4650	3960	3200	2720	2310	1940	1610	1320	1050
047125-047374	6030	5450	4710	4010	3240	2760	2350	1980	1640	1340	1070
047375-047624	6070	5510	4760	4070	3290	2800	2380	2010	1670	1370	1100
047625-047874	6120	5560	4810	4120	3340	2850	2420	2040	1700	1390	1120
047875-048124	6160	5600	4870	4170	3380	2900	2460	2070	1730	1420	1150
048125-048374	6200	5650	4920	4230	3430	2940	2500	2110	1760	1450	1170
048375-048624	6250	5690	4970	4280	3480	2990	2540	2140	1790	1480	1200
048625-048874	6290	5730	5030	4330	3540	3030	2580	2170	1820	1510	1220
048875-049124	6340	5780	5070	4390	3590	3080	2620	2210	1850	1540	1250
049125-049374	6380	5820	5110	4440	3640	3120	2660	2240	1890	1570	1270
049375-049624	6420	5870	5160	4500	3700	3170	2690	2280	1920	1590	1300
049625-049874	6470	5910	5200	4550	3750	3210	2730	2320	1950	1620	1320

Table B - Expected Family Contribution for a Dependent Student From a One-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
049875-050124	6510	5960	5250	4590	3810	3260	2770	2360	1990	1650	1350
050125-050374	6560	6000	5290	4640	3860	3310	2820	2400	2020	1680	1380
050375-050624	6600	6040	5340	4680	3910	3350	2860	2440	2050	1710	1400
050625-050874	6650	6090	5380	4720	3960	3400	2910	2480	2090	1740	1430
050875-051124	6690	6130	5420	4770	4010	3450	2960	2510	2120	1770	1460
051125-051374	6740	6180	5470	4810	4050	3500	3000	2550	2150	1800	1490
051375-051624	6780	6220	5510	4860	4100	3560	3050	2590	2180	1830	1520
051625-051874	6820	6270	5560	4900	4140	3610	3090	2630	2220	1870	1550
051875-052124	6870	6310	5600	4950	4190	3650	3140	2670	2260	1900	1580
052125-052374	6910	6350	5650	4990	4230	3700	3180	2710	2290	1930	1600
052375-052624	6960	6400	5690	5030	4270	3740	3230	2750	2330	1960	1630
052625-052874	7000	6440	5730	5080	4320	3780	3270	2790	2370	2000	1660
052875-053124	7040	6490	5780	5120	4360	3830	3310	2830	2410	2030	1690
053125-053374	7090	6530	5820	5170	4410	3870	3350	2880	2450	2060	1720
053375-053624	7130	6580	5870	5210	4450	3920	3390	2930	2490	2100	1750
053625-053874	7180	6620	5910	5260	4500	3960	3430	2970	2530	2130	1780
053875-054124	7220	6660	5960	5300	4540	4010	3470	3010	2570	2160	1810
054125-054374	7270	6710	6000	5340	4580	4050	3520	3040	2600	2200	1840
054375-054624	7310	6750	6040	5390	4630	4090	3560	3080	2640	2230	1880
054625-054874	7350	6800	6090	5430	4670	4140	3600	3120	2680	2270	1910
054875-055124	7400	6840	6130	5480	4720	4180	3650	3160	2710	2310	1940
055125-055374	7440	6890	6180	5520	4760	4230	3690	3200	2740	2350	1980
055375-055624	7490	6930	6220	5560	4800	4270	3740	3230	2780	2380	2010
055625-055874	7530	6970	6270	5610	4850	4320	3780	3270	2820	2420	2040
055875-056124	7580	7020	6310	5650	4890	4360	3820	3310	2850	2450	2070
056125-056374	7620	7060	6350	5700	4940	4400	3870	3350	2890	2490	2110
056375-056624	7660	7110	6400	5740	4980	4450	3910	3380	2930	2520	2140
056625-056874	7710	7150	6440	5790	5030	4490	3960	3420	2970	2550	2170
056875-057124	7750	7200	6490	5830	5070	4540	4000	3470	3000	2580	2200
057125-057374	7800	7240	6530	5870	5110	4580	4050	3510	3040	2610	2230
057375-057624	7840	7280	6580	5920	5160	4620	4090	3560	3080	2650	2260
057625-057874	7890	7330	6620	5960	5200	4670	4140	3600	3120	2680	2290
057875-058124	7930	7370	6660	6010	5250	4710	4180	3640	3150	2710	2320
058125-058374	7970	7420	6710	6050	5290	4760	4220	3690	3190	2740	2360
058375-058624	8020	7460	6750	6100	5340	4800	4270	3730	3230	2780	2390
058625-058874	8060	7510	6800	6140	5380	4850	4310	3780	3270	2810	2420
058875-059124	8110	7550	6840	6180	5420	4890	4360	3820	3310	2850	2450
059125-059374	8150	7590	6890	6230	5470	4930	4400	3870	3340	2890	2480
059375-059624	8200	7640	6930	6270	5510	4980	4440	3910	3380	2930	2520
059625-059874	8240	7680	6970	6320	5560	5020	4490	3960	3420	2960	2550

Table B - Expected Family Contribution for a Dependent Student From a One-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
059875-060124	8280	7750	7020	6360	5600	5070	4530	4000	3460	3000	2580
060125-060374	8330	7770	7060	6410	5650	5110	4580	4040	3510	3040	2610
060375-060624	8370	7810	7110	6450	5690	5160	4620	4090	3550	3080	2640
060625-060874	8420	7860	7150	6490	5730	5200	4670	4130	3600	3110	2680
060875-061124	8460	7900	7200	6540	5780	5240	4710	4180	3640	3150	2710
061125-061374	8510	7950	7240	6580	5820	5290	4750	4220	3690	3190	2740
061375-061624	8550	7990	7280	6630	5870	5330	4800	4260	3730	3230	2770
061625-061874	8590	8040	7330	6670	5910	5380	4840	4310	3780	3270	2810
061875-062124	8640	8080	7370	6720	5960	5420	4890	4350	3820	3300	2850
062125-062374	8680	8120	7420	6760	6000	5470	4930	4400	3860	3340	2890
062375-062624	8730	8170	7460	6800	6040	5510	4980	4440	3910	3380	2920
062625-062874	8770	8210	7510	6850	6090	5550	5020	4490	3950	3420	2960
062875-063124	8810	8260	7550	6890	6130	5600	5060	4530	4000	3460	3000
063125-063374	8840	8300	7590	6940	6180	5640	5110	4570	4040	3510	3040
063375-063624	8880	8350	7640	6980	6220	5690	5150	4620	4080	3550	3070
063625-063874	8920	8390	7680	7030	6270	5730	5200	4660	4130	3590	3110
063875-064124	8960	8430	7730	7070	6310	5780	5240	4710	4170	3640	3150
064125-064374	9000	8460	7770	7110	6350	5820	5290	4750	4220	3680	3190
064375-064624	9040	8500	7820	7160	6400	5860	5330	4800	4260	3730	3230
064625-064874	9080	8540	7860	7200	6440	5910	5370	4840	4310	3770	3260
064875-065124	9110	8580	7890	7250	6490	5950	5420	4880	4350	3820	3300
065125-065374	9150	8620	7930	7290	6530	6000	5460	4930	4390	3860	3340
065375-065624	9190	8660	7970	7340	6580	6040	5510	4970	4440	3900	3380
065625-065874	9230	8690	8010	7380	6620	6090	5550	5020	4480	3950	3410
065875-066124	9270	8730	8050	7410	6660	6130	5600	5060	4530	3990	3460
066125-066374	9310	8770	8090	7450	6710	6170	5640	5110	4570	4040	3500
066375-066624	9340	8810	8120	7490	6750	6220	5680	5150	4620	4080	3550
066625-066874	9380	8850	8160	7530	6790	6260	5730	5190	4660	4130	3590
066875-067124	9420	8890	8200	7570	6830	6310	5770	5240	4700	4170	3640
067125-067374	9460	8930	8240	7610	6870	6350	5820	5280	4750	4210	3680
067375-067624	9500	8960	8280	7650	6910	6400	5860	5330	4790	4260	3720
067625-067874	9540	9000	8320	7680	6950	6440	5910	5370	4840	4300	3770
067875-068124	9580	9040	8360	7720	6990	6470	5950	5420	4880	4350	3810
068125-068374	9610	9080	8390	7760	7020	6510	5990	5460	4930	4390	3860
068375-068624	9650	9120	8430	7800	7060	6550	6040	5500	4970	4440	3900
068625-068874	9690	9160	8470	7840	7100	6590	6080	5550	5010	4480	3950
068875-069124	9730	9190	8510	7880	7140	6630	6120	5590	5060	4520	3990
069125-069374	9770	9230	8550	7920	7180	6670	6160	5640	5100	4570	4030
069375-069624	9810	9270	8590	7950	7220	6710	6190	5680	5150	4610	4080
069625-069874	9850	9310	8630	7990	7260	6740	6230	5720	5190	4660	4120

Table B - Expected Family Contribution for a Dependent Student From a One-Parent Family

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
069875-070124	9860	9350	8660	8030	7290	6780	6270	5760	5240	4700	4170
070125-070374	9920	9390	8700	8070	7330	6820	6310	5800	5280	4750	4210
070375-070624	9960	9430	8740	8110	7370	6860	6350	5840	5320	4790	4260
070625-070874	10000	9460	8780	8150	7410	6900	6390	5880	5370	4830	4300
070875-071124	10040	9500	8820	8180	7450	6940	6430	5910	5400	4880	4340
071125-071374	10080	9540	8860	8220	7490	6980	6460	5950	5440	4920	4390
071375-071624	10110	9580	8890	8260	7520	7010	6500	5990	5480	4970	4430
071625-071874	10150	9620	8930	8300	7560	7050	6540	6030	5520	5010	4480
071875-072124	10190	9660	8970	8340	7600	7090	6580	6070	5560	5050	4520
072125-072374	10230	9700	9010	8380	7640	7130	6620	6110	5600	5080	4570
072375-072624	10270	9730	9050	8410	7680	7170	6660	6150	5630	5120	4610
072625-072874	10310	9770	9090	8450	7720	7210	6700	6180	5670	5160	4650
072875-073124	10340	9810	9130	8490	7760	7240	6730	6220	5710	5200	4690
073125-073374	10380	9850	9160	8530	7790	7280	6770	6260	5750	5240	4730
073375-073624	10420	9890	9200	8570	7830	7320	6810	6300	5790	5280	4770
073625-073874	10460	9930	9240	8610	7870	7360	6850	6340	5830	5320	4800
073875-074124	10500	9960	9280	8650	7910	7400	6890	6380	5860	5350	4840
074125-074374	10540	10000	9320	8680	7950	7440	6930	6420	5900	5390	4880
074375-074624	10580	10040	9360	8720	7990	7470	6960	6450	5940	5430	4920
074625-074874	10610	10080	9390	8760	8020	7510	7000	6490	5980	5470	4960
074875- 075000	10650	10120	9430	8800	8060	7550	7040	6530	6020	5510	5000

Table C - Expected Family Contribution for a Married Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
LESS THAN 30001	AUTOMATICALLY ELIGIBLE										
030001-030124	21340	21600	21870	22290	22580	22860	23130	23410	23680	23920	24160
030125-030374	21460	21770	22090	22410	22710	22990	23260	23540	23820	24050	24290
030375-030624	21620	21940	22250	22570	22880	23160	23430	23710	23990	24230	24470
030625-030874	21780	22100	22410	22730	23040	23330	23600	23880	24160	24420	24650
030875-031124	21940	22260	22570	22890	23210	23500	23770	24050	24330	24600	24830
031125-031374	22100	22420	22730	23050	23370	23670	23950	24220	24500	24780	25010
031375-031624	22260	22580	22900	23210	23530	23840	24120	24390	24670	24950	25190
031625-031874	22420	22740	23060	23370	23690	24000	24290	24560	24840	25120	25380
031875-032124	22580	22900	23220	23530	23850	24170	24460	24730	25010	25290	25560
032125-032374	22730	23060	23380	23690	24010	24330	24630	24910	25180	25460	25740
032375-032624	22880	23220	23540	23860	24170	24490	24800	25080	25350	25630	25910
032625-032874	23030	23380	23700	24020	24330	24650	24960	25250	25520	25800	26080
032875-033124	23180	23540	23860	24180	24490	24810	25130	25420	25690	25970	26250
033125-033374	23320	23690	24020	24340	24650	24970	25290	25590	25870	26140	26420
033375-033624	23470	23840	24180	24500	24820	25130	25450	25760	26040	26310	26550
033625-033874	23620	23990	24340	24660	24980	25290	25610	25920	26210	26480	26760
033875-034124	23770	24140	24500	24820	25140	25450	25770	26090	26380	26650	26930
034125-034374	23920	24280	24650	24980	25300	25610	25930	26250	26550	26830	27100
034375-034624	24070	24430	24800	25140	25460	25780	26090	26410	26720	27000	27270
034625-034874	24220	24580	24950	25300	25620	25940	26250	26570	26880	27170	27440
034875-035124	24360	24730	25100	25460	25780	26100	26410	26730	27050	27340	27610
035125-035374	24510	24880	25240	25610	25940	26260	26570	26890	27210	27510	27790
035375-035624	24660	25030	25390	25760	26100	26420	26740	27050	27370	27680	27960
035625-035874	24810	25180	25540	25910	26260	26580	26900	27210	27530	27840	28130
035875-036124	24960	25320	25690	26060	26420	26740	27060	27370	27690	28010	28300
036125-036374	25110	25470	25840	26200	26570	26900	27220	27530	27850	28170	28470
036375-036624	25260	25620	25990	26350	26720	27060	27380	27700	28010	28330	28640
036625-036874	25410	25770	26140	26500	26870	27220	27540	27860	28170	28490	28800
036875-037124	25550	25920	26280	26650	27020	27380	27700	28020	28330	28650	28970
037125-037374	25700	26070	26430	26800	27160	27530	27860	28180	28490	28810	29130
037375-037624	25830	26220	26580	26950	27310	27680	28020	28340	28660	28970	29290
037625-037874	25970	26370	26730	27100	27460	27830	28180	28500	28820	29130	29450
037875-038124	26100	26510	26880	27240	27610	27980	28340	28660	28980	29290	29610
038125-038374	26240	26660	27020	27390	27760	28120	28490	28820	29140	29450	29770
038375-038624	26370	26790	27180	27540	27910	28270	28640	28980	29300	29620	29930
038625-038874	26500	26930	27330	27690	28060	28420	28790	29140	29460	29780	30090
038875-039124	26640	27060	27470	27840	28200	28570	28940	29300	29620	29940	30250
039125-039374	26770	27200	27620	27990	28350	28720	29080	29450	29780	30100	30410
039375-039624	26900	27330	27750	28140	28500	28870	29230	29600	29940	30260	30580
039625-039874	27040	27460	27890	28290	28650	29020	29380	29750	30100	30420	30740

Table C - Expected Family Contribution for a Married Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
039875-040124	27170	27600	28020	28430	28800	29160	29530	29900	30260	30580	30900
040125-040374	27310	27730	28160	28580	28950	29310	29680	30040	30410	30740	31060
040375-040624	27440	27860	28290	28710	29100	29460	29830	30190	30560	30900	31220
040625-040874	27570	28000	28420	28850	29250	29610	29980	30340	30710	31060	31380
040875-041124	27710	28130	28560	28980	29390	29760	30120	30490	30860	31220	31540
041125-041374	27840	28270	28690	29120	29540	29910	30270	30640	31000	31370	31700
041375-041624	27980	28400	28820	29250	29670	30060	30420	30790	31150	31520	31860
041625-041874	28110	28530	28960	29380	29810	30210	30570	30940	31300	31670	32020
041875-042124	28240	28670	29090	29520	29940	30350	30720	31080	31450	31820	32180
042125-042374	28360	28800	29230	29650	30080	30500	30870	31230	31600	31960	32330
042375-042624	28510	28940	29360	29780	30210	30630	31020	31380	31750	32110	32480
042625-042874	28640	29070	29490	29920	30340	30770	31170	31530	31900	32260	32630
042875-043124	28780	29200	29630	30050	30480	30900	31310	31680	32040	32410	32780
043125-043374	28910	29340	29760	30190	30610	31040	31460	31830	32190	32560	32920
043375-043624	29050	29470	29900	30320	30740	31170	31590	31980	32340	32710	33070
043625-043874	29180	29600	30030	30450	30880	31300	31730	32130	32490	32860	33220
043875-044124	29310	29740	30160	30590	31010	31440	31860	32270	32640	33000	33370
044125-044374	29450	29870	30300	30720	31150	31570	32000	32420	32790	33150	33520
044375-044624	29580	30010	30430	30860	31280	31700	32130	32550	32940	33300	33670
044625-044874	29720	30140	30560	30990	31410	31840	32260	32690	33090	33450	33820
044875-045124	29850	30270	30700	31120	31550	31970	32400	32820	33230	33600	33960
045125-045374	29980	30410	30830	31260	31680	32110	32530	32960	33380	33750	34110
045375-045624	30120	30540	30970	31390	31820	32240	32660	33090	33510	33900	34260
045625-045874	30250	30680	31100	31520	31950	32370	32800	33220	33650	34050	34410
045875-046124	30380	30810	31230	31660	32080	32510	32930	33360	33780	34190	34560
046125-046374	30520	30940	31370	31790	32220	32640	33070	33490	33920	34340	34710
046375-046624	30650	31080	31500	31930	32350	32780	33200	33620	34050	34470	34860
046625-046874	30790	31210	31640	32060	32480	32910	33330	33760	34180	34610	35010
046875-047124	30920	31340	31770	32190	32620	33040	33470	33890	34320	34740	35150
047125-047374	31050	31480	31900	32330	32750	33180	33600	34030	34450	34880	35300
047375-047624	31190	31610	32040	32460	32890	33310	33740	34160	34580	35010	35430
047625-047874	31320	31750	32170	32600	33020	33440	33870	34290	34720	35140	35570
047875-048124	31440	31860	32300	32730	33150	33580	34000	34430	34850	35280	35700
048125-048374	31580	32010	32440	32860	33290	33710	34140	34560	34990	35410	35840
048375-048624	31680	32150	32570	33000	33420	33850	34270	34700	35120	35540	35970
048625-048874	31800	32280	32710	33130	33560	33980	34400	34830	35250	35680	36100
048875-049124	31920	32400	32840	33260	33690	34110	34540	34960	35390	35810	36240
049125-049374	32040	32520	32970	33400	33820	34250	34670	35100	35520	35950	36370
049375-049624	32160	32640	33110	33530	33960	34380	34810	35230	35660	36080	36500
049625-049874	32280	32760	33240	33670	34090	34520	34940	35360	35790	36210	36640

Table C - Expected Family Contribution for a Married Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
049875-050124	32400	32880	33360	33800	34220	34650	35070	35500	35920	36350	36770
050125-050374	32510	33000	33480	33930	34360	34780	35210	35630	36060	36480	36910
050375-050624	32630	33120	33600	34070	34490	34920	35340	35770	36190	36620	37040
050625-050874	32750	33240	33720	34200	34630	35050	35480	35900	36320	36750	37170
050875-051124	32870	33360	33840	34320	34760	35180	35610	36030	36460	36880	37310
051125-051374	32990	33470	33960	34440	34890	35320	35740	36170	36590	37020	37440
051375-051624	33110	33590	34080	34560	35030	35450	35880	36300	36730	37150	37580
051625-051874	33230	33710	34200	34680	35160	35590	36010	36440	36860	37280	37710
051875-052124	33350	33830	34320	34800	35280	35720	36140	36570	36990	37420	37840
052125-052374	33470	33950	34430	34920	35400	35850	36280	36700	37130	37550	37980
052375-052624	33590	34070	34550	35040	35520	35990	36410	36840	37260	37690	38110
052625-052874	33710	34190	34670	35160	35640	36120	36550	36970	37400	37820	38240
052875-053124	33820	34310	34790	35280	35760	36240	36680	37100	37530	37950	38380
053125-053374	33940	34430	34910	35390	35880	36360	36810	37240	37660	38090	38510
053375-053624	34060	34550	35030	35510	36000	36480	36950	37370	37800	38220	38650
053625-053874	34180	34670	35150	35630	36120	36600	37080	37510	37930	38360	38780
053875-054124	34300	34780	35270	35750	36240	36720	37200	37640	38060	38490	38910
054125-054374	34420	34900	35390	35870	36350	36840	37320	37770	38200	38620	39050
054375-054624	34540	35020	35510	35990	36470	36960	37440	37910	38330	38760	39180
054625-054874	34660	35140	35630	36110	36590	37080	37560	38040	38470	38890	39320
054875-055124	34780	35260	35740	36230	36710	37200	37680	38160	38600	39020	39450
055125-055374	34900	35380	35860	36350	36830	37310	37800	38280	38730	39160	39580
055375-055624	35010	35500	35980	36470	36950	37430	37920	38400	38870	39290	39720
055625-055874	35130	35620	36100	36590	37070	37550	38040	38520	39000	39430	39850
055875-056124	35250	35740	36220	36700	37190	37670	38160	38640	39120	39560	39980
056125-056374	35370	35860	36340	36820	37310	37790	38270	38760	39240	39690	40120
056375-056624	35490	35970	36460	36940	37430	37910	38390	38880	39360	39830	40250
056625-056874	35610	36090	36580	37060	37550	38030	38510	39000	39480	39960	40390
056875-057124	35730	36210	36700	37180	37660	38150	38630	39120	39600	40080	40520
057125-057374	35850	36330	36820	37300	37780	38270	38750	39230	39720	40200	40650
057375-057624	35970	36450	36930	37420	37900	38390	38870	39350	39840	40320	40790
057625-057874	36090	36570	37050	37540	38020	38510	38990	39470	39960	40440	40920
057875-058124	36200	36690	37170	37660	38140	38620	39110	39590	40080	40560	41040
058125-058374	36320	36810	37290	37780	38260	38740	39230	39710	40190	40680	41160
058375-058624	36440	36930	37410	37890	38380	38860	39350	39830	40310	40800	41280
058625-058874	36560	37050	37530	38010	38500	38980	39470	39950	40430	40920	41400
058875-059124	36680	37160	37650	38130	38620	39100	39580	40070	40550	41040	41520
059125-059374	36800	37280	37770	38250	38740	39220	39700	40190	40670	41150	41640
059375-059624	36920	37400	37890	38370	38850	39340	39820	40310	40790	41270	41760
059625-059874	37040	37520	38010	38490	38970	39460	39940	40430	40910	41390	41880

Table C - Expected Family Contribution for a Married Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS										
	2	3	4	5	6	7	8	9	10	11	12
059875-060124	37160	37640	38120	38610	39090	39580	40060	40540	41030	41510	42000
060125-060374	37280	37760	38240	38730	39210	39700	40180	40660	41150	41630	42110
060375-060624	37390	37880	38360	38850	39330	39810	40300	40780	41270	41750	42230
060625-060874	37510	38000	38480	38970	39450	39930	40420	40900	41390	41870	42350
060875-061124	37630	38120	38600	39080	39570	40050	40540	41020	41500	41990	42470
061125-061374	37750	38240	38720	39200	39690	40170	40660	41140	41620	42110	42590
061375-061624	37870	38350	38840	39320	39810	40290	40770	41260	41740	42230	42710
061625-061874	37990	38470	38960	39440	39930	40410	40890	41380	41860	42350	42830
061875-062124	38110	38590	39080	39560	40040	40530	41010	41500	41980	42460	42950
062125-062374	38220	38710	39200	39680	40160	40650	41130	41620	42100	42580	43070
062375-062624	38320	38830	39310	39800	40280	40770	41250	41730	42220	42700	43190
062625-062874	38430	38950	39430	39920	40400	40890	41370	41850	42340	42820	43310
062875-063124	38540	39070	39550	40040	40520	41000	41490	41970	42460	42940	43420
063125-063374	38640	39180	39670	40160	40640	41120	41610	42090	42580	43060	43540
063375-063624	38750	39280	39790	40270	40760	41240	41730	42210	42690	43180	43660
063625-063874	38860	39390	39910	40390	40880	41360	41850	42330	42810	43300	43780
063875-064124	38960	39500	40030	40510	41000	41480	41960	42450	42930	43420	43900
064125-064374	39070	39600	40140	40630	41120	41600	42080	42570	43050	43540	44020
064375-064624	39180	39710	40240	40750	41230	41720	42200	42690	43170	43650	44140
064625-064874	39280	39820	40350	40870	41350	41840	42320	42810	43290	43770	44260
064875-065124	39390	39920	40460	40990	41470	41960	42440	42920	43410	43890	44380
065125-065374	39500	40030	40560	41100	41590	42080	42560	43040	43530	44010	44500
065375-065624	39600	40140	40670	41200	41710	42190	42680	43160	43650	44130	44610
065625-065874	39710	40240	40780	41310	41830	42310	42800	43280	43770	44250	44730
065875-066124	39820	40350	40880	41420	41950	42430	42920	43400	43880	44370	44850
066125-066374	39920	40460	40990	41520	42060	42550	43040	43520	44000	44490	44970
066375-066624	40030	40560	41100	41630	42160	42670	43150	43640	44120	44610	45090
066625-066874	40140	40670	41200	41740	42270	42790	43270	43760	44240	44730	45210
066875-067124	40240	40780	41310	41840	42380	42910	43390	43880	44360	44840	45330
067125-067374	40350	40880	41420	41950	42480	43020	43510	44000	44480	44960	45450
067375-067624	40460	40990	41520	42060	42590	43120	43630	44110	44600	45080	45570
067625-067874	40560	41100	41630	42160	42700	43230	43750	44230	44720	45200	45690
067875-068124	40670	41200	41740	42270	42800	43340	43870	44350	44840	45320	45800
068125-068374	40780	41310	41840	42380	42910	43440	43980	44470	44960	45440	45920
068375-068624	40880	41420	41950	42480	43020	43550	44080	44590	45070	45560	46040
068625-068874	40990	41520	42060	42590	43120	43660	44190	44710	45190	45680	46160
068875-069124	41100	41630	42160	42700	43230	43760	44300	44830	45310	45800	46280
069125-069374	41200	41740	42270	42800	43340	43870	44400	44940	45430	45920	46400
069375-069624	41310	41840	42380	42910	43440	43980	44510	45040	45550	46030	46520
069625-069874	41420	41950	42480	43020	43550	44080	44620	45150	45670	46150	46640

Table C - Expected Family Contribution for a Married Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 2	3	4	5	6	7	8	9	10	11	12
069875-070124	41520	42060	42590	43120	43660	44190	44720	45260	45790	46270	46760
070125-070374	41630	42160	42700	43230	43760	44300	44830	45360	45900	46390	46880
070375-070624	41740	42270	42800	43340	43870	44400	44940	45470	46000	46510	46990
070625-070874	41840	42380	42910	43440	43980	44510	45040	45580	46110	46630	47110
070875-071124	41950	42480	43020	43550	44080	44620	45150	45680	46220	46750	47230
071125-071374	42060	42590	43120	43660	44190	44720	45260	45790	46320	46860	47350
071375-071624	42160	42700	43230	43760	44300	44830	45360	45900	46430	46960	47470
071625-071874	42270	42800	43340	43870	44400	44940	45470	46000	46540	47070	47590
071875-072124	42380	42910	43440	43980	44510	45040	45580	46110	46640	47180	47710
072125-072374	42480	43020	43550	44080	44620	45150	45680	46220	46750	47280	47820
072375-072624	42590	43120	43660	44190	44720	45260	45790	46320	46860	47390	47920
072625-072874	42700	43230	43760	44300	44830	45360	45900	46430	46960	47500	48030
072875-073124	42800	43340	43870	44400	44940	45470	46000	46540	47070	47600	48140
073125-073374	42910	43440	43980	44510	45040	45580	46110	46640	47180	47710	48240
073375-073624	43020	43550	44080	44620	45150	45680	46220	46750	47280	47820	48350
073625-073874	43120	43660	44190	44720	45260	45790	46320	46860	47390	47920	48460
073875-074124	43230	43760	44300	44830	45360	45900	46430	46960	47500	48030	48560
074125-074374	43340	43870	44400	44940	45470	46000	46540	47070	47600	48140	48670
074375-074624	43440	43980	44510	45040	45580	46110	46640	47180	47710	48240	48780
074625-074874	43550	44080	44620	45150	45680	46220	46750	47280	47820	48350	48880
074875-075000	43660	44190	44720	45260	45790	46320	46860	47390	47920	48460	48990

Table D - Expected Family Contribution for a Single Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 1	2	3	4	5	6	7	8	9	10	11	12
LESS THAN 30001	AUTOMATICALLY ELIGIBLE											
030001-030124	20000	20370	20730	21080	21440	21790	22130	22430	22740	23040	23350	23650
030125-030374	20100	20460	20840	21190	21550	21910	22250	22560	22860	23170	23470	23780
030375-030624	20240	20630	20990	21350	21700	22060	22410	22720	23020	23330	23640	23940
030625-030874	20370	20790	21140	21500	21850	22210	22560	22880	23190	23490	23800	24110
030875-031124	20510	20920	21290	21650	22000	22360	22710	23040	23350	23660	23960	24270
031125-031374	20650	21060	21440	21800	22150	22510	22870	23210	23520	23820	24130	24430
031375-031624	20780	21200	21590	21950	22310	22660	23020	23370	23680	23980	24290	24600
031625-031874	20920	21330	21750	22100	22460	22810	23170	23520	23840	24150	24450	24760
031875-032124	21060	21470	21880	22250	22610	22960	23320	23670	24000	24310	24620	24920
032125-032374	21190	21610	22020	22400	22760	23110	23470	23830	24170	24480	24780	25090
032375-032624	21330	21740	22160	22550	22910	23270	23620	23980	24330	24640	24940	25250
032625-032874	21460	21880	22290	22710	23060	23420	23770	24130	24480	24800	25110	25410
032875-033124	21600	22020	22430	22840	23210	23570	23920	24280	24630	24960	25270	25560
033125-033374	21740	22150	22570	22980	23360	23720	24070	24430	24790	25130	25440	25740
033375-033624	21870	22290	22700	23120	23510	23870	24230	24580	24940	25290	25600	25900
033625-033874	22010	22420	22840	23250	23670	24020	24380	24730	25090	25440	25760	26070
033875-034124	22150	22560	22980	23390	23800	24170	24530	24880	25240	25590	25920	26230
034125-034374	22280	22700	23110	23530	23940	24320	24680	25030	25390	25750	26090	26400
034375-034624	22420	22830	23250	23660	24080	24470	24830	25190	25540	25900	26250	26560
034625-034874	22550	22970	23380	23800	24210	24630	24980	25340	25690	26050	26400	26720
034875-035124	22690	23110	23520	23940	24350	24760	25130	25490	25840	26200	26550	26880
035125-035374	22820	23240	23660	24070	24490	24900	25280	25640	25990	26350	26710	27050
035375-035624	22950	23380	23790	24210	24620	25040	25430	25790	26150	26500	26860	27210
035625-035874	23070	23510	23930	24340	24760	25170	25590	25940	26300	26650	27010	27360
035875-036124	23200	23650	24070	24480	24900	25310	25720	26090	26450	26800	27160	27510
036125-036374	23330	23780	24200	24620	25030	25450	25860	26240	26600	26950	27310	27670
036375-036624	23450	23910	24340	24750	25170	25580	26000	26390	26750	27110	27460	27820
036625-036874	23560	24030	24470	24890	25300	25720	26130	26550	26900	27260	27610	27970
036875-037124	23710	24160	24610	25030	25440	25860	26270	26680	27050	27410	27760	28120
037125-037374	23830	24290	24740	25160	25580	25990	26410	26820	27200	27560	27910	28270
037375-037624	23960	24410	24870	25300	25710	26130	26540	26960	27350	27710	28070	28420
037625-037874	24090	24540	24990	25430	25850	26260	26680	27090	27510	27860	28220	28570
037875-038124	24210	24670	25120	25570	25990	26400	26820	27230	27640	28010	28370	28720
038125-038374	24340	24790	25250	25700	26120	26540	26950	27370	27780	28160	28520	28870
038375-038624	24470	24920	25370	25830	26260	26670	27090	27500	27920	28310	28670	29030
038625-038874	24590	25050	25500	25950	26390	26810	27220	27640	28050	28470	28820	29180
038875-039124	24720	25170	25630	26080	26530	26950	27360	27780	28190	28600	28970	29330
039125-039374	24840	25300	25750	26210	26660	27080	27500	27910	28330	28740	29120	29480
039375-039624	24970	25430	25880	26330	26790	27220	27630	28050	28460	28880	29270	29630
039625-039874	25100	25550	26010	26460	26910	27350	27770	28180	28600	29010	29430	29780

Table D - Expected Family Contribution for a Single Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 1	2	3	4	5	6	7	8	9	10	11	12
039875-040124	25220	25680	26130	26590	27040	27490	27910	28320	28740	29150	29560	29930
040125-040374	25350	25800	26260	26710	27170	27620	28040	28460	28870	29290	29700	30080
040375-040624	25480	25930	26390	26840	27290	27750	28180	28590	29010	29420	29840	30230
040625-040874	25600	26060	26510	26970	27420	27870	28310	28730	29140	29560	29970	30390
040875-041124	25730	26180	26640	27090	27550	28000	28450	28870	29280	29700	30110	30520
041125-041374	25860	26310	26760	27220	27670	28130	28580	29000	29420	29830	30250	30660
041375-041624	25980	26440	26890	27350	27800	28250	28710	29140	29550	29970	30380	30800
041625-041874	26110	26560	27020	27470	27930	28380	28830	29270	29690	30100	30520	30930
041875-042124	26240	26690	27140	27600	28050	28510	28960	29410	29830	30240	30660	31070
042125-042374	26360	26820	27270	27720	28180	28630	29090	29540	29960	30380	30790	31210
042375-042624	26490	26940	27400	27850	28310	28760	29210	29670	30100	30510	30930	31340
042625-042874	26610	27070	27520	27980	28430	28890	29340	29790	30230	30650	31060	31480
042875-043124	26740	27200	27650	28100	28560	29010	29470	29920	30370	30790	31200	31620
043125-043374	26870	27320	27780	28230	28680	29140	29590	30050	30500	30920	31340	31750
043375-043624	26990	27450	27900	28360	28810	29270	29720	30170	30630	31060	31470	31890
043625-043874	27120	27570	28030	28480	28940	29390	29850	30300	30750	31190	31610	32020
043875-044124	27250	27700	28160	28610	29060	29520	29970	30430	30880	31330	31750	32160
044125-044374	27370	27830	28280	28740	29190	29640	30100	30550	31010	31460	31880	32300
044375-044624	27500	27950	28410	28860	29320	29770	30230	30680	31130	31590	32020	32430
044625-044874	27630	28080	28530	28990	29440	29900	30350	30810	31260	31710	32150	32570
044875-045124	27750	28210	28660	29120	29570	30020	30480	30930	31390	31840	32290	32710
045125-045374	27880	28330	28790	29240	29700	30150	30600	31060	31510	31970	32420	32840
045375-045624	28010	28460	28910	29370	29820	30280	30730	31190	31640	32090	32550	32980
045625-045874	28130	28590	29040	29490	29950	30400	30860	31310	31770	32220	32670	33110
045875-046124	28230	28710	29170	29620	30080	30530	30980	31440	31890	32350	32800	33250
046125-046374	28340	28840	29290	29750	30200	30660	31110	31560	32020	32470	32930	33380
046375-046624	28450	28970	29420	29870	30330	30780	31240	31690	32150	32600	33050	33510
046625-046874	28550	29090	29550	30000	30450	30910	31360	31820	32270	32730	33180	33630
046875-047124	28660	29190	29670	30130	30580	31040	31490	31940	32400	32850	33310	33760
047125-047374	28770	29300	29800	30250	30710	31160	31620	32070	32520	32980	33430	33890
047375-047624	28870	29410	29930	30380	30830	31290	31740	32200	32650	33110	33560	34010
047625-047874	28980	29510	30050	30510	30960	31410	31870	32320	32780	33230	33690	34140
047875-048124	29090	29620	30150	30630	31090	31540	32000	32450	32900	33360	33810	34270
048125-048374	29190	29730	30260	30760	31210	31670	32120	32580	33030	33480	33940	34390
048375-048624	29300	29830	30370	30890	31340	31790	32250	32700	33160	33610	34070	34520
048625-048874	29410	29940	30470	31010	31470	31920	32370	32830	33280	33740	34190	34650
048875-049124	29510	30050	30580	31110	31590	32050	32500	32960	33410	33860	34320	34770
049125-049374	29620	30150	30690	31220	31720	32170	32630	33080	33540	33990	34440	34900
049375-049624	29730	30260	30790	31330	31850	32300	32750	33210	33660	34120	34570	35030
049625-049874	29830	30370	30900	31430	31970	32430	32880	33330	33790	34240	34700	35150

Table D - Expected Family Contribution for a Single Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 1	2	3	4	5	6	7	8	9	10	11	12
049875-050124	29940	30470	31010	31540	32070	32550	33010	33460	33920	34370	34820	35280
050125-050374	30050	30580	31110	31650	32180	32680	33130	33590	34040	34500	34950	35400
050375-050624	30150	30690	31220	31750	32290	32810	33260	33710	34170	34620	35080	35530
050625-050874	30260	30790	31330	31860	32390	32930	33390	33840	34290	34750	35200	35660
050875-051124	30370	30900	31430	31970	32500	33030	33510	33970	34420	34880	35330	35780
051125-051374	30470	31010	31540	32070	32610	33140	33640	34090	34550	35000	35460	35910
051375-051624	30580	31110	31650	32180	32710	33250	33770	34220	34670	35130	35580	36040
051625-051874	30690	31220	31750	32290	32820	33350	33890	34350	34800	35250	35710	36160
051875-052124	30800	31330	31860	32390	32930	33460	33990	34470	34930	35380	35840	36290
052125-052374	30900	31430	31970	32500	33030	33570	34100	34600	35050	35510	35960	36420
052375-052624	31010	31540	32070	32610	33140	33670	34210	34730	35180	35630	36090	36540
052625-052874	31120	31650	32180	32710	33250	33780	34310	34850	35310	35760	36210	36670
052875-053124	31220	31760	32290	32820	33350	33890	34420	34950	35430	35890	36340	36800
053125-053374	31330	31860	32390	32930	33460	33990	34530	35060	35560	36010	36470	36920
053375-053624	31440	31970	32500	33030	33570	34100	34630	35170	35690	36140	36590	37050
053625-053874	31540	32060	32610	33140	33670	34210	34740	35270	35810	36270	36720	37170
053875-054124	31650	32180	32720	33250	33780	34310	34850	35380	35910	36390	36850	37300
054125-054374	31760	32290	32820	33350	33890	34420	34950	35490	36020	36520	36970	37430
054375-054624	31860	32400	32930	33460	33990	34530	35060	35590	36130	36650	37100	37550
054625-054874	31970	32500	33040	33570	34100	34630	35170	35700	36230	36770	37230	37680
054875-055124	32080	32610	33140	33680	34210	34740	35270	35810	36340	36870	37350	37810
055125-055374	32180	32720	33250	33780	34310	34850	35380	35910	36450	36980	37480	37930
055375-055624	32290	32820	33360	33890	34420	34950	35490	36020	36550	37090	37610	38060
055625-055874	32400	32930	33460	34000	34530	35060	35590	36130	36660	37190	37730	38190
055875-056124	32500	33040	33570	34100	34640	35170	35700	36230	36770	37300	37830	38310
056125-056374	32610	33140	33680	34210	34740	35270	35810	36340	36870	37410	37940	38440
056375-056624	32720	33250	33780	34320	34850	35380	35910	36450	36980	37510	38050	38570
056625-056874	32820	33360	33890	34420	34960	35490	36020	36550	37090	37620	38150	38690
056875-057124	32930	33460	34000	34530	35060	35600	36130	36660	37190	37730	38260	38790
057125-057374	33040	33570	34100	34640	35170	35700	36230	36770	37300	37830	38370	38900
057375-057624	33140	33680	34210	34740	35280	35810	36340	36870	37410	37940	38470	39010
057625-057874	33250	33780	34320	34850	35380	35920	36450	36980	37510	38050	38580	39110
057875-058124	33360	33890	34420	34960	35490	36020	36560	37090	37620	38150	38690	39220
058125-058374	33460	34000	34530	35060	35600	36130	36660	37190	37730	38260	38790	39330
058375-058624	33570	34100	34640	35170	35700	36240	36770	37300	37830	38370	38900	39430
058625-058874	33680	34210	34740	35280	35810	36340	36880	37410	37940	38470	39010	39540
058875-059124	33780	34320	34850	35380	35920	36450	36980	37520	38050	38580	39110	39650
059125-059374	33890	34420	34960	35490	36020	36560	37090	37620	38150	38690	39220	39750
059375-059624	34000	34530	35060	35600	36130	36660	37200	37730	38260	38790	39330	39860
059625-059874	34100	34640	35170	35700	36240	36770	37300	37840	38370	38900	39430	39970

Table D - Expected Family Contribution for a Single Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 1	2	3	4	5	6	7	8	9	10	11	12
059675-060124	34210	34740	35280	35810	36340	36880	37410	37940	38480	39010	39540	40070
060125-060374	34320	34850	35380	35920	36450	36980	37520	38050	38580	39110	39650	40180
060375-060624	34420	34960	35490	36020	36560	37090	37620	38160	38690	39220	39750	40290
060625-060874	34530	35060	35600	36130	36660	37200	37730	38260	38800	39330	39860	40390
060875-061124	34640	35170	35700	36240	36770	37300	37840	38370	38900	39440	39970	40500
061125-061374	34740	35280	35810	36340	36880	37410	37940	38480	39010	39540	40070	40610
061375-061624	34850	35380	35920	36450	36980	37520	38050	38580	39120	39650	40180	40710
061625-061874	34950	35490	36020	36560	37090	37620	38160	38690	39220	39760	40290	40820
061875-062124	35040	35600	36130	36660	37200	37730	38260	38800	39330	39860	40400	40930
062125-062374	35140	35700	36240	36770	37300	37840	38370	38900	39440	39970	40500	41030
062375-062624	35230	35810	36340	36880	37410	37940	38480	39010	39540	40080	40610	41140
062625-062874	35330	35910	36450	36980	37520	38050	38580	39120	39650	40180	40720	41250
062875-063124	35420	36000	36560	37090	37620	38160	38690	39220	39760	40290	40820	41360
063125-063374	35510	36100	36660	37200	37730	38260	38800	39330	39860	40400	40930	41460
063375-063624	35610	36190	36770	37300	37840	38370	38900	39440	39970	40500	41040	41570
063625-063874	35700	36290	36870	37410	37940	38480	39010	39540	40080	40610	41140	41680
063875-064124	35800	36380	36960	37520	38050	38580	39120	39650	40180	40720	41250	41780
064125-064374	35890	36470	37060	37620	38160	38690	39220	39760	40290	40820	41360	41890
064375-064624	35990	36570	37150	37730	38260	38800	39330	39860	40400	40930	41460	42000
064625-064874	36080	36660	37250	37830	38370	38900	39440	39970	40500	41040	41570	42100
064875-065124	36170	36760	37340	37920	38480	39010	39540	40080	40610	41140	41680	42210
065125-065374	36270	36850	37430	38020	38580	39120	39650	40180	40720	41250	41780	42320
065375-065624	36360	36950	37530	38110	38690	39220	39760	40290	40820	41360	41890	42420
065625-065874	36460	37040	37620	38210	38790	39330	39860	40400	40930	41460	42000	42530
065875-066124	36550	37130	37720	38300	38880	39440	39970	40500	41040	41570	42100	42640
066125-066374	36650	37230	37810	38390	38980	39540	40080	40610	41140	41680	42210	42740
066375-066624	36740	37320	37910	38490	39070	39650	40180	40720	41250	41780	42320	42850
066625-066874	36840	37420	38000	38580	39170	39750	40290	40820	41360	41890	42420	42960
066875-067124	36930	37510	38090	38680	39260	39840	40400	40930	41460	42000	42530	43060
067125-067374	37020	37610	38190	38770	39350	39940	40500	41040	41570	42100	42640	43170
067375-067624	37120	37700	38280	38870	39450	40030	40610	41140	41680	42210	42740	43280
067625-067874	37210	37800	38380	38960	39540	40130	40710	41250	41780	42320	42850	43380
067875-068124	37310	37890	38470	39050	39640	40220	40800	41360	41890	42420	42960	43490
068125-068374	37400	37980	38570	39150	39730	40310	40900	41460	42000	42530	43060	43600
068375-068624	37500	38080	38660	39240	39830	40410	40990	41570	42100	42640	43170	43700
068625-068874	37590	38170	38760	39340	39920	40500	41090	41670	42210	42740	43280	43810
068875-069124	37680	38270	38850	39430	40010	40600	41180	41760	42320	42850	43380	43920
069125-069374	37780	38360	38940	39530	40110	40690	41270	41860	42420	42960	43490	44020
069375-069624	37870	38460	39040	39620	40200	40790	41370	41950	42530	43060	43600	44130
069625-069874	37970	38550	39130	39720	40300	40880	41460	42050	42630	43170	43700	44240

Table D - Expected Family Contribution for a Single Independent Student

ADJUSTED GROSS INCOME	NUMBER OF FAMILY MEMBERS 1	2	3	4	5	6	7	8	9	10	11	12
069875-070124	38060	38640	39230	39810	40390	40970	41560	42140	42720	43280	43810	44340
070125-070374	38160	38740	39320	39900	40490	41070	41650	42230	42820	43380	43920	44450
070375-070624	38250	38830	39420	40000	40580	41160	41750	42330	42910	43490	44020	44560
070625-070874	38350	38930	39510	40090	40680	41260	41840	42420	43010	43590	44130	44660
070875-071124	38440	39020	39600	40190	40770	41350	41930	42520	43100	43680	44240	44770
071125-071374	38530	39120	39700	40280	40860	41450	42030	42610	43190	43780	44340	44880
071375-071624	38630	39210	39790	40380	40960	41540	42120	42710	43290	43870	44450	44980
071625-071874	38720	39310	39890	40470	41050	41640	42220	42800	43380	43970	44550	45090
071875-072124	38820	39400	39980	40560	41150	41730	42310	42890	43480	44060	44640	45200
072125-072374	38910	39490	40080	40660	41240	41820	42410	42990	43570	44150	44740	45300
072375-072624	39010	39590	40170	40750	41340	41920	42500	43080	43670	44250	44830	45410
072625-072874	39100	39680	40270	40850	41430	42010	42600	43180	43760	44340	44930	45510
072875-073124	39190	39780	40360	40940	41520	42110	42690	43270	43850	44440	45020	45600
073125-073374	39290	39870	40450	41040	41620	42200	42780	43370	43950	44530	45110	45700
073375-073624	39380	39970	40550	41130	41710	42300	42880	43460	44040	44630	45210	45790
073625-073874	39480	40060	40640	41230	41810	42390	42970	43560	44140	44720	45300	45890
073875-074124	39570	40150	40740	41320	41900	42480	43070	43650	44230	44810	45400	45980
074125-074374	39670	40250	40830	41410	42000	42580	43160	43740	44330	44910	45490	46070
074375-074624	39760	40340	40930	41510	42090	42670	43260	43840	44420	45000	45590	46170
074625-074874	39850	40440	41020	41600	42190	42770	43350	43930	44520	45100	45680	46260
074875-075000	39950	40530	41110	41700	42280	42860	43440	44030	44610	45190	45770	46360

BILLING CODE 4000-01-M

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden or Larry Oxendine, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue S.W., Washington, D.C. 20202. Telephone (202) 245–2475.

(20 U.S.C. 1078)

(Catalog of Federal Domestic Assistance No. 84.032 Guaranteed Student Loan Program)

Dated: April 27, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-11939 Filed 4-30-82; 8:45 am]

Reader Aids

Federal Register
Vol. 47, No. 85
Monday, May 3, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18847-19110.....3

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used (see 1 CFR 18.17).

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
May 3	May 18	June 2	June 17	July 2	August 2
May 4	May 19	June 3	June 18	July 6	August 2
May 5	May 20	June 4	June 21	July 6	August 3
May 6	May 21	June 7	June 21	July 6	August 4
May 7	May 24	June 7	June 21	July 6	August 5
May 10	May 25	June 9	June 24	July 9	August 9
May 11	May 26	June 10	June 25	July 12	August 9
May 12	May 27	June 11	June 28	July 12	August 10
May 13	May 28	June 14	June 28	July 12	August 11
May 14	June 1	June 14	June 28	July 13	August 12
May 17	June 1	June 16	July 1	July 16	August 16
May 18	June 2	June 17	July 2	July 19	August 16
May 19	June 3	June 18	July 6	July 19	August 17
May 20	June 4	June 21	July 6	July 19	August 18
May 21	June 7	June 21	July 6	July 20	August 19
May 24	June 8	June 23	July 8	July 23	August 23
May 25	June 9	June 24	July 9	July 26	August 23
May 26	June 10	June 25	July 12	July 26	August 24
May 27	June 11	June 28	July 12	July 26	August 25
May 28	June 14	June 28	July 12	July 27	August 26

CFR CHECKLIST; 1981–82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $525 domestic, $131.25 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1982):

Title	Price
1–2	$5.50
5 Parts:	
1–1199	8.00
1200–end	6.00
7 Parts:	
300–399	6.50
400–699	7.50
900–999	9.50
1000–1059	7.50
1060–1119	7.50
1120–1199	6.50
1200–1499	7.50
1500–1899	6.50
1900–1944	8.50
8	6.00
10 Parts:	
200–399	7.50
400–499	8.00
12 Parts:	
1–199	6.50
300–499	7.00
14 Parts:	
140–199	6.50
1200–end	6.50
15 Parts:	
0–299	6.50
300–399	7.00
400–end	7.50
16 Parts:	
0–149	7.00
150–999	7.00
CFR Index	9.50

CFR Unit (Rev. as of Apr. 1, 1981):

17 Parts:	
1–239	8.50
240–end	8.00
18 Parts:	
1–149	16.00
150–399	8.00
400–end	7.00
19	13.00
20 Parts:	
1–399	7.00
400–499	8.50
500–end	9.00
21 Parts:	
1–99	7.00
100–169	7.50
170–199	7.50
200–299	5.50
300–499	9.00
500–599	8.50
600–799	6.50
800–1299	7.00
1300–end	5.50
22	9.50
23	8.50
24 Parts:	
0–199	7.00
200–499	9.00
500–799	7.00
800–1699	8.00
1700–end	7.00
25	9.00
26 Parts:	
1 (§§ 1.0–1.169)	9.00
1 (§§ 1.170–1.300)	7.50
1 (§§ 1.301–1.400)	6.50
1 (§§ 1.401–1.500)	8.00
1 (§§ 1.501–1.640)	8.50
1 (§§ 1.641–1.850)	7.50
1 (§§ 1.851–1.1200)	9.00
1 (§§ 1.1201–end)	9.50
2–29	8.00
30–39	7.00
40–299	8.50
300–499	7.00
27 Parts:	
1–199	8.50
200–end	8.00

CFR Unit (Rev. as of July 1, 1981):

28 (Rev. 11/1/81)	**8.00**
29 Parts:	
0–99	9.50
100–499	6.50
500–899	9.00
900–1899	6.50
1900–1910	9.00
1911–1919	6.00
1920–end	8.50
30 Parts:	
0–199	8.50
200–end	9.00
31 Parts:	
0–199	7.00
200–end	8.00
32 Parts:	
1–39, Vol. I (rev. Aug. 1, 1981)	9.00
1–39, Vol. II (rev. Aug. 1, 1981)	13.00
1–39, Vol. III (rev. Aug. 1, 1981)	9.50
40–399	13.00
400–699	10.00
700–799	8.50
800–999	8.00
1000–end	7.00
33 Parts:	
1–199	9.50
200–end	8.50
34 Parts:	
1–399	14.00
400–end	8.50
35 (Rev. 12/31/81)	**6.50**
36 Parts:	
1–199	6.50
200–end	7.50
37	6.50
38 Parts:	
0–17	8.00
18–end	7.00
39	6.50
40 Parts:	
0–51	8.50
52	9.50
53–80	9.00
81–99	9.50
100–149	7.50
150–189	7.50
190–399	13.00
400–424	8.00
425–end	8.00
41 Chapters:	
1 (1–1 to 1–10)	8.00
1 (1–11 to App.)–2	7.50
3–6	8.50
7	5.25
8	5.00
9	8.00
10–17	7.50
18 (Volume I)	8.00
18 (Volume II)	9.50
18 (Volume III)	8.00
19–100	8.00
101	9.00
102–end	7.00

CFR Unit (Rev. as of Oct. 1, 1981):

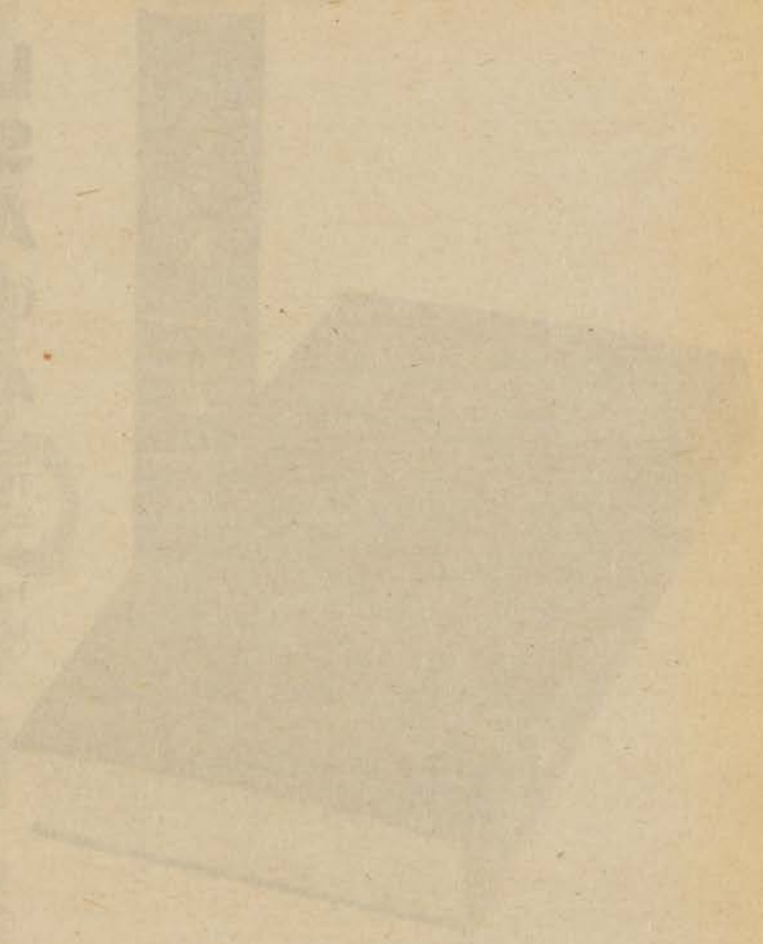
42 Parts:	
1–60	7.50
61–399	6.50
400–end	9.00
43 Parts:	
1–999	7.00
1000–3999	8.50
4000–end	6.50
44	**7.50**
45 Parts:	
1–199	7.00
200–499	6.00
500–1199	7.50
1200–end	7.00
46 Parts:	
1–29	5.50
30–40	5.50
41–69	7.50
70–89	6.00
90–109	6.50
140–155	6.50
156–165	7.00
166–199	6.50
200–399	8.00
400–end	8.00
47 Parts:	
0–19	7.50
20–69	9.50
70–79	8.00
80–end	8.50
49 Parts:	
1–99	6.00
100–177	9.00
178–199	8.00
200–399	7.50
400–999	8.00
1000–1199	7.50
1200–1299	8.00
1300–end	7.00
50 Parts:	
1–199	6.50
200–end	8.00

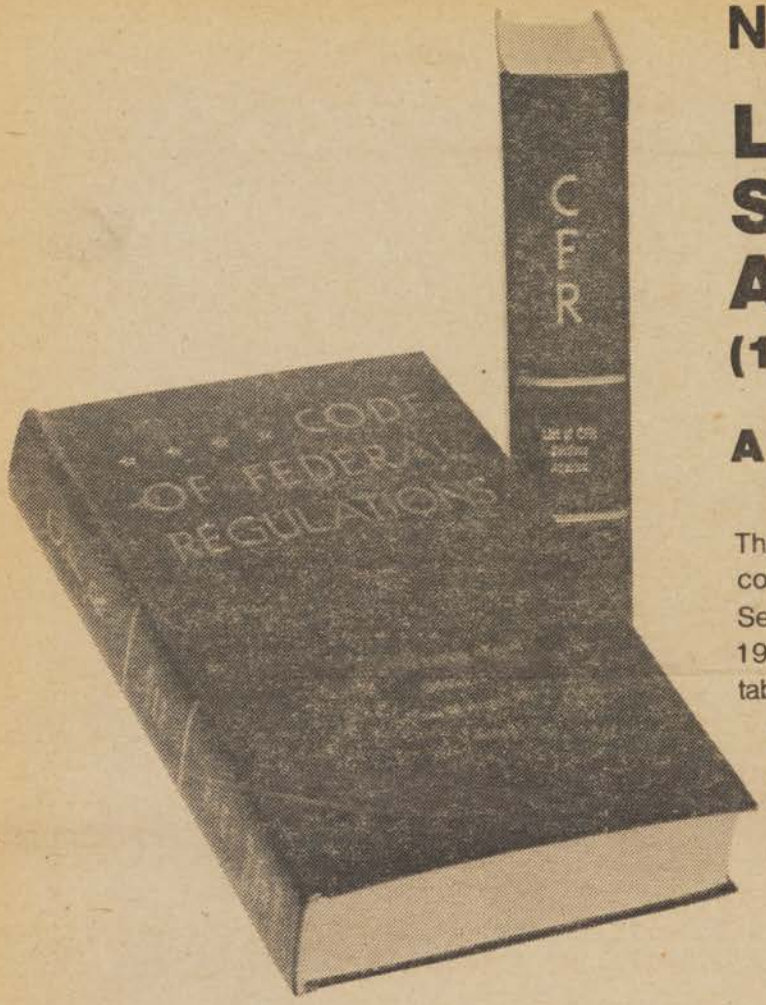
List of Public Laws

Last Listing April 20, 1982

This is a continuing list 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 (phone 202–275–3030).

H.J. Res. 448 / Pub L. 97–173 To authorize and request the President to issue a proclamation designating April 25 through May 2, 1982, as "Jewish Heritage Week". (Apr. 28 1982; 96 Stat. 69) Price: $1.75





New Publication

List of CFR Sections Affected (1964 through 1972)

A Research Guide

These two volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1964 through 1972. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 through 27) $15.00
Volume II (Titles 28 through 50) $14.00

ORDER FORM Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check,
☐ money order, or charge to my
Deposit Account No.
☐☐☐☐☐☐☐–☐

Order No._____

VISA® MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me___copies of the CODE OF FEDERAL REGULATIONS
Volume I $15.00 Stock No. 022-003-94233-5
Volume II $14.00 Stock No. 022-003-94234-3

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only

Quantity		Charges
_____	Enclosed	
_____	To be mailed	
	Subscriptions	
	Postage	
	Foreign handling	
	MMOB	
	OPNR	
_____	UPNS	
_____	Discount	
_____	Refund	